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Wednesday
September 12, 1984

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Nuclear Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Credit
Federal Reserve System

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Food Safety and Inspection Service

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Presidential Documents

Title 3—

The President

Proclamation 5232 of September 10, 1984

National Hispanic Heritage Week, 1984

By the President of the United States of America

A Proclamation

One of the greatest strengths of our Nation is the rich mixture of people from various cultural backgrounds, and few groups have contributed more to our Nation than Americans of Hispanic heritage. In many communities across the land, Hispanics are a vital element in fostering America's achievements in the arts and industry, in agriculture and education, in religion and business, in science and politics, and in every other aspect of American life.

Hispanic Americans were among the first settlers in the New World, some arriving in America long before the United States became an independent Nation. They came in search of a better life for themselves and their children, and they have helped to create a richer life for all of us.

In our international relations, Hispanic Americans also contribute to our Nation's identity—our own perception of who we are and our role in the world, as well as others' perception of us. The strong family and cultural ties which bind Hispanics in the United States with our nearest neighbors are an important element of the strength of the Western Hemisphere. The freedom of our neighbors is our freedom. Their security is our security. We Americans seek economic progress and justice for mutual benefit throughout the hemisphere, and we look to Americans of Hispanic heritage for leadership as we work together toward these goals.

In recognition of the many achievements of the Hispanic American Community, the Congress, by Joint Resolution approved September 17, 1968, (Public Law 90–498), authorized and requested the President to issue annually a proclamation designating the week which includes September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 10, 1984, as National Hispanic Heritage Week, in recognition of the Hispanic individuals, families, and communities that enrich our national life. I call upon the people of the United States, especially the educational community, to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 84–24330
Filed 9–11–84; 10:31 am]
Billing code 3195–01–M

Editorial Note: For the President's remarks of Sept. 10, 1984, on signing Proclamation 5232, see the *Weekly Compilation of Presidential Documents* (vol. 20, no. 37).

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Revision to the U.S. Standards for Corn, U.S. Standards for Sorghum, and U.S. Standards for Soybeans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is deleting moisture content as a grade-determining factor in the U.S. Standards for Corn, Sorghum, and Soybeans. The moisture content of corn, sorghum, and soybeans will continue to be shown on all official certificates as required by regulations under the U.S. Grain Standards Act (the Act). This would provide consistency among standards; treat moisture content as a condition of grain rather than a fixed measure of quality; and recognize current trade practices. Minor non-substantive changes are made for clarity and uniformity.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. The action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most potential users of corn, sorghum, and soybean inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees or licensed persons.

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) (the Act) no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. It is desirable that the revision become effective to coincide with the beginning of the 1985 crop year to facilitate domestic and export marketing. The waiting period is deemed necessary for all interested parties to prepare for implementation of the revised standards and would provide adequate time for the industry to make necessary marketing changes involving existing contracts and other documents. Secondly, the September 1, 1984 effective date considered in the proposal will not be adopted; instead, the revised standards will become effective September 9, 1985.

Final Action

In the current U.S. Standards for Corn (7 CFR 810.351–810.353 and 810.901, 810.904, 810.905), the U.S. Standards for Sorghum (7 CFR 810.551–810.560), and the U.S. Standards for Soybeans (7 CFR 810.601–810.603 and 810.901–810.903), a maximum allowable moisture content is stated for each numerical grade. The grade table for corn in § 810.353 contains the maximum moisture limits for grades U.S. Nos. 1, 2, 3, 4, and 5 as 14.0, 15.5, 17.5, 20.0, and 23.0 percent, respectively. The grade table for sorghum in § 810.557 contains the maximum moisture limits for grades U.S. Nos. 1, 2, 3, and 4 as 13.0, 14.0, 15.0, and 18.0 percent, respectively. The grade table for soybeans in § 810.603 contains the maximum moisture limits for grades U.S. Nos. 1, 2, 3, and 4 as 13.0, 14.0, 16.0, and 18.0 percent, respectively.

A proposed rule to delete moisture content as a grade-determining factor in the U.S. Standards for Corn, U.S. Standards for Sorghum, and U.S. Standards for Soybeans was published in the June 7, 1984, **Federal Register** (49 FR 23651), and comments were solicited during a 45-day period. A total of forty-nine comments was received. A correction docket was published in the June 19, 1984, **Federal Register** (49 FR 25004). On the basis of these comments and other available information, FGIS is deleting moisture content as a grade-determining factor in these standards.

The moisture content will continue to be shown on all official certificates which show the official grade determination as required under 7 CFR 800.162(a)(3) of the regulations.

Moisture content is not a grade-determining factor in the U.S. Standards for Wheat, Barley, Oats, Triticale, and Rye. Deletion of moisture content as a grade-determining factor in the remaining grain standards has been or will be proposed. Accordingly, this final rule will add consistency among the various grain standards. Moisture content is a contidion of the grain rather than a quality factor. Newly harvested corn, sorghum, or soybeans may be graded U.S. Sample grade due to high moisture content, but may equal a U.S. No. 1 quality on all other factors. The corn, sorghum, or soybeans may be dried to a moisture content equal to a U.S. No. 1 or 2 grade and graded accordingly. Under current trade practices, discounts for moisture generally are assessed on the actual moisture content rather than numerical grade to account for weight loss and drying costs of the handler. High moisture grain is a normal condition during movement from harvest into market channels or storage. Moisture content by itself does not imply an intrinsic quality, but rather measures the amount of dry matter and water content of the grain. Moreover, a maximum moisture content can be specified through contracting which is a common practice with corn. When moisture content is specified in contracts or used as the basis for discounts, the numerical grade limit in most instances does not serve a useful purpose.

Of the forty-nine official comments received on the proposed rule, about one-third were received from individuals associated with companies involved in feed manufacturing, feeding operations, or food processing; about one-fourth were from individuals representing trade or producer associations; and one-fifth were from foreign buyers. The remaining letters were from individuals representing exporters and grain inspection agencies. In terms of a simple count, more commenters opposed the proposal than supported it. However, organizations representing many members of the industry supported the proposal. Some commenters did not include all three grains in their response but corn was usually mentioned. Several commenters stated that they had no opposition to the proposal. Others agreed with and expressed general support with the proposal. Some commenters indicated that the present moisture ranges are not appropriate for maintaining quality; for example, the current maximum moisture limit for U.S. No. 2 Corn. As to those opposed both foreign and domestic buyers maintained that higher moisture corn would be marketed under the proposal. Some commenters indicated that moisture ranges in the current grades serve a useful purpose by providing a guide for storability and quality. Buyers went on to cite the possibility of increased storage problems with heating, mold, aflatoxin, shrinkage, and overall lower quality grain. However, these same commenters did not address or consider that moisture content would continue to be shown on all official certificates for grade, thereby providing a basis for discounting, or meeting a contract requirement.

Moisture discounts are based on actual moisture content, not the numerical grades. Therefore, if the current method of discounting remains unchanged, the present moisture level for grain storage should remain unchanged. Additionally, moisture content is not the only determinant of storability. Storability of grain is also dependent on other conditions such as temperature, cleanliness, aeration, condition, and absence of microorganisms, and insects. These conditions are not affected by the revision to the standards made herein.

Based upon the comments received and other information, FGIS is revising the U.S. Standards for Corn, Sorghum, and Soybeans to delete, as proposed, moisture content as a grade-determining factor.

Incorporated also into this revision are minor non-substantive changes as proposed to the table in § 810.603 to add .0 to all pounds and percents listed, as appropriate together with minor technical format changes made for clarity and uniformity among standards. Further, FGIS published on September 7, 1984, at 49 FR 35339, a final rule revising the U.S. Standards for Corn, effective September 9, 1985. In § 810.353(a), this final rule reflects these revisions to the Sample grade definition which include limits for stones, glass, castor beans, cockleburs, unknown foreign substance(s), and animal filth.

List of Subjects in 7 CFR 810

Exports, Grains.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

Accordingly, § 810.353(a), § 810.557, and § 810.603(a) are amended as set forth below:

1. Section 810.353 is amended by revising paragraph (a) to read as follows:

§ 810.353 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for corn* (See also paragraph (d) of this section.)

Grade	Minimum test weight per bushel (pounds)	Maximum limits of —		
		Broken corn and foreign material (percent)	Damaged kernels	
			Total (percent)	Heat damaged kernels (percent)
U.S. No. 1	56.0	2.0	3.0	0.1
U.S. No. 2	54.0	3.0	5.0	0.2
U.S. No. 3	52.0	4.0	7.0	0.5
U.S. No. 4	49.0	5.0	10.0	1.0
U.S. No. 5	45.0	7.0	15.0	3.0
U.S. Sample grade: U.S. Sample grade shall be corn which— (a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or (b) In a 1,000 gram sample, contains 8 or more stones which have an aggregated weight in excess of 0.20 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis), 8 or more cockleburs, 4 or more particles of an unknown substance(s) or a commonly recognized harmful or toxic substance(s), or animal filth in excess of 0.20 percent; or (c) Has a musty, sour, or commercially objectionable foreign odor; or (d) Is heating or otherwise of distinctly low quality.				

* * * * * * * *

2. Section 810.557 is revised to read as follows:

§ 810.557 Grades and grade requirements for all classes of sorghum. (see also § 810.559)

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—		Broken kernels, foreign material, and other grains. (Percent)
		Damaged Kernels		
		Total (percent)	Heat damaged (percent)	
U.S. No. 1	57.0	2.0	0.2	4.0
U.S. No. 2	55.0	5.0	0.5	8.0
U.S. No. 3 [1]	53.0	10.0	1.0	12.0
U.S. No. 4	51.0	5.0	3.0	15.0
U.S. Sample grade: U.S. Sample grade shall be sorghum which— (a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4, or (b) Contains more than 7 stones which have an aggregate weight in excess of 0.2 percent of the sample weight or more than 2 crotalaria seeds (Crotalaria spp.) per 1,000 grams of sorghum, or (c) Has a musty, sour, or commercially objectionable foreign odor (except smut odor), or (d) Is badly weathered, heating, or distinctly low quality [see § 810.552(d)].				

[1] Sorghum which is distinctly discolored shall be graded not higher than U.S. No. 3.

3. Section 810.603 is amended by revising paragraph (a) to read as follows:

§ 810.603 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grade and grade requirements for Soybeans.* (See also paragraph (d) of this section).

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—	Damaged kernels		Foreign material (percent)	Brown, black, and/or bicolored soybeans in yellow or green soybeans (percent)
		Splits (percent)	Total (percent)	Heat damage (percent)		
U.S. No. 1	56.0	10.0	20	0.2	1.0	1.0
U.S. No. 2	54.0	20.0	3.0	0.5	2.0	2.0
U.S. No. 3 [1]	52.0	30.0	5.0	1.0	3.0	5.0
U.S. No. 4 [2]	49.0	40.0	8.0	3.0	5.0	10.0
U.S. Sample grade:						

U.S. Sample grade shall be soybeans which do not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which are musty, sour, or heating; or which have any commercially objectionable foreign odor; or which contain stones; or which are otherwise of distinctly low quality.

[1] Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.
[2] Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

* * * * * * *

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

Dated: August 30, 1984.

D.R. Galliart,

Acting Administrator.

[FR Doc. 84–24082 Filed 9–11–84; 8:45 am]

BILLING CODE 3410–EN–M

Commodity Credit Corporation

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Barley, Corn, Rye, Sorghum, and Wheat, Amendment 1

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The interim rule amending the Commodity Credit Corporation Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Barley, Corn, Rye, Sorghum, and Wheat, which was published in the **Federal Register** on June 7, 1984 (49 FR 23597), is hereby adopted as a final rule without change. The interim rule amended the regulations at 7 CFR Part 1421 to provide for changes with respect to the price support loan rates for barley, corn, rye, sorghum, and wheat to reflect allowances for certain handling and transportation costs. Freight rate schedules for some of these commodities were also amended by the interim rule. All of the amendments were made to provide a more equitable treatment of producers participating in loan and purchase programs.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone (202) 447–8480.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1421) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560–0087.

This final rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1521–1 and Executive Order 12291 and has been classified "not major". It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

Interim Rule

An interim rule which amended the regulations at 7 CFR Part 1421 to provide for changes with respect to the loan and purchase programs for 1982 and subsequent crops barley, corn, rye, sorghum, and wheat was published in the **Federal Register** on June 7, 1984, at 49 FR 23597. A comment period was provided through August 6, 1984. No comments were received with respect to the provisions contained in the interim rule.

The interim rule amended the regulations at 7 CFR Part 1421 to provide: (1) That warehouse-stored loan rates shall reflect handling and transportation costs even though such commodities are transported less than 20 miles from a receiving warehouse by truck or truck-barge to a storing warehouse; (2) for increased truck freight rates for barley and wheat; (3) that basic county support rates and the schedule of discounts for barley will be available at the applicable county Agricultural Stabilization and Conservation Service (ASCS) office rather than being published in the **Federal Register**; (4) that the warehouse-stored reserve loan rate shall reflect handling and transportation costs when corn which is pledged as collateral for such loans is transported from a receiving warehouse by truck or truck-barge to a storing warehouse (transportation costs are limited to 25 cents per bushel); and (5) references to the numbers assigned by the Office of Management and Budget in accordance with the recordkeeping requirements of the Paperwork Reduction Act.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs—Agriculture, Price support programs, Surety bonds, Warehouses.

Final Rule

Accordingly, the interim rule published at 49 FR 23597, which amended 7 CFR Part 1421, is hereby adopted as a final rule without change.

(7 U.S.C. 1441, 1444d, 1445b–1, 1446, 1447, 1421 and 1425)

Signed at Washington, D.C., on September 7, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–24081 Filed 9–11–84; 8:45 am]

BILLING CODE 3410–05–M

Packers and Stockyards Administration

9 CFR Part 203

Review and Consolidation; Regulations and Policy Statements; Registrations, Rates, Brand Inspection and Stockyard Posting

Correction

In FR Doc. 84–21943 beginning on page 33001 in the issue of Monday, August 20, 1984, make the following corrections:

1. On page 33004, first column, the last line should have read as follows: "10. In Part 203, § 203.8 is removed."

§ 203.17 [Corrected]

2. On page 33004, second column, in the first line, "201.17" should have read "203.17". In the third line "public" should have read "policy".

BILLING CODE 1505-01-M

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket Number 83–024]

Acetic Acid, Citric Acid, Lactic Acid, Phosphoric Acid, and Tartaric Acid as Acidifiers in Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal mandatory meat and poultry products inspection regulations to permit the use of citric acid as an acidifier in processed meat and poultry products. The Department has also received numerous labeling requests to use acetic acid, lactic acid, phosphoric acid, and tartaric acid for the same purpose. The Administrator has determined that it is appropriate to add each of the above named acids to the tables of substances approved for use in the preparation of products. These substances are listed by the Food and Drug Administration (FDA) as "generally recognized as safe" (GRAS) for use in foods. This final rule amends the mandatory meat and poultry inspection regulations to permit the use of these substances as acidifiers in processed meat and poultry products.

EFFECTIVE DATE: November 13, 1984.

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

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

This final rule provides for the use of acetic acid, citric acid, lactic acid, phosphoric acid, and tartaric acid as acidifiers in processed meat and poultry products. Current regulations under the Federal Meat and Poultry Products Inspection Acts do not provide for the use of these acids for that purpose. Industry will benefit from this action by gaining the ability to use a variety of acidifiers, and the public will benefit through the introduction of safe, functional ingredients into the food supply.

Effect on Small Entities

The Administrator has determined that this action will not have a significant economic impact upon a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule will impose no new compliance or reporting requirements on industry. The promulgation of this rule will merely authorize the discretionary use of certain acidifiers in processed meat and poultry products.

Comments

This is a final rule consistent with the provisions of § 318.7 of the Federal mandatory meat inspection regulations and § 381.147 of the mandatory poultry products inspection regulations. As such, comments have not been solicited. However, interested persons should inform the Administrator of any facts which raise questions about this action within the 60 day period between the publication and effective date of this final rule.

Background

The Department has been petitioned by SCM Durkee Foods, Strongsville, Ohio to amend existing regulations to allow the use of citric acid as an acidifier in processed meat and poultry products. The petitioner asserts that this acid stabilizes the flavor and color of processed meat and poultry products by adjusting and stabilizing the pH of the product. The petitioner has supplied analytical data supporting the above claims and has indicated that product wholesomeness will not be affected when treated with this substance. Substantiating data are available from the Standards and Labeling Division at the address previously given.

Also, numerous label applications have been received for the use of acetic acid, lactic acid, phosphoric acid, and tartaric acid as acidifiers in processed meat and poultry products. These acids perform the same function as citric acid. Therefore, the Department is including those substances in this rule.

In the **Federal Register** of July 19, 1983 (48 FR 32749), the Administrator published a final rule announcing new procedures for the approval of substances to be used in the preparation of processed meat and poultry products. Under that rule and upon a showing that a substance has been listed as GRAS by the Food and Drug Administration, or as a food additive or color additive appropriate for the proposed use in processed meat and poultry products, that use of the substance will be permitted upon a further determination by the Administrator that the proposed use is compatible with recognized or regulated uses and is both suitable and functional for that particular product or class of product.

The substance for which approval has been requested and those which have been added are listed as GRAS by the FDA. Acetic acid was affirmed as GRAS and listed in 21 CFR 184.1005. Citric acid is listed as a multiple purpose GRAS food substance in 21 CFR 182.1033 and was proposed for GRAS affirmation in the **Federal Register** of January 7, 1983 (48 FR 834 as amended by 48 FR 5279). Lactic acid is listed as a multiple purpose GRAS food substance in 21 CFR 182.1061 and was tentatively affirmed as GRAS in the **Federal Register** of February 25, 1983 (48 FR 8086 as amended by 48 FR 11957). Phosphoric acid is listed as a multiple purpose GRAS food substance in 21 CFR 182.1073 and was proposed for GRAS affirmation in the **Federal Register** of December 18, 1979 (44 FR 74845). Tartaric acid was affirmed as GRAS and listed in 21 CFR 184.1099 pursuant to a final rule published in the **Federal Register** of November 18, 1983 (48 FR 52446).

Currently, acetic acid is permitted for use under 9 CFR 318.7(c)(4) as a refining agent to separate fatty acids and glycerol in rendered fats, provided it is eliminated in the process of manufacturing. Citric, lactic, L-tartaric, and phosphoric acids are all permitted for use as miscellaneous substances to acidify margarine or oleomargarine. Furthermore, citric acid is permitted as a flavoring agent in chili con carne.

Based upon available data, the Administrator finds that the use of these substances as acidifiers in processed meat and poultry products will not result in a product which is unwholesome, otherwise adulterated, or misbranded provided that these substances are added only in amounts sufficient to accomplish the stated technical effect and are indicated on the label. Prior to the preparation, sale or transportation of any meat or poultry product, the processor must obtain prior approval of the product label from FSIS. An essential element of the label approval process includes review and approval of the product's ingredient composition. Once a label is approved, the product so labeled must conform to the terms of the label approval in order to comply with the adulteration and misbranding provisions of the Meat and Poultry Products Inspection Acts. (21 U.S.C. 601 (m) and (n), 607(e), 610 (a) and (c), 453 (g) and (h), 457(d), 458(a) (1) and (2), 9 CFR 317.3, 317.4, 381,131 and 381.132). A new footnote is added in the charts under the heading "Amount" to indicate that specific determinations must be made for each product prior to label approval.

Therefore, the Administrator is amending the Federal mandatory meat and poultry products inspection regulations to include these substances classified as "Acidifiers" in the charts of approved substances in Parts 318 and 381 (9 CFR Parts 318 and 381). In addition, reference to a footnote (preexisting in Part 318 and added to Part 381) will be included in the charts under the heading "Products" informing interested persons where to write for information as to the specific products in which use of these substances is approved.

List of Subjects

9 CFR Part 318

Food additives, Food labeling, Meat and poultry products, Preparation of products.

9 CFR Part 381

Food additives, Food labeling, Poultry, Poultry products, Preparation of products.

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

1. The authority citation for Part 318 (9 CFR Part 318) reads as follows:

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

2. In § 318.7(c)(4) (9 CFR 318.7(c)(4)) a new class of substance entitled "Acidifiers" is added to the chart in alphabetical order. The descriptions of substance, purpose, products, and amount are added to read as follows:

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

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Acidifiers	Acetic acid	To adjust acidity	Various [2]	Sufficient for purpose [3]
	Citric acid	do	do	Do.
	Lactic acid	do	do	Do.
	Phosphoric acid	do	do	Do.
	Tartaric acid	do	do	Do.

[2] Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

[3] Provided, that its use is functional and suitable for the product and it is permitted for use at the lowest level necessary to accomplish the desired technical effect as determined in specific cases prior to label approval under § 317.4.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for Part 381 (9 CFR 381) reads as follows:

Authority: 71 Stat. 441, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92 (7 FR 9706, May 16, 1972), unless otherwise noted.

2. In § 381.147(f)(4) (9 CFR 381.147(f)(4)) a new class of substance entitled "Acidifiers" is added to Table 1 in alphabetical order. The descriptions of substance, purpose, products, and amount are added to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Acidifiers	Acetic acid	To adjust acidity	Various [3]	Sufficient for purpose. [4]
	Citric acid	do	do	Do.
	Lactic acid	do	do	Do.
	Phosphoric acid	do	do	Do.
	Tartaric acid	do	do	Do.

[3] Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Mean and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, South Building, 14th and Independence SW, Washington, DC 20250.

[4] Provided, that its use is functional and suitable for the product and it is permitted for use at the lowest level necessary to accomplish the desired technical effect as determined in specific cases prior to label approval under § 381.32.

* * * * *

Done at Washington, D.C. on: August 29, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-24028 Filed 9-11-84; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Elimination of Review of Financial Qualifications of Electric Utilities in Operating License Review and Hearings for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: In response to a remand by the U.S. Court of Appeals for the D.C. Circuit which declared invalid the Commission's March 31, 1982 rule eliminating financial qualification review and findings for electric utilities at all stages of the licensing proceeding, the Nuclear Regulatory Commission (NRC or Commission) is amending its regulations to eliminate financial qualification review and findings for electric utilities that are applying for operating licenses for utilization facilities if the utility is a regulated

public utility or is authorized to set its own rates. The Commission is reinstating a requirement for financial qualification review and findings for electric utilities that are applying for construction permits.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Carole F. Kagan, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Telephone: (202) 634–1493.

SUPPLEMENTARY INFORMATION:

I. Background

On April 2, 1984, the Commission published in the **Federal Register** (49 FR 13044) a notice of proposed rulemaking which would eliminate financial qualification review and findings for electric utilities applying for operating licenses for utilization facilities if the utility is a regulated public utility or is authorized to set its own rates. As detailed in the notice of proposed rulemaking, this action was taken in response to the decision of the District of Columbia Court of Appeals in *New England Coalition on Nuclear Pollution* v. *NRC*, 727 F.2d 1127 (D.C. Cir. 1984) which remanded the Commission's March 1982 rule (47 FR 13750) eliminating financial qualification review and findings for electric utilities applying for facility construction permits and operating licenses. The Court found the Commission's explanation of the final rule internally inconsistent because, in the Court's view, the reasons the Commission advanced for dispensing with the financial qualification review for electric utilities would, if supported by the facts, apply generally to all license applicants and would not support a rule that singled out utilities for special treatment.[1]

The proposed rule on remand was promulgated on the Commission's belief that case-by-case review of financial qualifications for all electric utilities at the operating license stage is unnecessary due to the ability of such utilities to recover, to a sufficient degree, all or a portion of the costs of construction and sufficient costs of safe operation through the ratemaking process. It is well established that public utility commissions (PUCs) are legally bound to set a utility's rates such that all reasonable costs of serving the public are recovered, assuming prudent management of the utility. *See, e.g., Federal Power Commission* v. *Hope Natural Gas Company*, 320 U.S. 519 (1944); *Bluefield Water Works and Improvement Company* v. *Public Service Commission of the State of West Virginia*, 262 U.S. 679 (1923). The Commission is reinstating financial qualification review for all construction permit applicants for the reasons stated in the notice of proposed rulemaking, (49 FR 13045).

The notice of proposed rulemaking solicited comments from interested persons. In order to provide additional information for the Commission's consideration in this rulemaking, NRC staff members visited with senior staff members of seven public utility commissions, two Federal agencies that regulate nuclear utilities and three publicly-owned [2] nuclear utilities. Telephone inteviews were conducted with two other State public utility commissions (New York and California) in response to concerns raised by commenters on the proposed rule. In addition, the staff analyzed data submitted by the National Association of Regulatory Utility Commissioners (NARUC) from its recent national survey of its member State public utility commissions and of publicly-owned nuclear utilities. This survey, referenced in the Notice of Proposed Rulemaking, was designed to determine whether, historically, utilities which have requested rate increases or rate provisions for operating safety requirements have regularly received them.

II. Analysis of Public Comment

A. Public Comment on the Proposed Rule

Forty-two comments were received on the proposed rulemaking. Slightly more than half of the commenters favored the proposed rule. Nearly all of these specifically endorsed the agency's conclusion that the regulated nature of public utilities assures adequate funding for safe operation through the ratemaking process. Most of these also indicated support for complete elimination of the financial qualification review requirement at all stages of the licensing process on the ground that there is no proven link between financial qualification reviews and safety. Two commenters espoused the view that Section 182 of the Atomic Energy Act does not mandate such reviews.

Several commenters expressed the view that the NRC's inspection and enforcement program is a more direct and efficient way of assuring operating safety than a review of a utility's finances. In addition, it was argued that the PUCs can more efficiently monitor the financial health of a utility on a continuing basis than can the NRC, whose expertise is in the health and safety area. The Commission, two commenters pointed out, can only judge the financial health of a utility based on prediction, while it can provide continual monitoring on health and safety issues.

Commenters opposing the proposed rule raised a number of issues. In the main, they disputed the premise that the ratemaking process provides reasonable assurance that utilities will be able to recover sufficient funds to safely operate a facility. Several grounds were offered for this attack:

- A utitity may not achieve an expected rate of return (i.e., profit) from the ratemaking process.
- Utilities may not recover every cost item requested from the PUCs.
- Portions of new plants are sometimes phased into the rate base over a period of time, so the utility will not immediately recover all necessary expenses.
- Costs may be disallowed if imprudently incurred.
- Some States are preempted by the NRC's licensing authority from judging the financial capabilities of the utilities they regulate.
- Publicly-owned utilities are not assured of funding through the ratemaking process.

Other objections raised by commenters to the proposed rule were that review at the construction permit stage only comes too early to judge the actual capability of a utility to finance a nuclear facility; that there is no assurance that utilities will apply monies obtained through the ratemaking process to operating plants, rather than to facilities under construction, and that utilities have an incentive to put plants on line too early in order to obtain rate base treatment.

The Commission believes that many of the concerns expressed about the proposed rule reflect a misunderstanding of the nature of the Commission's jurisdiction over, and prior reviews of, the financial qualifications of utility applicants. The origninal rule requiring financial qualification review, promulgated in 1968, required a finding, prior to operating license issuance, that the utility "possesses or has reasonable assurance of obtaining the funds necessary to cover the estimated costs

[1] In view of the limited applicability of the rationale expressed in the proposed rule and in this final rule, the concerns expressed by the Court no longer apply.

[2] "Publicly-owned utilities" are utilities owned by governmental units, governmentally-chartered units such as public utility districts, or by groups of consumers such as rural cooperatives, including associations of any of the foregoing.

of operation for the period of the license or for five years, whichever is greater, plus the estimated costs of permanently shutting the facility down and maintaining it in a safe condition." As can be seen, the focus of the rule was on the availability of funds, rather than on whether funds were properly spent.

Despite the longstanding nature of the financial qualification reviews under the original rule, their safety rationale seems never to have been clearly set out. A financial disability is not a safety hazard *per se* because the licensee can, and under the Commission's regulations would be obliged to, simply cease operations if necessary funds to operate safely were not available. At most, the Atomic Energy Commission, in drafting the rule, must have intuitively concluded that a licensee in financially straitened circumstances would be under more pressure to commit safety violations or take safety "shortcuts" than one in good financial shape. Accordingly, the drafters of the rule sought to achieve some level of assurance, prior to licensing, that licensees would not be forced by financial circumstances to choose between shutting down or taking shortcuts while the license was in effect.

The limited scope of this approach as it bears on safety is apparent. Having a reasonably assured source of funds does not assure that money intended or allocated for safety reasons will be so spent. Moreover, concerns regarding safety performance are not confined to those utilities with financial difficulties. A whole host of circumstances, including poor training, inattention to detail, poor management attitude, and lack of safety commitment, can conceivably lead to poor safety performace. Many of these other concerns are subsumed within the topic "managment integrity," which has been a focus of several pending licensing proceedings.

Given the inherent limitations of the rule, it must have been the rule drafters' intent that the question of potential misuse of available funds, like these other integrity concerns, be addressed elsewhere, either in the review of the applicant's technical qualifications, managment, and training prior to licensing, or by the Commission's post-licensing inspection and enforcement process.

This is confirmed by longstading practice under the original rule. Pre-licensing financial reviews under the rule were, as the rule itself suggests, confined to assuring a source of funds, and no effort was made at that stage to establish assurance that funds would be properly spent. Thus the concerns expressed by some commenters that the ratemaking bodies do not assure that funds received by a utility through the ratemaking process will actually be applied to meeting the requirements for safe operation are not relevant to consideration of the Commission's financial qualification rule. Even though the rate process does no more than assure that regulated utilities will have the financial resources needed to operate safely, this limited assurance is all that the financial qualification rule was intended to achieve. These commenters' concerns go not to the need to reinstate financial qualification reviews, but to other issues beyond the scope of this rulemaking that have been, and continue to be, addressed in pre-licensing review of applicant's technical qualifications, managment and training, and by the post-licensing inspection and enforcement process.

A second misunderstanding stems from the impression that a utility would have to be guaranteed a rate of recovery equal to every penny it requested from the rate commission in order to assure safe operation. This impression has led several commenters to object to the proposed rule on the basis that rate regulation does not ensure a fixed level of profitability.

Neither in this rule nor in its financial qualification review has the Commission made any assumption as to the rate of return or the level of profit to be allowed to utilities from the operation of nuclear plants. Its concern is that reasonable and prudent costs of safely maintaining and operating nuclear plants will be allowed to be recovered through rates. This concern does not extend to any level of profit or rate of return beyond those operating expenses. The Commission's concern is with safe operation, not profits.

The same misunderstanding underlies the comment that utilities do not recover every cost item requested from rate commissions. It is not uncommon for a rate commission to deny certain requested cost items or portions thereof. These disallowances, however, deny a utility only a small portion of its total revenues. The amount of the disallowance may be reflected in a smaller profit margin, but the costs denied by the ratemaking bodies are not so great that the amount of these disallowances would exceed operating costs. NRC conversations with ratemaking bodies as well as the results of the NARUC questionnaire confirm that it is standard practice among ratemaking bodies to factor in the amount of disallowances to ensure that utilities receive enough rate relief when a plant goes into operation to recover all resonable costs of safe operation.

The same reasoning applies to the comment that rate base phase-ins and disallowances (portion of new plants either not allowed into the rate base or phased in to the rate base over a period of time) affect the utility's recovery of operating expenses. Again, such phase-ins may affect short-term profits, but does not affect recovery of operating expenses.

No sound basis has been shown for the allegation raised by the State of Texas that a State may be preempted from judging the financial capabilities of the utilities it regulates, because only the NRC has the authority to issue licenses and order shutdowns, or for the allegation that publicly-owned utilities are not assured of funding through the ratemaking process. The NRC's analysis of the NARUC survey, discussed *infra*, has shown that all State public utility commissions have sufficient ratemaking authority to ensure sufficient utility revenues to meet the cost of NRC safety requirements. Similarly, it has been shown that publicly-owned utilities have independent rate-setting authority which is used to cover the costs of operation, including those of meeting NRC safety requirements.

B. Public Comments on the NARUC Study

As indicated above, the National Association of Regulatory Utility Commissioners (NARUC) submitted to the Commission the results of a national survey of its members regarding the provision for nuclear plant operating funds through a State commission's ratemaking process. The survey also included the Federal Energy Regulatory Commission and a broad sample of publicly-owned nuclear utilities. The NRC staff analyzed the survey, and the results of both the survey and the NRC's analysis were placed in the NRC Public Document Room. An extension of the comment period on the rule was provided in order to give the public an opportunity to comment both on the survey and on the NRC analysis.

The NRC staff found that the survey lends strong support to the proposed rule. The conclusion that emerged from the study was that ratemaking authorities had varying mechanisms to ensure sufficient utility revenues to meet the costs of NRC safety requirements, but that all had such mechanisms. Only one instance was identified (Arkansas) where a revenue request to enable a utility to meet what were purported to be nuclear safety costs was denied.[3]

[3] In that situation, the dispute revolved around a single facility which was to serve both as a visitor's

Continued

That case is currently on appeal. Most ratemaking bodies indicated that no specific provision was made for NRC safety requirements, but that rates are established in general rate cases to produce sufficient overall revenues to assure sound functioning of the electric power systems, including nuclear plants. Some PUCs did indicate that their orders specifically allocate funds to meet NRC safety requirements. This question was a subject of particular focus during NRC staff visits to PUCs. The PUCs visited were unanimous in saying that safety-related operating expenses were *always* considered reasonable expenses when prudently incurred and were allowed to be recovered through rates.

Publicly-owned nuclear utilities were also surveyed. It was found that these have independent rate-setting authority that is used to recover costs of operation, including the costs of meeting NRC safety requirements. Exceptions were two cooperative utilities that, by State law, have their rates regulated by the State public utility commissions. Many publicly-owned and investor-owned nuclear plants are owned by groups of utilities, rather than solely-owned. Where this is the case, the respondents to the NARUC study indicated that they have contractual agreements with the other co-owners to increase their contributions to operating costs if total costs increase over time. The amount of any such increase is proportional to each utility's relative ownership share in the plant.

Those commenters who endorsed the Commission's conclusions on the NARUC study did so on the basis that the study shows that, no matter the regulatory mechanism, all PUCs and publicly-owned utilities have the authority to set rates in such a way that sufficient revenues to meet NRC safety requirements are assured.

One commenter stated that in one-quarter of the States regulators do not have the authority to assure adequate revenues to cover nuclear safety costs. This is incorrect. In those States, regulators do not have *specific* authority to treat nuclear safety costs as a separate case. They do, however, have a general grant of authority to allow recovery of all reasonable costs through rates. As previously indicated, reasonable costs of meeting NRC requirements are virtually automatically included within that definition.

center (non-safety-related expense) and as an emergency response center (safety-related expense). The issue was which portion of the costs of that facility should be defined as safety-related and, therefore, recoverable through rates.

The same commenter raised several objections to the conclusions drawn from the NARUC survey by the NRC. That commenter's primary argument is that the purpose of State utility regulation is not to assure the financial health of public utilities or to assure that utilities request funds for and devote funds to assure nuclear safety. The Commission understands the commenters's concern to be that State regulation will not assure the utility sufficient profits to allow it to safely operate a facility. This concern is unfounded. While the purpose of State utility regulations is not to assure profits, it is to set rates at such a level that the public is assured an adequate supply of power at the fairest possible price. In order to attain this goal, it is essential that the utility have the opportunity to earn a reasonable amount of profit. A financially unsound utility will not serve the goals of either the rate-regulating body or the public.

The Commission has never asserted that rate regulators assure that utilities devote a specific portion of their funds to nuclear safety. The commenter apparently believes that the NRC's past financial reviews monitored nuclear power plant expenditures to see where the funds went. As explained above, this has never been the case. The Commission examined a utility before a license was granted to assure that, in the Commission's judgment, the utility had sufficient *total* revenues to operate a facility. The Commission did not examine the books of facilities to assure that monies requested for safety expenditures were so spent, but relied on its inspection and enforcement program to ensure that each facility met all NRC safety regulations. This will remain unchanged under the present rule.

The Commission believes that the record of this rulemaking demonstrates generically that the rate process assures that funds needed for safe operation will be made available to regulated electric utilities. Since obtaining such assurance was the sole objective of the financial qualification rule the Commission concludes that, other than in exceptional cases, no case-by-case litigation of the financial qualification of such applicants is warranted. Some of the other concerns expressed by commenters, including concerns that available funds will not be spent properly for safety matters, will continue to be separately addressed by the Commission, either in pre-licensing reviews or in the post-licensing inspection and enforcement program.

C. Public Comment on the Link Between Financial Qualification Review and Assurance of Safety

The Commission also sought comment on the question of whether financial qualification reviews could be eliminated completely at both the construction permit and operating license stages on the basis that there is no connection between these reviews and health and safety. Nearly all commenters who wrote in support of the proposed rule also indicated that they would support such a proposal. The commenters relied on the fact that no correlation has been shown between financial qualification and safety, that the Commission's financial reviews are essentially predictive and cannot adequately anticipate what the actual costs of operation will be, that financial incentives do not favor reducing the operating and maintenance costs associated with nuclear power reactors, that the consequences of a serious incident at a nuclear power plant would be too severe to warrant cutting corners on safety, that the financial condition of a utility improves once a facility is operating and that the NRC's inspection and enforcement program is a more efficient method of insuring safety. One commenter[4] enclosed a May 31, 1984 report from National Economic Research Associates, Inc. (NERA) which studied investor-owned utilities and concluded that an examination of the financial condition of electric utilities at the operating license stage is unlikely to produce any useful insight into the safe operation of nuclear power reactors. NERA based its conclusions upon an analysis of the financial incentives associated with operating nuclear power reactors, the relationship between nuclear-related operation and maintenance costs and measures of utility financial health, and general considerations of what happens to the financial condition of electric utilities when a new reactor begins operation. NERA concluded that incentives to cut costs and increase profits by cutting corners are outweighed by the financial risks of cutting corners, that there is a greater chance of shutdown and removal from the rate base in case of accident in a nuclear facility, and that it is easier for a utility that operates both nuclear and non-nuclear facilities to

[4] This commenter also suggested that, if the Commission were to reinstate financial qualification review for construction permit applicants, it should also reinstate that portion of Appendix C to 10 CFR Part 50 which provides guidance for such review. The Commission has done so in this final rule.

reduce non-nuclear rather than nuclear costs.

Most commenters who opposed the Commission's rule chose not to comment separately on this issue. Those that did cited the allegedly poor financial health of some utilities, but failed to identify any link between the NRC's financial qualification reviews and the safe operation of facilities owned by these utilities.[5]

The NRC has found strong indications in the public comments, and especially in the NERA report, that a rule eliminating financial qualification review at all stages of the licensing proceeding is supportable, at least for regulated utilities, on the basis of the lack of any proven link between financial qualification review and safety given the Commission's long experience in regulating utilities, the data in the NERA report, and the further public comment. Since the Commission has had less experience with and less information on the subject of non-utility licensees, and since the Commission has indicated that it would not issue a final rule on this basis without a further opportunity for public comment, the Commission is not relying on this premise for the current rule. The Commission does, however, note that there is some support for the proposition that, for electric utilities, there is no connection between the Commission's financial qualification review and safe operation of a facility.

III. Additional Information That Can Be Required

By this rule, the Commission does not intend to waive or relinquish its residual authority under Section 182a of the Atomic Energy Act of 1954, as amended, to require such additional information in individual cases as may be necessary for the Commission to determine whether an application should be granted or denied or whether a license should be modified or revoked. An exception to or waiver from the rule precluding consideration of financial qualification in an operating license proceeding will be made if, pursuant to 10 CFR 2.758, special circumstances are shown. For example, such an exception to permit financial qualification review for an operating license applicant might be appropriate where a threshold showing is made that, in a particular case, the local public utility commission will not allow the total cost of operating the facility to be recovered through rates.

IV. Practical Impacts

The rule will, in normal circumstances, reduce the time and effort which the applicants, licensees, the NRC staff and NRC adjudicatory boards devote to reviewing the applicant's or licensee's financial qualifications in comparison to the rule which existed before March 31, 1982. The rule eliminates staff review at the operating license stage in cases where the applicant is an electric utility presumed to be able to finance activities to be authorized under the license. The rule will be applied both to ongoing and future licensing reviews and proceedings and to past proceedings subject to the remanded rule. The rationale for the rule is in effect a generic determination that regulated or self-regulating public utilities are financially qualified to operate nuclear power plants. Accordingly, this rule amounts to a generic resolution of financial qualification issues that may be pending in operating license proceedings involving electric utilities. The NRC neither intends nor expects that the rule will affect the scope of any issues or contentions related to a cost/benefit analysis performed pursuant to the National Environmental Policy Act of 1969. Under NEPA, the issue is not whether the applicant can demonstrate reasonable assurance of covering certain projected costs, but what costs to the applicant of constructing and operating the plant are to be put into the cost-benefit balance. As is now the case, the rule of reason will continue to govern the scope of what costs are to be included in the balance, and the resulting determinations may still be the subject of litigation.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, OMB Approval No. 3150–0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule reduces certain minor information collection requirements on the owners and operators of nuclear power plants licensed pursuant to sections 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. These electric utility companies are dominant in their service areas. Accordingly, the companies that own and operate nuclear power plants are not within the definition of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Classified information, Confidential information, Freedom of information, Hazardous materials, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Fire prevention, Classified information, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reporting and recordkeeping requirements.

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 section 553 of Title 5 of the United States Code, the NRC is adopting the following amendments to 10 CFR Parts 2 and 50.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231), sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.300–2.309 also issued under Pub. L. 97–415, 96 Stat. 2071 (42 U.S.C. 2133). Section 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and

[5] It is important to note that, if such a link could be identified for any given facility, the Commission would not be precluded from examining the financial qualification of that facility under 10 CFR 2.758. *See* Section IV, *infra*.

5 U.S.C. 552. Section 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.4, paragraph (s) is revised to read as follows:

§ 2.4 Definitions.

As used in this part,

* * * * *

(s) "Electric utility" means any entity that generates or distributes electricity and which recovers the costs of this electricity, either directly or indirectly through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

3. In § 2.104, paragraph (c)(4) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(c) * * *

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the regulations in this chapter, except that the issue of financial qualification shall not be considered by the presiding officer in an operating license hearing if the applicant is an electric utility seeking a license to operate a utilization facility of the type described in § 50.21(b) of § 50.22;

* * * * *

4. In Appendix A to Part 2, paragraph (b)(4) of Section VIII is revised to read as follows:

Appendix A—Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing is Required Under Section 189A of the Atomic Energy Act of 1954, as Amended

* * * * *

VIII. Procedures Applicable to Operating License Proceedings

* * * * *

(b) * * *

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the Commission's regulations, except that the issue of financial qualification shall not be considered by the board if the applicant is an electric utility seeking a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 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 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

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

6. In § 50.2, paragraph (x) is revised to read as follows:

§ 50.2 Definitions.

As used in this part,

* * * * *

(x) "Electric utility" means any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

7. In § 50.33, paragraph (f) is revised to read as follows:

§ 50.33 Contents of applications; general information.

Each application shall state:

* * * * *

(f) Except for an electric utility applicant for a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22, information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought. As applicable, the following should be provided:

(1) If the application is for a construction permit, the applicant shall submit information that demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs. The applicant shall submit estimates of the total construction costs of the facility and related fuel cycle costs, and shall indicate the source(s) of funds to cover these costs.

(2) If the application is for an operating license, the applicant shall submit information that demonstrates the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license, plus the estimated costs of permanently shutting the facility down and maintaining it in a safe condition. The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility and estimates of the costs to permanently shut down the facility and maintain it in safe condition. The applicant shall also indicate the source(s) of funds to cover these costs. An application to renew or extend the term of an operating license must include the same financial information as is required in an application for an initial license.

(3) Each application for a construction permit or an operating license submitted by a newly-formed entity organized for the primary purpose of constructing or operating a facility must also include information showing:

(i) The legal and financial relationships it has or proposes to have with its stockholders or owners;

(ii) Its financial ability to meet any contractual obligation to the entity which they have incurred or proposed to incur; and

(iii) Any other information considered necessary by the Commission to enable it to determine the applicant's financial qualification.

(4) The Commission may request an established entity or newly-formed entity to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information appropriate. This may include information regarding a

licensee's ability to continue the conduct of the activities authorized by the license and to permanently shut down the facility and maintain it in a safe condition.

* * * * *

8. In § 50.40, paragraph (b) is revised to read as follows:

§ 50.40 Common standards.

* * * * *

(b) The applicant is technically and financially qualified to engage in the proposed activities in accordance with the regulations in this chapter. However, no consideration of financial qualification is necessary for an electric utility applicant for an operating license for a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

9. In § 50.57, footnote 1 is set out for the convenience of the reader, and paragraph (a)(4) is revised to read as follows:

§ 50.57 Issuance of operating license.[1]

(a) * * *

(4) The applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations in this chapter. However, no finding of financial qualification is necessary for an electric utility applicant for an operating license for a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

10. Appendix C to Part 50 is added as follows:

Appendix C—A Guide for the Financial Data and Related Information Required To Establish Financial Qualifications for Facility Construction Permits

General Information

This appendix is intended to apprise applicants for licenses to construct production or utilization facilities of the types described in § 50.21(b) or § 50.22, or testing facilities, of the general kinds of financial data and other related information that will demonstrate the financial qualification of the applicant to carry out the activities for which the permit is sought. The kind and depth of information described in this guide is not intended to be a rigid absolute requirement. In some instances, additional pertinent material may be needed. In any case, the applicant should include information other than that specified, if such information is pertinent to establishing the applicant's financial ability to construct the proposed facility.

It is important to observe also that both § 50.33(f) and this appendix distinguish between applicants which are established organizations and those which are newly-formed entities organized primarily for the purpose of engaging in the activity for which the permit is sought. Those in the former category will normally have a history of operating experience and be able to submit financial statements reflecting the financial results of past operations. With respect, however, to the applicant which is a newly formed company established primarily for the purpose of carrying out the licensed activity, with little or no prior operating history, somewhat more detailed data and supporting documentation will generally be necessary. For this reason, the appendix describes separately the scope of information to be included in applications by each of these two classes of applicants.

In determining an applicant's financial qualification, the Commission will require the minimum amount of information necessary for that purpose. No special forms are prescribed for submitting the information. In many cases, the financial information usually contained in current annual financial reports, including summary data of prior years, will be sufficient for the Commission's needs. The Commission reserves the right, however, to require additional financial information at the construction permit stage, particularly in cases in which the proposed power generating facility will be commonly owned by two or more existing companies or in which financing depends upon long-term arrangements for sharing of the power from the facility by two or more electrical generating companies.

Applicants are encouraged to consult with the Commission with respect to any questions they may have relating to the requirements of the Commission's regulations or the information set forth in this appendix.

I. Applicants Which Are Established Organizations

A. Applications for construction permits

1. *Estimate of construction costs.* For electric utilities, each applicant's estimate of the total cost of the proposed facility should be broken down as follows and be accompanied by a statement describing the bases from which the estimate is derived:

(a) Total nuclear production plant costs	$.....
(b) Transmission, distribution, and general plant costs	$.....
(c) Nuclear fuel inventory cost for first core [1]	$.....
Total estimated cost	$.....

[1] Section 2.790 of 10 CFR Part 2 and § 9.5 of 10 CFR Part 9 indicate the circumstances under which information submitted by applicants may be withheld from public disclosure.

If the fuel is to be acquired by lease or other arrangement than purchase, the application should so state. The items to be included in these categories should be the same as those defined in the applicable electric plant and nuclear fuel inventory accounts prescribed by the Federal Energy Regulatory Commission or an explanation given as to any departure therefrom.

Since the composition of construction cost estimates for production and utilization facilities other than nuclear power reactors will vary according to the type of facility, no particular format is suggested for submitting such estimates. The estimate should, however, be itemized by categories of cost in sufficient detail to permit an evaluation of its reasonableness.

2. *Source of construction funds.* The application should include a brief statement of the applicant's general financial plant for financing the cost of the facility, identifying the source or sources upon which the applicant relies for the necessary construction funds, e.g., internal sources such as undistributed earnings and depreciation accruals, or external sources such as borrowings.

3. *Applicant's financial statements.* The application should also include the applicant's latest published annual financial report, together with any current interim financial statements that are pertinent. If an annual financial report is not published, the balance sheet and operating statement covering the latest complete accounting year together with all pertinent notes thereto and certification by a public accountant should be furnished.

II. Applicants Which Are Newly Formed Entities

A. Applications for construction permits

1. *Estimate of construction costs.* The information that will normally be required of applicants which are newly formed entities will not differ in scope from that required of established organizations. Accordingly, applicants should submit estimates as described above for established organizations.

2. *Source of construction funds.* The application should specifically identify the source or sources upon which the applicant relies for the funds necessary to pay the cost of constructing the facility, and the amount to be obtained from each. With respect to each source, the application should describe in detail the applicant's legal and financial relationships with its stockholders, corporate affiliates, or others (such as financial institutions) upon which the applicant is relying for financial assistance. If the sources of funds relied upon include parent companies or other corporate affiliates, information to support the financial capability of each such company or affiliate to meet its commitments to the applicant should be set forth in the application. This information should be of the same kind and scope as would be required if the parent companies or affiliates were in fact the applicant. Ordinarily, it will be necessary that copies of agreements or contracts among the companies be submitted.

As noted earlier in this appendix, an applicant which is a newly formed entity will normally not be in a position to submit the usual types of balance sheets and income statements reflecting the results of prior operations. The applicant should, however, include in its application a statement of its

[1] The Commission may issue a provisional operating license pursuant to the regulation in this part in effect on March 30, 1970, for any facility for which a notice of hearing on an application for a provisional operating license or a notice of proposed issuance of a provisional operating license has been published on or before that date.

assets, liabilities, and capital structure as of the date of the application.

11. In Appendix M to Part 50, paragraph 4. (b) is revised to read as follows:

Appendix M—Standardization of Design; Manufacture of Nuclear Power Reactors; Construction and Operation of Nuclear Power Reactors Manufactured Pursuant to Commission License

* * * * *

4. * * *

(b) The financial information pursuant to § 50.33(f) shall be directed at a demonstration of the financial qualification of the applicant for the manufacturing license to carry out the manufacturing activity for which the license is sought.

* * * * *

The additional views of Commissioner Asselstine and the separate statement of Chairman Palladino follow.

Additional Views of Commissioner Asselstine

A majority of the Commission has concluded that in its consideration of an application for an operating license for a nuclear power plant, no review whatsoever of the utility applicant's financial qualifications to operate the facility is required and, other than in exceptional cases, no case-by-case litigation of the financial qualification of the applicant is warranted. The majority's conclusion appears to be based upon the judgment that the record of this rulemaking demonstrates generically that the rate process assures that funds needed for safe plant operation will be made available to regulated electric utilities.

Although the NRC should not return to performing the same types of financial qualification reviews required by the old rule, the majority has gone too far in excluding virtually all consideration of the utility applicant's financial qualification in nuclear power plant operating license proceedings. Such a sweeping exclusion is contrary to the requirements of the Atomic Energy Act, is unsupported by the facts and is unjustified on the basis of this rulemaking record.

Section 182 a. of the Atomic Energy Act of 1954 requires that each application for an operating license for a nuclear power plant "specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant . . . as the Commission may deem appropriate for the license." The plain language of the statute appears to require consideration of the financial qualification of the applicant as part of the Commission's decision on whether to issue an operating license for a nuclear power plant. Thus, at least absent clear and convincing evidence that the financial qualification of a regulated utility is wholly irrelevant to safe plant operation in all cases (evidence that is not to be found in this rulemaking record), the Commission is required to perform some type of financial qualification review and to consider financial qualification issues as part of the licensing proceeding for a nuclear power plant.

The majority points to a survey conducted by the National Association of Regulatory Utility Commissions (NARUC) which shows that public utility commissioners and publicly-owned utilities have the authority to set rates in such a way that sufficient revenues to meet NRC safety requirements are assured. However, the fact that regulated electric utilities can generally expect to be compensated for the cost of safety requirements does not provide a basis for eliminating all consideration of financial qualification issues in operating license proceedings.

As the NARUC study itself confirms, public utility commissions typically do not specify that funds to cover safety requirements must be spent on nuclear plant operations. Nor are nuclear plant operating costs the only element considered by public utility commissions in deciding on the amount of revenues to be provided to the utility. As some commenters noted, utility rate commission decisions can include elements such as rate base phase-ins or disallowances that affect the overall rate level allowed for the utility. Such factors, together with the cost of ongoing construction programs that frequently are not included in the rate base, inevitably require the utility to make choices regarding the allocation of rate returns among such competing priorities as nuclear and non-nuclear plant operating costs, plant improvements aimed at increasing plant capacity factors, increasingly costly construction programs and providing an adequate rate of return to investors. The difficult financial choices faced by some utilities, particularly smaller utilities with larger ongoing construction programs, are widely documented. There is simply no basis in this rulemaking record for concluding that in all instances a utility will resolve the conflicting financial priorities in favor of allocating full funding to nuclear plant operation. In the absence of such evidence, the fact that utility commissions typically provide rate relief sufficient to cover the cost of safety requirements does not, by itself, justify the total exclusion of all financial qualification issues and the elimination of all financial qualification reviews.

The majority also argues its conclusion is supported by the agency's long experience in regulating utilities, and that present inspection and enforcement efforts are a sufficient means for identifying and correcting financially motivated safety problems. The majority, although professing not to rely on this point, further attempts to bolster its position by asserting that there is some support for the proposition that there is no link between financial qualification reviews and safety. In support of this assertion, the majority points to a study by the National Economic Research Associates, Inc. (NERA), which finds that the financial risks to the utility associated with the consequences of a nuclear accident outweigh any financial gains that might be achieved by cutting corners on safety.

Although these arguments are superficially attractive, they are not supported by the facts. Unfortunately, financial considerations can and do lead to safety weaknesses in some instances. There have been instances, some recently, in which regulated utility licensees with operating power reactors have emphasized maximizing electricity generation over safety, have been unwilling to build a strong, technically capable nuclear plant operations organization, or have failed to move aggressively to satisfy new NRC safety requirements. In many instances, financial considerations appear to be a significant contributor to these utility decisions. Some of these safety weaknesses have been of continuing duration, and not all have been identified or corrected by our inspection and enforcement program. These examples would appear to indicate clearly that financial considerations can and do affect safety in some instances. Given this experience, I see no basis for the majority's conclusion that the NRC need not examine a utility's financial capability to operate the plant or consider financial qualification issues in our licensing proceedings. Nor does the Commission's reliance on 10 CFR 2.758 provide an effective means for identifying and correcting safety weaknesses caused by financial considerations. As it would apply here, 10 CFR 2.758 would require that a member of the public first identify the financial qualification issue, bring it to the Commission's attention and demonstrate that special circumstances

exist in the case before *any* consideration of the issue will be permitted. This very restricted opportunity to raise the issue imposes a heavy burden on the party seeking to raise the issue, and the Commission's new rule, for all practical purposes, can be expected to eliminate virtually all consideration of financial qualification issues by the NRC staff and in operating license hearings. Finally, the majority argues that the elimination of the Commission's existing financial qualification reviews is justified on the ground that those reviews fail to consider how a utility actually spends the revenues provided by public utility commissions. However, if present financial qualification reviews are ineffective, that is an argument for restructuring, rather than eliminating, them.

Rather than seeking to eliminate virtually all consideration of financial qualification issues, the Commission should be restructuring its rules and regulatory programs to ensure that its financial qualification reviews identify any financial considerations that can affect the safety of plant operations. Such a restructured program could focus on five elements. The first element would be a required certification by the relevant public utility commission or commissions to the effect that revenues necessary to support the plant's prudent operation will be forthcoming. Such a certification would satisfy the purpose served by the Commission's previous financial qualification reviews. At the same time, unwillingness on the part of a utility commission to provide such a certification would indicate a potential financial qualification problem requiring further NRC review.

The second element would be to restore the opportunity for participants in NRC licensing proceedings to raise and litigate financial qualification issues, including questions regarding the utility's ability or unwillingness to apply the funds needed for safe plant operation, and questions involving regulatory or contractual commitments that could lead to unsafe operation. The third element would be to permit members of the public to raise financial qualification issues regarding operating plants and to have those issues considered pursuant to 10 CFR 2.206.

The fourth element would consist of an augmented NRC inspection program to consider the possible connection between financial considerations and identified plant safety weaknesses. The final element would consist of a required showing by the utility of how it intends to assure the availability of funds to pay the cost of plant decommissioning. This final element may best be considered as part of the Commission's decommissioning rule, but the Commission could commit to requiring such a showing now. It is worth noting that the majority was unwilling to indicate at this time a commitment to address the financial qualification issue for decommissioning in a subsequent decommissioning rule. Taken together, these elements or a restructured program would reflect the role and knowledge of the public utility commissions and would eliminate unnecessary duplication of effort. At the same time, this program would recognize the link between financial considerations and safety, and would provide for more effective consideration of financial qualification issues. Such an approach would demonstrate the Commission's desire to deal effectively with safety issues. Unfortunately, the Commission seems more inclined simply to avoid them.

Separate Statement of Chairman Palladino

Commissioner Asselstine's criticism of the Commission's approach is not justified by either the facts or the law in this rulemaking.

First, as the Court of Appeals observed in its decision remanding the Commission's March 1982 rule, even if the Atomic Energy Act of 1954 were interpreted as requiring financial qualification reviews, it would not preclude appropriate generalized criteria that would render some case-by-case evaluations unnecessary. *NECNP v. NRC*, Slip op. at 5 (February 7, 1984). The Commission rested its proposal of April 2, 1984 to eliminate financial qualifications reviews on the generic conclusion that the rate process assures for regulated electric utilities (or those utilities able to set their own rates) the funds needed for safe operation of a nuclear power facility. In the statement accompanying today's final rule, the Commission notes its belief that the rulemaking record supports this generic conclusion. It also notes that 10 CFR 2.758 provides an avenue for possible consideration of financial qualifications in a particular case where the generic conclusion appears not to apply. The Act does not require more.

Second, the Commission's financial qualification reviews have not, in the past, addressed questions about how a utility resolves conflicting financial priorities. The statement accompanying the final rule makes clear that the Commission relies on a number of regulatory means, including post-licensing inspection and enforcement, to protect against financial choices by a utility that are adverse to safe nuclear plant operation.

Third, I would point out that while the Commission requested comment on the question whether financial qualification reviews might be eliminated completely on the ground that no link has been shown between financial qualification reviews and assurance of safety, it did not base its proposed rule on that ground. The final rule's accompanying statement notes support for, but it does not seek to justify the final rule on, that ground. The accompanying statement also notes that, if a link can be identified in a particular case between financial qualification review and safe plant operation it could be addressed under 10 CFR 2.758.

Fourth, the matter of decommissioning costs is the subject of separate generic consideration within NRC. The fact that the Commission has chosen not to tie decommissioning costs to this financial qualifications rulemaking should not be interpreted as an indication that the Commission believes that decommissioning funding is unimportant to public health and safety. Rather, it recognizes that any action on decommissioning is more appropriate in the context of a separate generic rulemaking. See 47 F.R. 13750 (March 31, 1982).

Dated at Washington, DC this 6th day of September 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-24085 Filed 9-11-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 4

[Docket No. 84-30]

Description of Office, Procedures, and Public Information

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

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency has completed the reorganization of its field offices. This final rule changes the word "Regional" to "District" throughout the regulation to reflect the new title of the reorganized offices. The final rule also clarifies language relating to exceptions to required disclosure of information to make the regulation conform to existing

law and agency policy. In addition, the final rule directs certain information requests to the district offices instead of the Washington headquarters.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Mallinger, Senior Attorney, Legal Advisory Services Division (202) 447–1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: This final rule makes three changes. First, it replaces obsolete terms. The Office of the Comptroller of the Currency ("Office") is no longer organized in "regions," so it is necessary to replace the outdated references to "regions" with the word "districts" to correspond with the new organizational structure.

Second, the final rule clarifies ambiguous language contained in 12 CFR Part 4, which implements the Freedom of Information Act, 5 U.S.C. 552. This statute, which governs agency disclosure of information to the public, makes exceptions for certain sensitive information (national defense secrets, personal privacy, etc.). *See* 5 U.S.C. 552(b). The Office's implementing regulation distinguishes between required disclosure of certain information and exceptions to such disclosure. The wording of the current regulation has created some confusion over whether these exceptions actually apply to the information that is otherwise required to be disclosed. This final rule makes it clear that such statutory exceptions to disclosure do apply to information that agencies generally must make available to the public.

The final rule also indicates that certain information may be disclosed by a "district" office rather than the Washington headquarters of the agency. This is necessary because some duties have been delegated to the district offices and that is where the documents are located.

Notice and Comment and Delayed Effective Date

The Office has determined that notice and comment are unnecessary under 5 U.S.C. 553(b)(3)(A) since this final rule pertains to rules of agency organization and procedure. The Office has also determined that a 30-day delayed effective date is unnecessary under 5 U.S.C. 553(d)(3) because these amendments constitute technical changes in the wording of the regulation, provide updated information on the availability of material from the Office, and clarify ambiguous language in the regulation.

Regulatory Flexibility Act

A regulatory flexibility analysis is required only for rules issued for notice and comment. Because this final rule pertains to office organization and management and is therefore exempt from notice and comment procedures, no Regulatory Flexibility Analysis will be prepared.

Executive Order 12291

Because this rule relates to Agency organization and management, it is not subject to E.O. 12291.

List of Subjects in 12 CFR Part 4

National banks, Organization and functions (government agencies), Public information, Official forms, District offices, Field offices, Procedures, Delegation.

PART 4—DESCRIPTION OF OFFICE PROCEDURES, PUBLIC INFORMATION

For the reasons given in the preamble, Part 4 of Title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 4 is:

Authority: 12 U.S.C. 1 *et seq.*, 5 U.S.C. 552, unless otherwise noted.

2. Section 4.15 is amended by revising the introductory text to paragraph (a) as follows:

§ 4.15 Orders, opinions, etc. available to the public.

(a) Subject to the exceptions listed in § 4.16 of this part, the Comptroller of the Currency makes the following documents available to the public for inspection and/or copying:

* * * * *

3. Section 4.16 is amended by revising paragraph (a) as follows:

§ 4.16 Other records available to public; exceptions.

(a) All records of the Comptroller of the Currency, including those referred to in § 4.15 of this part, are available to any person for inspection and copying in accordance with §§ 4.17 and 4.17a, except as provided in paragraph (b) of this section.

* * * * *

4. Section 4.17 is amended by replacing the word "regional" wherever it appears in this section with the word "district," and by replacing the word "regions," wherever it appears in this section with the word "districts."

5. Section 4.17 is further amended by revising paragraph (c) as follows:

§ 4.17 Location of public reading rooms; requests for identifiable records; and service of process.

* * * * *

(c) Locations of certain records. All public records of the Comptroller of the Currency, except: (1) The public portions of applications by national banking associations to establish a branch or seasonal agency; (2) the public portions of applications to organize a national banking association during the period such applications are in the investigatory process in the respective districts, and (3) records concerning matters delegated to the district offices (such as those listed in 12 CFR 5.3(c)), are available in the central office listed in paragraph (b)(1) of this section. During this investigatory period, the public portions of the applications listed in paragraph (c)(2) of this section will be available in the respective districts as listed in § 4.1a(b).

* * * * *

Dated: August 29, 1984.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 84-24055 Filed 9-11-84; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, and 221

Regulations G, T and U; Securities Credit Transactions; Amendment to definitions of "margin security" and "margin stock" and related technical amendments

[Docket No. R-0512]

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending the definition of "margin security" in Regulation T and the definitions of "margin stock" in Regulations G and U to give automatic marginability to any over-the-counter security identified as a National Market System (NMS) security in accordance with a designation plan of the National Association of Securities Dealers (NASD) that has been approved by the Securities and Exchange Commission (SEC). The Board will publish the List of OTC Margin Stocks on a new quarterly schedule. The Board's List will include NMS and non-NMS securities that otherwise meet the criteria for marginability established by the Board. Regulations G and U are also being amended to provide protection for lenders who may not have notice of a stock's designation between the Board's quarterly publication dates.

EFFECTIVE DATE: November 13, 1984.

FOR FURTHER INFORMATION CONTACT:
Robert S. Plotkin, Assistant Director, Laura Homer, Securities Credit Officer, or Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, (202) 452–2781.

SUPPLEMENTARY INFORMATION:

I. History of Amendment

In response to a petition of the NASD, the Board published a proposed amendment to the margin regulations for comment that would give automatic marginability to any over-the-counter security designated as a National Market System (NMS) security (49 FR 9741, March 15, 1984). The Board is adopting the amendment in substantially the same form as proposed. However, due to comments received, the amendment has been technically revised to address some of the concerns of the respondents. In particular, language has been added to Regulations G and U to provide protection against inadvertent violations by lenders covered by those regulations who may not have actual notice that a particular stock has been designated as an NMS security. A similar provision is not being added to Regulation T because a broker is prohibited by statute from extending credit on securities that are not marginable; therefore such a provision is unnecessary.

Determination of Status of OTC Stock's Marginability

An OTC stock can become marginable (1) by meeting the criteria specified by the Board in its margin regulations (Regulations G, T and U) and actual inclusion on the Board's List of OTC Margin Stocks, or (2) by being designated as an NMS security in accordance with the designation plan of the NASD that has been approved by the SEC. Under SEC Rule 11Aa2–1 (17 CFR 240.11Aa2–1), the qualification date for determining a "Tier 1" NMS security (which is a mandatory designation) is the last business day of the calendar quarter. To become a "Tier 2" NMS security (which is a voluntary designation) the issuer must meet "Tier 2" qualifying criteria and must apply for the NMS designation. Under the NASD's present procedures, it is contemplated that, in general, "Tier 2" NMS stocks will be added not more than once every other week. Notice will be given to the industry and regulators by the NASD at least one week prior to the effective date of the designation which, in the case of an initial public offering of a security, may be on a "when, as, and if issued" basis.

In order to keep the public fully aware of which OTC stocks are marginable, the Board will publish quarterly a complete List of OTC Margin Stocks. This hard-copy publication will be on file at the **Federal Register** and can be obtained from the Board or any Federal Reserve Bank. In addition, the Board will publish a Supplement of additions to and deletions from the List of OTC Margin Stocks on a quarterly basis in the **Federal Register.** This Supplement will include current NMS securities as well as those securities deemed marginable under the Board's margin criteria. The publication of these Supplements will be timed to coincide with the NASD's quarterly inclusion of Tier 1 NMS securities. Since the next designation of the Tier 1 NMS securities is expected to be effective on November 13, 1984, the Board's Supplement to the List, ordinarily effective in October, will be delayed to coincide with this November date. Future Supplements of additions to and deletions from the List will be published quarterly in the **Federal Register** at the end of January, April, July and October with the usual two-week delayed effective date. There will be no SEC publication of NMS securities in the **Federal Register** as contemplated in the Board's original proposal.

Additional OTC securities may be designated by the NASD as NMS securities in the interim between Board publications. These securities will be automatically marginable at broker-dealers upon the effective date of their designation. A list of these securities and the effective date of their designation will be available at the Public Reference Branch of the SEC and copies will be hand delivered to the Board and delivered by overnight express to each of the Reserve Banks. Banks, broker-dealers, Regulation G lenders and other persons can verify whether an OTC stock is an NMS security by calling the SEC at its Public Reference Branch, 450 5th Street, NW., Washington, D.C. 20549 ((202) 272–7450). The margin status of any OTC stock can be obtained by calling the Securities Regulation Section in the Board's Division of Banking Supervision and Regulation ((202) 452–2781) or by calling any Federal Reserve Bank.

Final Regulatory Flexibility Analysis

The Board is amending its regulations to give automatic marginability to securities that are designated as qualified for trading in the National Market System. The initial regulatory flexibility analysis indicated that the amendment was not expected to have any adverse impact on a substantial number of small entities.

A comment on the proposed change raised the question of whether the Board discriminated against small business by not adopting the original NASD proposal, which asked for automatic marginability to securities on the entire National List. The decision to permit National Market System securities to be marginable was based on staff analysis indicating that the liquidity and other characteristics of NMS securities compare favorably with those of exchange-traded securities. A major difference between NMS and other National List securities is that the latter do not have "last sale" reporting, deemed necessary by stock exchanges to assure the availability of reliable price information. In the absence of such information and in light of other evidence suggesting differences in liquidity among National List securities, the Board decided to give automatic marginability at the present time only to National List securities traded in the NMS.

There is no evidence indicating that the regulatory change will have a significant impact on a substantial number of small businesses. If stocks of small entities are traded in the National Market System, they will be marginable at a brokerage firm after the regulatory change becomes effective. Small entities and other companies comprising the approximately 800 National List firms that are not on the NMS and that are not on the Board's List of OTC Margin Stocks will not be automatically marginable but, of course, may become marginable subject to satisfying Board OTC criteria. From the individual corporation's perspective, the economic effect of marginability is mixed. When securities become eligible as collateral in a margin account at a brokerage firm, they also become subject to regulatory limitations on the amount of credit that may be extended against their value by banks and other lenders; such limitations do not apply to nonmarginable stocks at banks and other lenders.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), the Board amends Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively) in the following manner:

Section 207.2—"Definitions", is amended by adding a new paragraph (i)(3), and renumbering (i)(3), (4) and (5) to (i)(4), (5) and (6).

Section 207.3—"General Requirements", is amended by adding a new paragraph (q).

Section 220.2—"Definitions", is amended by inserting a new item in paragraph (o), between the second and third item and numbering the items (o)(1), (2), (3), (4) and (5).

Section 221.2—"Definitions", is amended by adding a new paragraph (h)(3) and renumbering (h)(3), (4) and (5) to (h)(4), (5) and (6).

Section 221.3—"General Requirements", is amended by adding a new paragraph (1).

The amended paragraphs in Regulations G, T and U read as follows:

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

1. Section 207.2—"Definitions", is amended by revising paragraph (i) to read as follows:

§ 207.2 Definitions

* * * * *

(i) "Margin stock" means:

(1) Any equity security registered or having unlisted trading privileges on a national securities exchange;

(2) Any OTC margin stock;

(3) Any OTC security designated as qualified for trading in the National Market System under a designation plan approved by the Securities and Exchange Commission (NMS Security);

(4) Any debt security convertible into a margin stock or carrying a warrant or right to subscribe to or purchase a margin stock;

(5) Any warrant or right to subscribe to or purchase a margin stock; or

(6) Any security issued by an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), other than:

(i) A company licensed under the Small Business Investment Company Act of 1958, as amended (15 U.S.C. 661); or

(ii) A company which has at least 95 percent of its assets continuously invested in exempted securities (as defined in 15 U.S.C. 78c(12)).

2. Section 207.3—"General Requirements", is amended by adding a new paragraph (g).

§ 207.3 General Requirements

* * * * *

(q) *Lack of notice of NMS security designation.* Failure to treat an NMS security as a margin stock in connection with an extension of credit shall not be deemed a violation of this part if the designation is made between quarterly publications of the Board's List of OTC Margin Stocks and the lender does not have actual notice of the designation.

PART 220—CREDIT BY BROKERS AND DEALERS

1. Section 220.2—"Definitions", is amended by revising paragraph (o) to read as follows:

§ 220.2 Definitions.

* * * * *

(o) "Margin security" means:

(1) Any registered security;

(2) Any OTC margin stock;

(3) Any OTC margin bond;

(4) Any OTC security designated as qualified for trading in the National Market System under a designation plan approved by the Securities and Exchange Commission (NMS security); or

(5) Any security issued by either an open-end investment company or unit investment trust which is registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

1. Section 221.2—"Definitions", is amended by revising paragraph (h) to read as follows:

§ 221.2 Definitions.

* * * * *

(h) "Margin stock" means:

(1) Any equity security registered or having unlisted trading privileges on a national securities exchange;

(2) Any OTC margin stock;

(3) Any OTC security designated as qualified for trading in the National Market System under a designation plan approved by the Securities and Exchange Commission (NMS security);

(4) Any debt security convertible into a margin stock or carrying a warrant or right to subscribe to or purchase a margin stock;

(5) Any warrant or right to subscribe to or purchase a margin stock; or

(6) Any security issued by an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), other than:

(i) A company licensed under the Small Business Investment Company Act of 1958, as amended (15 U.S.C. 661); or

(ii) A company which has at least 95 percent of its assets continuously invested in exempted securities (as defined in 15 U.S.C. 78c(12)).

2. Section 221.3—"General Requirements", is amended by adding a new paragraph (l).

§ 221.3 General requirements.

* * * * *

(l) *Lack of notice of NMS security designation.* Failure to treat an NMS security as a margin stock in connection with an extension of credit shall not be deemed a violation of this part if the designation is made between quarterly publications of the Board's List of OTC Margin Stocks and the bank does not have actual notice of the designation.

By order of the Board of Governors of the Federal Reserve System, September 5, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–24010 Filed 9–11–84; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 338

Fair Housing

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending § 338.4 of its regulations to eliminate the current requirement that insured State nonmember banks collect and, in the case of banks with greater than $10 million in total assets and which have an office located in a relevant metropolitan statistical area, record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on home loan applications be recorded and retained for 25 months. This amendment is being made because inquiry data and log-sheet inquiry entries have not been effective in identifying those banks needing special attention in the fair housing lending monitoring program. The final rule will bring about cost savings for both banks and regulatory authorities and possible

improvements in the quality of compliance examinations through the more efficient use of examiner time.

DATE: Effective October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Rex J. Morthland, Director, Office of Consumer Programs, Division of Bank Supervision (202/389-4473), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

Insured State nonmember banks which have an office in a primary metropolitan statistical area ("PMSA"), metropolitan statistical area ("MSA"), or a consolidated metropolitan statistical area ("CMSA") that is not comprised of designated primary metropolitan statistical areas [1] *and* which had total assets exceeding $10 million on December 31 of the preceding calendar year are required to keep a log-sheet in accordance with the provisions of § 338.4(a)(2)(iv) of the FDIC's regulations. Specific information [2] is recorded by each bank office for all home loan inquiries and applications received. A sample form of the log-sheet is included in Appendix A of § 338.4. A bank with no office in a relevant MSA or with total assets of $10 million or less is required to request and retain the same information from inquirers and applicants but is not required to keep a log-sheet.

On February 14, 1984, the FDIC published for public comment a proposed rule to eliminate the requirement that data concerning home loan inquiries be collected (and recorded in the log-sheets in the case of banks with any office in a relevant MSA and total assets of more than $10 million) while retaining the requirement that information on all such applications, both approved and rejected, whether submitted in writing or orally, be recorded and retained for 25 months (see 49 FR 5623 (February 14, 1984)).

At the same time, the FDIC also requested comments on a possible reduction in the number of banks required to maintain log-sheets by raising from $10 million in total assets the size under which banks are exempt from maintaining log-sheets or by changing the exemption threshold to another measure more closely associated with home loan application activity.

The Board of Directors of the FDIC ("Board") has determined to take no action regarding any change in the exemption threshold at this time because the issue warrants further evaluation. With respect to the deletion of inquiry-related data from the log-sheets (and from the retention requirements, in the case of non-relevant MSA banks or small banks), the FDIC received 30 comments for consideration. Community/civil rights/consumer groups and individuals submitted 18 comments opposing the elimination of inquiry entries while ten banks and two major banking trade associations supported the elimination.

In addition to the foregoing comments received in response to the **Federal Register** Notice, comments by FDIC consumer affairs and civil rights compliance examiners have been received on three different occasions: In May of 1982, when suggestions for changes in Part 338 were solicited from them in a periodic review of a number of FDIC regulations, in the March 1984 Compliance Examiners' Conference, and in a June 1984 survey of compliance examiners' experiences in the collection and use of inquiry data. These comments and opinions were also considered in formulating the recommendation to adopt the proposed amendments.

Based on a consideration of the foregoing, the FDIC is amending Part 338 to eliminate the requirement that inquiry-related data be collected and retained by all banks and recorded on the log-sheets by banks with an office in a relevant MSA and total assets exceeding $10 million.

Discussion and Analysis of Issues Raised by Comments

Because the banks and banking trade association supported the deletion of the inquiry-related data, the focus of this analysis is on the comments submitted by those opposing the proposal.

Enforcement Problems

Fourteen of those respondents opposing the proposed amendments argued that the elimination of inquiry data would weaken fair housing enforcement efforts in detecting unlawful discrimination.

Seven respondents believe that such elimination will undermine FDIC's efforts to detect unlawful prescreening. They allege that the collection of inquiry data is essential since information on the initial loan inquiry cannot be obtained any other way. Underlying this view is the belief that, to detect unlawful prescreening, inquiry data is necessary and that the log-sheets are invaluable if their maintenance is properly enforced.

Compliance examiners have enforced the inquiry recordation requirement since 1978. However, it has been found to have limited practical utility because of problems concerning accuracy, adequacy, and reliability of the data. The following points illustrate some of the problems:

Inquiry-related contact between bank staff and customers, as contrasted to application-related contact, often is brief, and attempts to gather personal information can be difficult. Banks report that customers sometimes resent request for such personal information. Also, co-borrowers frequently are not always present to provide the information required by the regulation.

During the period 1981 through 1983, a total of 15,924 bank compliance examinations was performed by FDIC examiners. Over this period and the first half of 1984, while using inquiry data, examiners found no violations of section 805 of the Fair Housing Act (42 U.S.C. 3605) indicating that creditors had engaged in illegal discouragement (including unlawful prescreening) of an applicant or potential applicant from applying for a housing loan or had refused to receive and consider applications for housing loans. Neither did complaint investigations using inquiry data lead to discovery of discouragement/prescreening violations from 1981 through July of 1984 (records prior to this time are unavailable).

Seven of the non-bank respondents indicated that the requirements to collect and record inquiry data should be more properly administered, reviewed, and evaluated by FDIC.

These requirements have been appropriately implemented by FDIC and have been used in the determination of each bank's compliance rating. Such violations have been cited in memoranda of understanding issued to banks to correct compliance problems. Also, unsatisfactory compliance ratings which include inquiry recordation compliance continue to be used as tools to evaluate the granting of applications by banks for relocation and new bank requests.

Ten of the non-bank respondents suggest that FDIC work with bank staffs to see that they are adequately trained in recording loan information.

Bank examiners have worked on a continuing basis with banks to see that there is an understanding of Part 338 and that bank personnel are properly trained. The role of the examiner is to review performance and to assist in

[1] The foregoing terms replace the phrase "standard metropolitan statistical area" wherever it appears in the current version of Part 338 in order to reflect new terminology being used by the United States Office of Management and Budget. They are hereinafter collectively referred to as "relevant MSAs."

[2] This information consists of the name, address, race/national origin, sex, marital status, and age of the inquirer or applicant and the address of the property being purchased, constructed, repaired, or maintained.

compliance activities. However, problems with accuracy, adequacy, and reliability continue.

Role of Inquiry Data

Seven of those opposing the amendments indicated their belief that records of inquiry data might serve as a deterrent to unlawful prescreening in FDIC-supervised banks.

If this is so, the other regulatory agencies might detect some prescreening in the absence of that deterrent—the records of inquiries. However, no section 805 prescreening violations were found by any of the other federal financial institutions regulators, including the Board of Governors of the Federal Reserve System (FRS), the Office of the Comptroller of the Currency (OCC), and the Federal Home Loan Bank Board (FHLBB). Of these, only the OCC provides for recording any inquiry data, and then only on a selective basis in situations where discrimination is suspected. The FDIC could use a similar selective procedure under its supervisory authority without specific provisions in Part 338, i.e., require a log on inquiries to be maintained if possible unlawful discrimination were suspected or found in a bank. This could be done when believed to be necessary to ensure that violations do not recur and to correct the effects of violations discovered.

Use of Inquiry Data by Examiners

A majority (10 of 18) of those opposing the amendments indicated their belief that examiners need inquiry data and use such data in detecting discrimination.

In 1982, seven of the eleven FDIC regional compliance review examiners, who responded to a request for suggestions of desirable amendments of Part 338, stated that the rule either should be amended to eliminate inquiry data or altered to reduce the number of banks required to comply because of problems with data reliability and usefulness.

Identifying and citing technical violations for inadequate log-sheet entries (primarily inquiry data) consumes the time of compliance examiners which could be utilized more profitably in performing more complete Fair Housing and Community Reinvestment Act (CRA) (12 U.S.C. 2901 *et seq.*) examinations. In summary, the collecting of inquiry data has had little actual practical utility, and the dropping of the inquiry logging requirement will have little effect on FDIC's ability to enforce civil rights laws, regulations, and rules.

Uniformity in Compliance Enforcement

The only banks required to record inquiry-related data on log-sheets regularly are FDIC-supervised banks which are, because of this, under a competitive disadvantage. More importantly, however, it undermines efforts to move toward uniformity in compliance enforcement among federal financial institutions regulatory agencies. To impose even more negative sanctions on banks for violations, as suggested by two respondents, would place insured state nonmember banks at a further competitive disadvantage.

Tools To Detect Unlawful Prescreening

Seven respondents opposing the amendments suggested that the FDIC develop and implement a program of testing.

Other means of checking for possible unlawful prescreening exist. One public interest group has proposed that the public itself perform monitoring of possible unlawful prescreening. It suggested that persons who believe they are being unlawfully discouraged from filing a home loan application can ask acquaintances to stop by the bank to make a similar loan request.

If the bank response is different, apparently because of a difference in the protected group's characteristics of the applicant and acquaintances, a complaint can be filed with one of the federal financial institutions regulators, with the Department of Housing and Urban Development, or with others, including state government officials. The same public interest group also indicated that fair housing groups have begun to evaluate fairness practices in lending, as they have been doing in real estate rental for many years.

Alternative Sources of Information

Home Mortgage Disclosure Act

Twelve of the comments pointed out that Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 2601 *et seq.*) data are designed to discover redlining.

The Home Mortgage Disclosure Act, which was enacted in 1975 and amended in 1980, is aimed at redlining. However, it can also provide other indicators of possible prescreening, which is one aspect of redlining. The HMDA and its implementing Regulation C of the regulations of the FRS (12 CFR Part 203) provide for disclosure of home loan data in order to determine if a depository institution is serving the housing needs of the communities and neighborhoods in its marketing area. Insured nonmember banks that are required to maintain fair housing lending log-sheets also are required to file HMDA reports. HMDA data on residential loan patterns of each regulated depository institution, as well as aggregate tables for all HMDA-reporting institutions in the same relevant metropolitan statistical area, are available for peer group comparisons in centalized repositories as a result of the 1980 amendments.

The staff of the Senate Committee on Banking, Housing, and Urban Affairs viewed the requirement of aggregation data as being highly significant. It believed that data aggregations would provide a broad picture of lending patterns in each relevant MSA, allowing for comparisons of one bank with those of all other regulated depository institutions in that same relevant MSA.[3] Moreover, it believed that HMDA aggregate data would be an important new tool to assist in Fair Housing Act enforcement and implementation of the CRA. Community groups also supported the 1980 amendment. They believed that the aggregate data would allow them to evaluate a particular institution's residential loan activity in the context of what other depository institutions were doing in selected neighborhoods.[4]

It is reasonable to assume that unlawful prescreening of applicants on the basis of race would result in fewer loans to minorities. HMDA Aggregation Table I provides for the analysis of possible differences in patterns of loan originations by individual banks based on minority status which correlate to census tracts. It summarizes by census tracts housing loans made within an individual relevant MSA. Demographics also are given. Included for each census tract are minority population as a percentage of total population and median family income as a percentage of median income in that relevant MSA. The public can now match an individual bank's record of the number of housing loans made in a census tract(s) by minority status and income against the record of all HMDA-reporting financial institutions to test for indications of possible discrimination against minorities.

Outside Contacts

Twelve non-bank respondents expressed their belief that outside contact information is an inadequate substitute for inquiry information.

However, outside contacts are another means of obtaining leads to possible prescreening. Since 1980 the

[3] S. Rep. No. 936, 96th Cong., 2d Sess. 33 (1980).

[4] G. Canner, *Home Mortgage Disclosure Act Aggregation: Benefits, Assurance, and Costs.* Journal of Retail Banking 37 (1982).

FDIC has required field examiners to talk to individuals and groups outside of the bank being examined as a check on performance. The quarterly reports submitted to the Washington Office cover two types of contacts: (1) Those made for CRA assessment purposes and (2) those made for the purpose of discovering possible evidence of discrimination through possible prescreening in housing-related credit.

During 1983, 451 outside contacts were made for prescreening purposes; 389 were made for CRA purposes.

Complaints

The majority (12 of 18) of non-bank respondents believe that complaints are an inadequate alternative to inquiry information.

The investigation of complaints, of course, remains only one aspect of FDIC's comprehensive compliance enforcement program and is understood not to be a substitute for an overall compliance program, but it is an additional enforcement tool.

Internal Audits by Banks

Two consumer advocates suggested that inquiry information is used by banks to self-correct possible problems.

It could be. However, HMDA data also can help lenders who wish to audit their own performance, either to avoid possible discrimination problems or to avoid missing out on sound mortgage lending opportunities. Records of inquiries would not be needed for either of these, but application records (which are not available to the public) could continue to be a useful in-house tool to banks. Almost 15% of the banks surveyed in June 1984 indicated that log-sheets are used for one or more of those activities including internal review and control purposes (e.g., for determining the volume of new loans, pulling samples, tracing adverse action files, and complying with HMDA, etc.). No change is proposed in the requirement that application information be logged.

FDIC Efforts To Improve Effectiveness of Its Fair Housing Lending Monitoring Program

Nine commenters opposing the amendments indicated that adoption would signal an abandonment of FDIC's commitment to fair housing. One respondent believed that the elimination of inquiry data would be the first step in the dismantling of FDIC's fair housing system.

Such apprehensions are unfounded. FDIC is committed to enforcing effectively and fairly all laws for which Congress has delegated responsibility to it. Since 1977—when the Settlement Agreement (discussed in the next section) was signed—to the present, many positive and comprehensive changes have been made in the efforts of the Corporation to increase the effectiveness of its fair housing lending monitoring program. It has:

—Established an Office of Consumer Programs;

—Hired one Civil Rights Analyst and one Civil Rights Specialist;

—Implemented a compliance examination program in which all banks supervised by the FDIC are regularly examined, evaluated, and rated as to efforts and performance relative to compliance with protection laws;

—Developed and maintained a compliance Examination Statistical System to record and monitor violations found during compliance examinations and investigations;

—Conducted regular training programs for compliance examiners;

—Developed a comprehensive Complaint Examination Manual to assist examiners in performing uniform, high-quality compliance examinations, including fair housing lending examinations and investigations;

—Instituted a special review of branch applications by all banks which have received a less than satisfactory CRA or compliance rating (a 4 or 5—and some with a rating of 3);

—Developed and maintained an extensive and effective consumer complaint and inquiry handling and recordkeeping system. It provides for the specialized investigations of complaints including fair housing complaints, when needed. Such investigations are directed by regional offices and reviewed in the Washington Office;

—Established a toll-free telephone (hot-line) number, allowing anyone in the continental United States, Puerto Rico, and the Virgin Islands to call with questions and/or complaints. During 1982 and 1983, a total of 4,365 consumer complaints and 22,092 inquiries were received in writing and on the telephone hot line;

—Requires nondiscrimination in advertising with written, visual, or oral advertisements to include evidence that the bank is an "equal housing lender"; and

—Requires that each bank conspicuously display an Equal Housing Lending Poster.

The Settlement Agreement

Ten comments addressed the agreement signed on May 13, 1977, by FDIC ("Settlement Agreement" or "Agreement") in settlement of a lawsuit by the National Urban League and others against four of the federal financial institutions regulatory agencies. The commenters made the following arguments: (1) The expiration of the Agreement did not relieve FDCI of its "statutory" obligation; (2) the proposed amendments will undermine the Agreement; and (3) the log-sheet requirement with inquiry information was a part of the Agreement's data collection system.

Section 338.4 of the FDIC's regulations (12 CFR 338.4), entitled "Recordkeeping Requirements," requires the recording of the characteristics of *inquirers* as well as of applicants. When Part 338 was written in 1978, recordation of inquiry-related information was perceived as a helpful tool in the FDIC fair housing lending monitoring program to discover possible prescreening of potential home loan applicants on a prohibited basis. This went beyond the provisions of the Settlement Agreement. It also went beyond the requirements of the Fair Housing Act and the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) with its implementing Regulation B (12 CFR Part 202).

FDIC agreed, in section 1 of the Settlement Agreement, to establish a data collection system directed singularly to *written applications* for housing loans. This system was to make use of race/sex identification information voluntarily given by the *applicant* and collected by the bank pursuant to Regulation B, with additional financial information on the *applicant* and loan terms. It was intended to identify institutions for which indications of apparent discrimination warranted further investigation. A more detailed investigation was to be conducted when race or sex appeared to be a factor in the lending decision. The focus of the monitoring system outlined in the Settlement Agreement was on written *applications,* not on inquiries.

Technical Changes

Three minor technical changes are being made to correct oversights appearing in the proposal. First, despite the revamping of the Equal Housing Lending Poster required by § 338.3 to reflect a change in nomenclature of an FDIC office, continued use of the current Equal Housing Lending poster after the effective date of these amendments is permissible so long as the poster was displayed prior to that same date. Second, the phrase "on a log-sheet described in paragraph (a)(2)(iv) of this section" is deleted from § 338.4(a)(2) of the proposal because its presence calls for the inclusion of information not

appearing on the log-sheet. Finally, an inadvertent reference in § 338.4(a)(iv) of the proposal to an "inquirer" is removed.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board, in proposing the amendments, certified that the proposal would not have a significant economic impact on a substantial number of small entities. The Board based its conclusion on the belief that the proposed amendments would ease the existing collection of information requirements. The Board also indicated that the effect of the amendments is expected to be beneficial rather than adverse, and that small entities are generally expected to share the benefits of the amendments equally with larger institutions. The Board, in approving the final amendments, reiterates those conclusions.

Paperwork Reduction Act

The Office of Management and Budget filed a comment with the FDIC agreeing that the collection of inquiry-related information by banks should be discontinued but also suggesting additional reductions in burden hours contained in the collection of information requirements of the proposed rule. OMB believes that, based on information provided it by FDIC, the current threshold for determining the exemption from the log-sheet requirement is "too low and ineffective" and not closely enough related to home loan activity.

As stated above, the FDIC is not making any changes in the exemption threshold at this time because the advisability of changing it requires further evaluation. However, the Board intends to issue a notice of proposed rulemaking dealing with the latter issue in the near future.

The collection of information requirements contained in the final rule have been cleared by the Office of Management and Budget. The rule has been assigned OMB Control No. 3064–0046.

List of Subjects in 12 CFR Part 338

Advertising, Banks, Banking, Fair housing, Mortgages, Reporting and recordkeeping requirements, Signs and symbols, State nonmember banks.

In consideration of the foregoing, the FDIC hereby amends Part 338 as follows:

PART 338—FAIR HOUSING

1. The authority for Part 338 is revised to read as follows:

Authority: Sec. 2, Pub. L. 86–671, 74 Stat. 547 (12 U.S.C. 1817); sec. 8, Pub. L. 797, 64 Stat. 879, as amended by secs. 202, 204, Pub. L. 89–695, 80 Stat. 1046, 1054, and sec. 110, Pub. L. 93–495, 88 Stat. 1506 (12 U.S.C. 1818); sec. 9, Pub. L. 797, 64 Stat. 881, as amended by sec. 205, Pub. L. 89–695, 80 Stat. 1055 (12 U.S.C. 1819); sec. 203, Pub. L. 89–695, 80 Stat. 1053 (12 U.S.C. 1820(b)); sec. 805, Pub. L. 90–284, 82 Stat. 83, 84, as amended by sec. 808, Pub. L. 93–383, 88 Stat. 729 (42 U.S.C. 3605, 3606); sec. 501, Pub. L. 93–495, 88 Stat. 1521, as amended by sec. 2, Pub. L. 94–239, 90 Stat. 251 (15 U.S.C. 1691, et seq.); 40 FR 49306, 12 CFR Part 202; 37 FR 3429, 24 CFR Part 110.

§ 338.1 [Amended]

2. Section 338.1 is amended by removing paragraphs (g) and (h).

3. In § 338.3, redesignate paragraph (b) as (b)(1), the term "The Office of Consumer Affairs and Civil Rights" found in the Equal Housing Lender Poster is changed to read "The Office of Consumer Programs," and a new paragraph (b)(2) is added to read as follows:

§ 338.3 Equal Housing Lending Poster.

* * * * *

(b) * * *

(2) Notwithstanding the foregoing, Equal Housing Lending Posters containing obsolete references to the FDIC's "Office of Consumer Affairs and Civil Rights" which were displayed prior to October 12, 1984 shall be deemed to be in compliance with subparagraph (1) of this paragraph (b).

* * * * *

4. In section 338.4, paragraphs (a)(1), (a)(2)(i), footnote 3 to paragraph (a)(2)(ii), (a)(2)(iii)(A), (a)(2)(iii)(B), and (a)(2)(iv), (b), (c), and (f) are revised to read as follows:

§ 338.4 Recordkeeping requirements.

(a) *Records to be retained.*[3] (1) A bank which has no office located in a primary metropolitan statistical area ("PMSA"), a metropolitan statistical area ("MSA"), or a consolidated metropolitan statistical area ("CMSA") that is not comprised of designated PMSAs, as defined by the Office of Management and Budget, or which has total assets as of December 31 of the preceding calendar year of $10 million or less is not required to keep a log-sheet described in paragraph (a)(2)(iv) of this § 338.4 but shall request and retain the following information:

[3] These records are to be retained for the purpose of monitoring compliance and may not be used for the purpose of extending or denying credit or fixing terms where prohibited by law.

(i) *Data on home loan applicants.*

(A) Date of application.

(B) Case identification.

(*1*) Name.

(*2*) Address.

(*3*) Location (street address, city, State, and zip code) of property being purchased, constructed, improved, repaired, or maintained.

(C) Sex.

(D) Race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; Hispanic; White; or other (specify).

(E) Age.

(F) Marital status, using the categories married, unmarried, and separated.

(ii) *Collection of data.* No bank shall engage in any activity which discourages an applicant from providing the information in paragraph (a)(1)(i) of this section. Each bank shall attempt to collect such information during the initial contact with the applicant. If the applicant refuses to furnish all or part of this information, the bank shall note the fact or have the applicant note the fact on the form used for recording the information. If the information regarding race and sex is not voluntarily furnished, the bank shall, on the basis of visual observations or surnames, separately note the information on the form or an attached document.

(2) A bank which has an office in a PMSA, MSA, or CMSA that is not comprised of designated PMSAs, and which had total assets exceeding $10 million as of December 31 of the preceding calendar year shall request and retain the following information:

(i) *Data on home loan applicants.*

(A) Date of application.

(B) Case identification:

(*1*) Name.

(*2*) Address.

(*3*) Location (street address, city, State, and zip code) of property being purchased, constructed, improved, repaired, or maintained.

(C) Sex.

(D) Race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; Hispanic; White; or other (specify).

(E) Age.

(F) Marital status, using the categories married, unmarried, and separated.

(G) Loan type, using the following categories: purchase of existing dwelling; refinancing of existing home loan; construction loan only; construction-permanent; home improvment, repair or maintenance; or other (specify).

(H) Case disposition (e.g., accepted, rejected).

(ii) *Additional data on applications for home loans.*[3]

* * * * *

(iii) * * *

(A) Each bank shall attempt to collect that information in paragraph (a)(2)(i) of this section during the initial contact with the applicant. If the applicant refuses to furnish all or part of this information, the bank shall note the fact or have the applicant note the fact on the form used for recording the information. If the information regarding race and sex is not voluntarily furnished, the bank shall on the basis of visual observation or surnames, separately note the information on the form or an attached document.

(B) No bank shall engage in any activity which discourages an applicant from providing the information in paragraphs (a)(2)(i) and (a)(2)(ii) of this section. If the bank is unable to obtain any part of the information requested of the applicant under paragraph (a)(2)(ii) of this section, it shall note the reason in the application file. Also, if the bank rejects an application before it has had the opportunity to collect all of the information under paragraph (a)(2)(ii) of this section, it shall note the reason for the rejection in the application file and need not obtain the remaining information.

(iv) *Log-sheet.* In addition to the other recordkeeping requirements specified in this paragraph (a)(2) of this section, each bank covered by the provision shall keep a log-sheet on its home loan applications by bank office. The log-sheet shall contain the information reflected on the sample form in Appendix A. The bank shall be able to trace each entry on the log-sheet to the relevant application file, using the name of the applicant or unique case number assigned by the bank.

(b) *Disclosure to applicant.* The bank shall advise an applicant that:

(1) The information regarding race/national origin, marital status, age, and sex in paragraphs (a)(1) and (a)(2) of this section is being requested to enable the Federal Deposit Insurance Corporation to monitor compliance with the Fair Housing and Equal Credit Opportunity Acts which prohibit creditors from discriminating against applicants on these bases;

(2) The Federal Deposit Insurance Corporation encourages the applicant to provide the information requested; and

(3) If the applicant refuses to provide the information concerning race/national origin or sex, the bank is required, where possible, to note the information on the basis of visual observations or surnames.

(c) *Record retention.* Each bank shall retain the records required by § 338.4 for 25 months after the bank notifies an applicant of action taken on an application. This requirement applies to records of home loans which are originated by the bank and subsequently sold. The Federal Deposit Insurance Corporation may by written notice extend the retention period.

* * * * *

(f) *OMB review.* The Office of Management and Budget has reviewed and approved the collection of information requirements contained in this Part 338.

(OMB Control Number 3064–0046 has been assigned)

5. The sample form that appears after § 338.5 is revised and designated as Appendix A to § 338.4 as follows:

[3] Except for census tract information in paragraph (a)(2)(ii)(B)(5), all information is listed on the Residential Loan Application Form contained in Appendix B of Regulation B of the Board of Governors of the Federal Reserve System (12 CFR Part 202, Appendix B). The information may be recorded on the Regulation B model Residential Loan Application Form or on one or more existing form or forms used by the bank.

Appendix A

Bank Name	FAIR HOUSING LENDING HOME LOAN APPLICATION LOG SHEET	Branch or Office
FDIC Number		Other Designation

Use the codes listed below in the appropriate columns. Indicate by an asterisk (*) if the information recorded is the bank officer's observation rather than borrower's statement.

RACE CODES
I American Indian or Alaskan Native
A Asian or Pacific Islander
B Black
H Hispanic
W White
O Other

MARITAL STATUS CODE
M Married
U Unmarried
S Separated

LOAN TYPE CODES
P Purchase of existing dwelling
R Refinancing of existing home loan
I Construction loan only
C Construction permanent
H Home improvement, repair or maintenance
O Other

CASE DISPOSITION CODES
A Accepted
R Rejected
O Other Action
D Other Adverse Action as defined in FRB Regulation B, Sec. 202.2

	Date of Application	CASE IDENTIFICATION a) Name b) Present Address c) Address of Property for Which Applied	BORROWER Sex (F or M)	Race	Age	Marital Status	CO-BORROWER Sex (F or M)	Race	Age	Marital Status	Loan Type	Case Disposition	Examiner Use Only
1		a)											
		b)											
		c)											
2		a)											
		b)											
		c)											
3		a)											
		b)											
		c)											
4		a)											
		b)											
		c)											
5		a)											
		b)											
		c)											
6		a)											
		b)											
		c)											
7		a)											
		b)											
		c)											
8		a)											
		b)											
		c)											

FDIC 6500/70

6. Section 338.5 is revised to read as follows:

§ 338.5 Mortgage lending of a controlled entity.

Any bank which refers any applicants to a controlled entity and which purchases any home loans originated by the controlled entity, as a condition to transacting any business with the controlled entity, shall require the controlled entity to enter into a written agreement with the bank. The written agreement shall provide that the controlled entity (a) shall comply with the requirements of §§ 338.2, 338.3, and 338.4, (b) shall open its books and records to examination by the Federal Deposit Insurance Corporation, and (c) shall comply with all instructions and orders issued by the Federal Deposit Insurance Corporation with respect to its home loan practices.

By Order of the Board of Directors.

Dated: August 27, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-23963 Filed 9-11-84; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-AWA-23]

Revocation and Establishment of Compulsory Reporting Points; Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action reinstates seven Compulsory Reporting Points and revokes five others over the Pacific Ocean west and southwest of the state of Hawaii. This amendment complements the rule issued under Airspace Docket No. 84-AWA-22 which reinstates airspace associated with 13 VOR Federal Airways as it existed prior to August 30, 1984, due to the suspension of the relocation of the Honolulu, HI, very high frequency omni-directional radio range and tactical air navigation aid (VORTAC) facility.

DATES: Effective date—0901 GMT, October 25, 1984. Comments must be received on or before October 24, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 84-AWA-23, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
William C. Davis, 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:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves an emergency situation necessitated by a suspension of the relocation of the Honolulu, HI, VORTAC, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.215 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to: (1) Reinstate BROMS, SILLS, MAKAI, VANDA, POTEN, DOGGY and PALMS Compulsory Reporting Points and (2) revoke Compulsory Reporting Points established along certain VOR Federal Airways that were effective August 30, 1984, and which are no longer appropriate since the Honolulu, HI, VORTAC relocation has been suspended. Section 71.215 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984. I find that notice or public procedure under 5 U.S.C. 553(b) is impractical and that good cause exists for making this amendment effective coincident with the next charting date because of the previously described emergency nature of the change.

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.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Compulsory Reporting Points, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.215 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (49 FR 27741) is further amended, as follows:

Broms [New]

Lat. 21°19'11" N., long. 158°31'06" W. (INT Honolulu, HI, 269°, Lihue, HI, 130° radials).

Canon [Removed]

INT South Kauai, HI, 288° radial and long. 162°37'11" W.

Choko [Removed]

INT Honolulu, HI, 252° radial and long. 160°53'09" W.

Doggy [New]

Lat. 21°55'23" N., long. 161°19'31" W. (INT South Kauai, HI, 271° radial and the Honolulu CTA/FIR boundary).

Kaths [Removed]

INT South Kauai, HI, 245° radial and long. 161°23'22.6" W.

Nonni [Removed]

INT South Kauai, HI, 245° and Honolulu, HI, 269° radials.

Makai [New]

Lat. 21°01'54" N., long. 156°01'36" W. (INT Honolulu, HI, 179°, Molokai, HI, 262° radials).

Palms [New]

Lat. 21°05'15" N., long. 157°34'28" W. (INT Honolulu, HI, 119°, and Molokai, HI, 262° radials).

Poten [New]

Lat. 20°47'03" N., long. 159°28'01" W. (INT Koko Head, HI, 254°, Lihue, HI, 186° radials).

Sills [New]

Lat. 21°17'49" N., long. 159°31'53" W. (INT Honolulu, HI, 269°, Lihue, HI, 195° radials).

Silva [Removed]

INT South Kauai, HI, 271° radial and long. 162°45'28.6" W.

Vanda [New]

Lat. 22°24'00" N., long. 161°15'00" W. (INT South Kauai, HI, 288° radial, long. 161°15'00" W.).

(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 September 5, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-24019 Filed 9-11-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-22]

Revisions to VOR Federal Airways, Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action effectively reinstates 13 VOR Federal Airways in the state of Hawaii as they existed prior to August 30, 1984, due to the suspended relocation of the Honolulu, HI, very high frequency omni-directional radio range and tactical air navigation aid (VORTAC) facility. Complementary action affecting compulsory reporting points associated with this rule are being accomplished by separate rulemaking in Airspace Docket No. 84-AWA-23.

DATES: Effective date—0901 GMT, October 25, 1984. Comments must be received on or before October 24, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 84-AWA-22, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, 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:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves an emergency action to reinstate 13 VOR Federal Airways as they existed prior to August 30, 1984, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.127 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to reinstate in the state of Hawaii, as they existed prior to August 30, 1984, VOR Federal Airways: V-11; V-12; V-13; V-14; V-15; V-16; V-2; V-20; V-21; V-22; V-4; V-8; and V-9; due to a suspension of the relocation of the Honolulu VORTAC. Section 71.127 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984. I find that notice or public procedure under 5 U.S.C. 553(b) is impractical and that good cause exists for making this amendment effective coincident with the next charting date because of the previously described emergency nature of the change.

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.

ICAO Considerations

As part of this proposal related to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdication of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.127 of Part 71 of the Federal Aviation Regulations (14

CFR Part 71) as amended (49 FR 27740), is further amended, as follows:

V-11 [Revised]

From INT Kona, HI, 323° and Upolu Point, HI 211° radials; Upolu Point; INT Upolu Point 349° and Maui, HI, 080° radials; Maui; INT Maui 331° and Molokai, HI, 091° radials; Molokai; INT Molokai 262° and Honolulu, HI, 179° radials.

V-12 [Revised]

From INT Lihue, HI, 195° and Honolulu, HI, 269° radials, 38 miles, 35 MSL, Honolulu; Koko Head, HI, 14 miles, 25 MSL INT Koko Head 050° and Maui, HI, 012° radials.

V-13 [Revised]

From Lihue, HI, INT Lihue 145° and Honolulu, HI, 269° radials; INT South Kauai, HI, 133° and Koko Head, HI, 254° radials; Koko Head, 14 miles, 25 MSL, INT Koko Head 050° and Molokai 015° radial and the Honolulu FIR/Oceanic CTA.

V-14 [New]

From INT South Kauai, HI, 271° radial and long. 161°20'00" W.; 50 MSL long. 159°42'00" W.; South Kauai; INT South Kauai 133° and Koko Head, HI, 254° radials; Koko Head.

V-15 [Revised]

From INT South Kauai, HI, 288° radial and long. 161°15'00" W. 50 MSL long. 159°42'00" W.; South Kauai; Honolulu, HI; Koko Head, HI; Molokai, HI; Maui, HI; INT Maui 095° and Hilo, HI, 336° radials; Hilo; to INT Hilo 099° radial and the Honolulu FIR/Oceanic CTA.

V-16 [Revised]

From Honolulu, HI, INT Honolulu 179° and Lanai, HI, 285° radial; Lanai; Upolu Point, HI; INT Upolu Point 108° and Hilo, HI, 336° radials; Hilo.

V-2 [Revised]

From South Kauai, HI, Lihue, INT Lihue 130° and Honolulu, HI, 269° radials; Honolulu; Lanai, HI; INT Lanai 106° and Upolu Point, HI, 305° radials; Upolu Point; INT Upolu Point 093° and Hilo, HI, 336° radials; Hilo. The airspace within R-3104A, R-3104B and R-3104C is excluded.

V-20 [Revised]

From Honolulu, HI, INT Honolulu 134° and Kona, HI, 308° radials; Kona.

V-21 [Revised]

From INT Honolulu, HI, 179° and Lanai, HI, 285° radials; Lanai; INT Lanai 106° and Hilo, HI, 033° radials; to INT Upolu Point 093° radial and the Honolulu FIR/Oceanic CTA. The airspace within R-3104 is excluded.

V-22 [Revised]

From Maui, HI, INT Maui 095° and Hilo, HI, 321° radials; Hilo; to INT Hilo 078° radial and the Honolulu FIR/Oceanic CTA.

V-4 [Revised]

From INT Lihue, HI, 186° and Koko Head, HI, 254° radials, Koko Head.

V-8 [Revised]

From INT Honolulu, HI, 179° and Molokai, HI, 262° radials, Molokai; 30 miles, 25 MSL INT Molokai 067° and Upolu Point, HI, 010° radials.

V-9 [New]

From INT Lanai, HI, 223° and Honolulu, HI, 179° radials, 78 miles, 35 MSL, Honolulu. The airspace above FL 300 within W-321B is excluded.

(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 September 4, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-24022 Filed 9-11-84; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 3H5412/R689; OPP-FRL-2665-7]

Animal Drugs, Feeds, and Related Products; Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; 3,6-Bis(2-Chlorophenyl)-1,2,4,5-Tetrazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the residues of the acaricide 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine in apple pomace in accordance with an experimental program. This regulation to establish a maximum permissible level of the acaricide in apple pomace was requested in a petition by NOR-AM Chemical Co.

EFFECTIVE DATE: Effective on September 12, 1984.

ADDRESS: Written objections, identified by the document control number [FAP 3H5412/R689], 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:

Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of August 1, 1984 (49 FR 30791), which announced that NOR AM Chemical Co., Wilmington, DE 19803, had submitted a feed additive petition proposing to amend 21 CFR Part 561 by establishing a regulation to permit residues of the acaricide 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine in apple pomace at 20.0 parts per million (ppm) resulting from application of 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine to apples in connection with an experimental use permit.

There were no comments received in response to the notice of filing.

The pesticide may 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. 751, 7 U.S.C. 135(a) *et seq.*). It has further been determined that since residues of the pesticide may result in apple pomace from the agricultural use provided for in the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include a 90-day rat feeding study with a no-observed-effect level (NOEL) of 2.8 milligrams (mg)/kilogram (kg)/day (40 ppm); a 26-week feeding study in dogs with a no-observed-effect level (NOEL) of 1.25 mg/kg/day (50 ppm); a rat teratology study with a NOEL of 1,280 mg/kg/day for maternal toxicity and teratogenic and fetotoxic NOEL of 3,200 mg/kg/day (highest dose tested); and a rabbit teratogenicity study with a NOEL of 1,000 mg/kg/day for fetotoxicity and maternal toxicity. Studies on mutagenicity demonstrated negative potential.

Based on the 26-week dog feeding study with a 1.25 mg/kg/day NOEL and using a safety factor of 2,000, the acceptable daily intake (ADI) for man is 0.000625 mg/kg/day. The theoretical maximum residue contribution (TMRC) resulting from the established temporary tolerance of 1.0 ppm for residues in or on apples and the proposed tolerance for residues in milk, fat, meat and meat byproducts of cattle (except liver and kidney) at 0.01 ppm, in cattle liver at 0.1 ppm and in cattle kidney at 0.05 ppm is 0.0434 mg/day for a 60-kg person. The resulting percent Acceptable Daily Intake (ADI) occupied is 115.70.

The Agency is concerned when the percent ADI occupied for a given product exceeds 100; however, in this instance, the NOEL from which the ADI was determined is based on effects found to be reversible after subchronic

feeding of test animals at dose levels substantially higher than the NOEL. In addition, toxic doses are difficult to obtain in animal studies because of low solubility and relatively low absorption of orally administered doses. The 2,000-fold safety factor is a provisional safety factor used when a 1-year dog feeding study is not available. Based on these considerations and available toxicology data, the Agency believes that the use of this chemical on apples is acceptable.

The metabolism of 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine is adequately understood for this use, and an adequate analytical method, liquid chromatography, is available for enforcement purposes. No actions are currently pending against registration of this acaricide.

The scientific data reported and other relevant material have been evaluated, and the Agency concludes that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) *et seq.*) 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 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. 348(c)(1)))

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: August 22, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR Part 561 is amended by adding new § 561.92, to read as follows:

§ 561.92 3,6-Bis(2-chlorophenyl)-1,2,4,5-tetrazine.

A tolerance of 20.0 parts per million is established for residues of the acaricide 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine in apple pomace resulting from application of the acaricide to apples. Such residues may be present therein only as a result of the application of the acaricide in accordance with the provisions of the experimental use permit number 45639-EUP-14 that expires March 15, 1985.

[FR Doc. 84-23709 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[T.D. ATF-180; Ref: Notice Nos. 313, 362, 375, 394, and 407]

Labeling and Advertising Regulations Under the Federal Alcohol Administration Act; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on the labeling and advertising of wine, distilled spirits, and malt beverages which appeared in the issue of August 8, 1984 (49 FR 31667). The action is necessary to correct technical errors.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta (202-566-7626).

SUPPLEMENTARY INFORMATION: In FR Doc. 84-20897 appearing on page 31667 in the issue of Wednesday, August 8, 1984, make the following correction:

§ 5.42 [Corrected]

On page 31673, second column under § 5.42 Prohibited practices, paragraph (b)(5)(ii) should read: "It is part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled; or "

In addition, the following paragraph, which also presently reads as "(b)(5)(ii)," should be changed to "(b)(5)(iii)"

Approved: September 4, 1984.

W.T. Drake,

Acting Director.

[FR Doc. 84-23987 Filed 9-11-84; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2634-1]

National Emission Standards for Hazardous Air Pollutants; Reference Methods; Method 105 Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises "Method 105, Determination of Mercury in Wastewater Treatment Plant Sewage Sludges." Changes in the sampling and analytical procedure, which will improve the precision and accuracy of the method, are being made as a result of field and laboratory evaluations of the method.

In addition, it corrects an error in Methods 101 and 101A which resulted when several sentences are inadvertently deleted before publication.

EFFECTIVE DATE: September 12, 1984.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Docket. Docket Number A-83-31, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's at Central Docket Section (LE-131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gary McAlister or Mr. Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency,

Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

SUPPLEMENTARY INFORMATION: The revised Method 105 differs from the present method as follows: (1) A sludge-blending procedure has been added; (2) the sludge sample size has been increased from 3.0 liters; and (3) twenty-ml portions of wet sludge are taken for mercury analysis rather than the 0.2-g portions of dried sludge now required.

Public Participation

The revisions were proposed and published in the **Federal Register** in November 1983 (48 FR 51064). The opportunity to request a public hearing was presented to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed revisions, but no person desired to make an oral presentation. The public comment period was from November 4, 1983, to January 8, 1984. Two comment letters were received concerning issues relative to the proposed revisions. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made.

Comments and Changes To The Proposed Method Revisions

Two comments letters were received on the proposed revisions. The comments and responses are summarized in this preamble. Some of the comment letters contained multiple comments.

1. One commenter reported that the aqua regia digestion procedure described in Method 105 did not give valid results. He recommended that the sulfuric acid digestion specified in Environmental Protection Agency Methods 245.1 and 245.5 be used instead.

EPA has successfully used the aqua regia digestion and has received no other negative comments about it. However, under § 60.8(b), the Administrator can approve alternative procedures which can be demonstrated to give acceptable results.

2. One commenter reported that he had obtained adequate homogenization of 3-liter sludge samples by hand blending and kneading the samples in a heavy plastic bag. The relative standard deviation for the samples ranged from 2.8 to 29.98 percent. He noted that the cost of the equipment for mechnical mixing could be as much as $2,100 and questioned whether the expense was justified if manual mixing could produce adequate sample precision.

Method 105 now requires 15-liter samples which are much larger than the 3-liter samples measured by this commenter. During collaborative testing of the method, EPA determined that manual mixing of these large samples could not provide adequate homogenization, but the mechanical blending procedure described in Method 105 did produce adequate mixing. Because a homogeneous sample is necessary to obtain consistent results, EPA believes that mechanical mixing of samples is required and that the need for representative samples justifies the added expense.

3. Another commenter noted that unless the sludge charging rate, Q, in the equation in § 61.54 for calculating mercury emissions, was on a dry basis, the equation would overestimate the emission rate. This commenter suggested that this be corrected by dividing the charging rate by the weight fraction of solids, F_{sm}.

EPA agrees. The equation in § 61.54 (3)(d) has been changed so that the sludge charging rate will be on a dry basis.

4. One commenter thought that in Appendix B, Section 5.1, m is the mass of mercury in the aliquot analyzed, not the mass in the digested sample.

EPA agrees that m is the mass of mercury in the aliquot of digested sample analyzed instead of the whole digested sample and has made the necessary change.

5. One commenter wrote that the solids content after mixing in the mortar mixer, F_{sm}, has no place in Equation 105–4. The commenter thought that Equation 105–4 should read as follows:

$$M = C_m(avg)/F_{sb}$$

EPA agrees Equation 105–4 was incorrect and has corrected the equation as shown above.

Docket

The docket is an organized and complete file of the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purposes of the proposed and promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Miscellaneous

This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply revise an existing test method associated with emission measurement requirements that would apply irrespective to this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. It has been submitted to the Office of Management and Budget for review.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA must consider the economic effect of this standard on small entities. Most, if not all, of the facilities covered by this regulation are owned by State or local governments would not be small entities.

This proposed rulemaking is issued under the authority of sections 112, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7412, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 61

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel steam generators, Fiberglass insulation, Synthetic fibers.

Dated: September 5, 1984.

William D. Ruckelshaus,

Administrator.

PART 61—[AMENDED]

40 CFR Part 61 is amended by revising § 61.54 and Methods 101, 101A, and 105 of Appendix B to read as follows:

1. In § 61.54, paragraphs (c)(1), (c)(3), and (d) are revised as follows:

§ 61.54 Sludge sampling.

* * * * *

(c) * * *

(1) The sludge shall be sampled according to Method 105—Determination of Mercury in Wastewater Treatment Plant Sewage Sludges. A total of three composite samples shall be obtained within an operating period of 24 hours. When the 24-hour operating period is not continuous, the total sampling period shall not exceed 72 hours after the first grab sample is obtained. Samples shall not be exposed to any condition that may result in mercury contamination or loss.

* * * * *

(3) The sampling, handling, preparation, and analysis of sludge samples shall be accomplished according to Method 105 in Appendix B of this part.

(d) The mercury emissions shall be determined by use of the following equation.

$$E_{Hg} = \frac{MQ\,F_{sm(avg)}}{1000}$$

where:

E_{Hg} = Mercury emissions, g/day.

M = Mercury concentration of sludge on a dry solids basis, μg/g.

Q = Sludge changing rate, kg/day.

F_{sm} = Weight fraction of solids in the collected sludge after mixing.

* * * * *

2. In Appendix B, Method 101, Section 8.3, last paragraph, by replacing the third sentence with the following two sentences. "If conditions (1) and (2) are met, attach the bottle section to the bubbler section of the aeration cell. Pipet 5 ml of stannous chloride solution into the aeration cell through the side arm, and immediately stopper the side arm."

3. In Appendix B, Method 101A, Section 8.2, last paragraph, replace the seventh sentence with the following sentence. "Now add 5 ml of tin (II) solution to the aeration bottle through the side arm, and immediately stopper the side arm."

4. Test Method 105 of Appendix B is revised as follows:

Appendix B—Test Methods

* * * * *

Method 105—Determination of Mecury in Wastewater Treatment Plant Sewage Sludge

1. *Applicability and Principle.* 1.1 Applicability. This method applies to the determination of total organic and inorganic mercury (Hg) content in sewage sludges. The range of this method is 0.2 to 5 μg/g; it may be extended by increasing or decreasing sample size.

1.2 Principle. Time-composite sludge samples are withdrawn from the conveyor belt after dewatering and before incineration or drying. A weighed portion of the sludge is disgested in aqua regia and oxidized by potassium permanganate ($KMnO_4$). Hg in the digested sample is then measured by the conventional spectrophotometric cold-vapor technique.

2. *Apparatus.* 2.1 Sampling.

2.1.1 Container. Plastic, 50-liter.

2.1.2 Scoop. To remove 950-ml (1-qt.) sludge sample.

2.2 Sludge Sample Preparation.

2.2.1 Mixer. Mortar mixer, wheelbarrow-type, 57-liter (or equivalent) with electricity driven motor.

2.2.2 Blender. Waring-type, 2-liter. (Note: Mention of specific trade names does not constitute endorsement by the Environmental Protection Agency.)

2.2.3 Scoop. To remove 100-ml and 20-ml samples of blended sludge.

2.3 Analysis. Same as Method 101, Sections 5.3 and 5.4, except for the following:

2.3.1 Balance. The balance of Method 101, Section 5.3.17, is not needed.

2.3.2 Filter Paper. S and S No. 588 (or equivalent).

3. *Reagents.* 3.1 Water. Same as Method 101A, Section 6.1.1.

3.2 Aqua Regia. Prepare immediately before use. Carefully add one volume of concentrated nitric acid (HNO_3) to three volumes of concentrated hydrochloric acid (HCl).

3.3 Antifoam B Silicon Emulsion. J.T. Baker Company (or equivalent).

3.4 Mercury (II) Stock Solution, 1 mg Hg/ml. Completely dissolve 135.4 mg of ACS reagent-grade $HgCl_2$ in 75 ml of water, add 10 ml of concentrated HNO_3, and adjust the volume to 100.0 ml with water. Mix thoroughly. (This solution is stable for at least 1 month.)

3.5 Intermediate Mercury Standard Solution, 10 μg Hg/ml. Prepare fresh weekly. Pipet 5.0 ml of the Hg stock solution into a 500-ml volumetric flask, and add 20 ml of the 15-percent HNO_3 solution. Adjust the volume to 500 ml with water. Thoroughly mix the solution.

3.6 Working Mercury Standard Solution, 200 ng Hg/ml. Prepare fresh daily. Pipet 5.0 ml of the "Intermediate Mercury Standard Solution" into a 250-ml volumetric flask. Add 20 ml of 15-percent HNO_3, and adjust the volume to 250 ml with water. Mix thoroughly.

3.7 Tin (II) Solution, Sodium Chloride-Hydroxylamine Solution, 15-Percent Nitric Acid, and Potassium Permanganate Solution. Same as Method 101A, Section 6.2.

4. *Procedure.* 4.1 Sludge Sampling. Withdraw equal-volume increments of sludge [for a total of at least 15 liters (16-qt.)] at intervals of 30 min over an 8-hr period, and place in a rigid plastic container.

4.2 Sludge Mixing. Transfer the entire 15-liter sample to a 57-liter capacity (2-ft^3) mortar mixer. Mix the sample for a minimum of 30 min at 30 rpm. Using a 200-ml beaker, take six 100-ml portions of sludge, and combine in a 2-liter blender. Blend sludge for 5 min; add water as necessary to give a fluid consistency. Immediately after stopping the blender, use a 50-ml beaker to withdraw four 20-ml portions of blended sludge, and place them in separate, tared 125-ml Erlenmeyer flasks. Reweigh each flask to determine the exact amount of sludge added. (Use three of the samples to determine the mercury content in the sludge, and use the fourth to measure the solids content of the blended sludge.)

4.3 Solids Content of Blended Sludge. Dry one of the 20-ml blended samples from Section 4.2 in an oven at 105 ° C to constant weight. Cool in a desiccator, and weigh and record the dry weight of the sample.

4.4 Aqua Regia Digestion of Blended Samples. To each of the three remaining 20-ml samples from Section 4.2, add 25 ml of aqua regia, and digest the samples on a hot plate at low heat (do not boil) for 30 min, or until samples are a pale yellow-brown color and are void of the dark brown color characteristic of organic matter. Remove from the hot plate, and allow to cool.

Filter each digested sample separately through an S and S No. 588 filter, or equivalent, and rinse the filter contents with 50 ml of water. Transfer the filtrate and filter washing to a 100-ml volumetric flask, and carefully dilute to volume with water.

4.5 Solids Content of Sludge Before Blending. Using a 200-ml beaker, remove two 100-ml portions of mixed sludge from the mortar mixer, and place in separate, tared 400-ml beakers. Reweigh each beaker to determine the exact amount of sludge added. Dry in an oven at 105 °C, and cool in a desiccator to constant weight.

4.6 Analysis for Mercury. The same as Method 101A, Sections 7.4 and 8, except for the following variation.

4.6.1 Spectrophotometer and Recorder Calibration. The mercury response may be measured by either peak height or peak area. Note: The temperature of the solution affects the rate at which elemental Hg is released from solution and, consequently, it affects the shape of the absorption curve (area) and the point of maximum absorbance (peak height). Therefore, to obtain reproducible results, bring all solutions to room temperature before use.

Set the spectrophotometer wavelength to 253.7 nm. Make certain the optical cell is at the minimum temperature that will prevent water condensation from occurring. Then set the recorder scale as follows: Using a 25-ml graduated cylinder, add 25 ml of water to the aeration-cell bottle. Add three drops of Antifoam B to the bottle, and then pipet 5.0 ml of the working Hg standard solution into the aeration cell.

Note.—Always add the Hg containing solution to the aeration cell after the 25 ml of water.

Place a Teflon-coated stirring bar in the bottle. Add 5 ml of 15-percent HNO_3 and 5 ml of 5-percent $KMnO_4$ to the aeration bottle, and mix well. Next, attach the bottle section to the bubbler section of the aeration cell, and make certain that: (1) the exit arm stopcock of the aeration cell (Figure 105-3) is closed (so that Hg will not prematurely enter the optical cell when the reducing agent is being added), and (2) there is no flow through the bubbler. Add 5 ml of sodium chloride-

hydroxylamine solution to the aeration bottle through the side arm, and mix. If the solution does not become colorless, add additional sodium chloride-hydroxylamine solution in 1-ml increments until the solution is colorless. Now add 5 ml of tin (II) solution to the aeration bottle through the side arm, and immediately stopper the side arm. Stir the solution for 15 sec, turn on the recorder, open the aeration cell exit arm stopcock, and then immediately initiate aeration with continued stirring. Determine the maximum absorbance of the standard, and set this value to read 90 percent of the recorder full scale.

5. *Calculations.*

5.1 Nomenclature.

C_m = Concentration of Hg in the digested sample, μg/g.
F_{sb} = Weight fraction of solids in the blended sludge.
F_{sm} = Weight fraction of solids in the collected sludge after mixing.
M = Hg content of the sewage sludge (on a dry basis), μg/g.
m = Mass of Hg in the aliquot of digested sample analyzed, μg.
V_a = Volume of digested sample analyzed, ml.
V_s = Volume of digested sample, ml.
W_f = Weight of empty sample flask, g.
W_{fs} = Weight of sample flask and sample, g.
W_{fd} = Weight of sample flask and sample after drying, g.
W_b = Weight of empty sample beaker, g.
W_{bs} = Weight of sample beaker and sample, g.
W_{bd} = Weight of sample beaker and sample after drying, g.

5.2 Mercury Content of Digested Sample (Wet Basis). For each sample, correct the average maximum absorbance of the two consecutive samples whose peak heights agree with ±3 percent of their average for the contribution of the blank. Use the calibration curve and these corrected averages to determine the final Hg concentration in the solution cell for each sludge sample.

Calculate the total Hg content in each gram of digested sample correcting for any dilutions made to bring the sample into the working range of the spectrophotometer and for the weight of the sludge portion digested.

$$C_m = \frac{mV_s}{V_a(W_{fs} - W_f)} \quad \text{Eq. 105-1}$$

5.3 Solids Content of Blended Sludge. Determine the solids content of the 20-ml aliquot dried in the oven at 105 °C (Section 4.3).

$$F_{sb} = 1 - \frac{W_{fs} - W_{fd}}{W_{fs} - W_f} \quad \text{Eq. 105-2}$$

5.4 Solids Content of Bulk Sample (after mixing in mortar mixer). Determine the solids content of each 100-ml aliquot (Section 4.5), and average the results.

$$F_{sm} = 1 - \frac{W_{bs} - W_{bd}}{W_{bs} - W_b} \quad \text{Eq. 105-3}$$

5.5 Mercury Content of Bulk Sample (Dry Basis). Average the results from the three samples from each 8-hr composite sample, and calculate the Hg concentration of the composite sample on a dry basis.

$$M = \frac{C_m(\text{avg})}{F_{sb}} \quad \text{Eq. 105-4}$$

6. *Bibliography.*

1. Bishop, J.N. Mercury in Sediments, Ontario Water Resources Commission. Toronto, Ontario, Canada. 1971.

2. Salma, M. Private Communication. EPA California/Nevada Basin Office. Alameda, California.

3. Hatch, W.R. and W.L. Ott. Determination of Sub-Microgram Quantities of Mercury by Atomic Absorption Spectrophotometry. Analytical Chemistry. *40*:2085. 1968.

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[FR Doc. 84-24061 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[A-6-FRL-2667-6]

Arkansas Plan for Controlling Total Reduced Sulfur Emissions From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice approves Arkansas' plan for controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills which was submitted by the Governor on February 28, 1983. Arkansas' plan was submitted in response to the publication of emission control guidelines by the Administrator under section 111(d) of the Clean Air Act, as amended. The plan, along with the clarification letter dated August 6, 1981, and the repsonses to the State's August 30, 1983 information request letter, satisfies EPA's requirement for adoption and submittal of a plan to control TRS. The proposed approval was published on February 13, 1984 at 49 FR 5358. One comment was received which is being addressed in this notice.

EFFECTIVE DATE: Effective on October 12, 1984.

ADDRESSES: Reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air & Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

Arkansas Department of Pollution Control & Ecology, Air & Hazardous Materials Division, 8001 National Drive, Little Rock, Arkansas 72209.

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith at the EPA Region 6 address above or call (214) 767-9853.

SUPPLEMENTARY INFORMATION: On February 28, 1983, the Governor of Arkansas, after adequate notice and public hearing, submitted the State's plan for controlling total reduced sulfur emissions from existing kraft pulp mills. This plan was adopted by the Arkansas Commission on Pollution Control and Ecology on January 28, 1983. The State has adopted this plan to establish emission limitation for TRS from the pulp paper industry. The State has identified existing facilities and established emission limits for these facilities. In accordance with 40 CFR 60.24(e), the compliance schedules for each Kraft Paper Mill will be submitted to EPA for approval after appropriate public hearings have been held, as prescribed in § 60.23.

EPA reviewed this plan and developed an evaluation report,[1] which

[1] EPA Review of Arkansas' 111(d) plan for the Control of Total Reduced Sulfur from Kraft Pulp Mills and Addendum to EPA Review of Arkansas 111(d) Plan for Total Reduced Sulfur.

is based on the requirements of section 111(d) of the Clean Air Act of 1977, as amended, 40 CFR Part 60 Subpart B and an EPA guideline document titled "Kraft Pulping—Control of TRS Emissions from Existing Mills." This evaluation report is available for inspection during normal business hours at the EPA Region 6 Office and the other addresses listed above.

As submitted, the plan did not adequately demonstrate that the State had the requisite authority to disclose emission data to the public upon the public's request. However, when EPA approved Arkansas' general implementation plan submitted pursuant to the provisions of section 110(a) of the Clean Air Act, EPA provided rulemaking for making such data available under 40 CFR 62.852. This provision is appropriate for use in disclosing emission data from sources covered by this TRS plan.

The State adopted EPA Test Method 16 and allows alternate test methods to be used with the approval of the Director of the Arkansas Department of Pollution Control and Ecology. A letter of clarification dated August 6, 1981, states that the State will seek approval from the Regional Administrator before approving any alternative testing methods. That letter has already been approved as part of 40 CFR Part 62.

EPA has recommended emission standards in the guideline document for existing kraft pulp mills. But as stated in 40 CFR 60.24(d), "states may balance the emission guidelines, compliance times, and other information provided in the applicable guideline document against other factors of public concern in establishing emission standards . . ." The recommended guideline limits and Arkansas' limits are as follows:

EPA guideline	Parts per million	Arkansas
Recovery boilers:		
New design	5	5 ppm.
Old design	20	40 ppm.[1]
Lime kiln	20	40 ppm.
Multiple effect evaporators.	5	"Efficient incineration.
Digesters	5	Of all noncondensible gases."

[1] The State would allow 200 ppm from the recovery boiler at Weyerhaeuser Corp. because the company would have to replace their recovery boiler to meet a 40 ppm limit.

The Arkansas 111(d) plan for TRS is estimated to reduce total statewide emissions of TRS by 90 percent. Meeting EPA's limits would give the State an additional 5 percent reduction in TRS but, in many cases, would double the cost to the companies. The table below (from the 111(d) plan) summarizes the TRS emissions from the 1980 emission inventory for each source and the maximum allowable emission rate at final compliance. The last column shows the percent decrease in TRS emission for each source at final compliance.

Industry	Pounds-total reduced sulfur per hr		Percent decrease
	1980 emission rate	Maximum allowed	
International Paper, Camden	133.7	71.0	47
Arkansas Kraft Corp	137.4	17.8	87
Weyerhaeuser	315.2	39.0	88
Georgia Pacific Corp	1,385.3	83.3	94
International Paper, Pine Bluff	781.1	53.5	93
Nekoosa Paper, Inc	86.1	19.9	77
Total	2,838.8	284.5	90

On August 30, 1983, the State requested further information from the affected sources to further justify the deviation from EPA's limits. This was discussed in detail in the proposed approval and is included as an addendum to the evaluation report.

Public Comments

Comment—One public comment received on the proposed approval was that another public hearing be held on the 111(d) plan.

Response—On December 17, 1982, the Arkansas Commission on Pollution Control and Ecology (ACPCE) published a public hearing notice on the 111(d) Plan in two Little Rock newspapers for statewide circulation. The news release was also issued statewide to 325 different news media and copies of the 111(d) Plan were made available at 30 State depositories (libraries). The public hearing was held on January 17, 1983, 30 days after the notice was published. The state met all of EPA's requirements for public hearings listed in 40 CFR 60.23 and the state's public hearing provided full opportunity for public comment. EPA has reviewed the comments made at the state's hearing and considered them in deciding whether to approve this plan. No further public hearing is required.

Comment—The commenter feels that the public should be made aware of the state's plan to change the EPA's guidelines for TRS emissions from 20 parts per million (ppm) to a 40 ppm limit.

Response—At the April 30, 1980, public hearing on the 111(d) plan for TRS, the State addressed the fact that they are proposing standards which vary from EPA's guideline limits. Moreover, EPA's proposed rulemaking on the plan informed the public of the plan's content and provided an opportunity for the public to comment on it.

EPA's emission limits are recommended limits and not requirements that the states must adhere to since TRS is a Walfare-related pollutant. Therefore, EPA allows deviations from its recommended limits if states provide adequate justification.

Comment—The same commenter feels that the public should also be made aware of the state's special dispensation to the Weyerhaeuser Company in allowing a 200 ppm limit for the recovery furnace.

Response—Weyerhaeuser requested the 200 ppm limit during the April 30, 1980 public hearing and presented data showing why they could not meet the 40 ppm limit. Weyerhaeuser will not be allowed to increase its present TRS emissions. The public hearing transcript shows that no one raised any objections to Weyerhaeuser's request. The 111(d) plan lists the 1980 emission inventory and Weyerhaeuser is shown to be emitting 315.2 1b–TRS/hr. The 111(d) plan also shows that at the time of final compliance Weyerhaeuser will be emitting 39.0 1b–TRS/hr. which is an 88% decrease in TRS emissions. Also, EPA's guideline document "Kraft Pulping—Control of TRS Emissions from Existing Mills" says that "states will have substantial flexibility to consider factors other than technology and costs in establishing plans for the control of welfare-related pollutant * * *". The state reviewed Weyerhaeuser's request and granted them an emisson limit of 200 ppm from the recovery boiler.

Comment—The commenter also wants to know if the National Ambient Air Quality Standards (NAAQS) are being met when a 200 ppm emission limit of TRS is allowed.

Response—There is no NAAQS for TRS and the area is presently designated as attainment for all pollutants for which there are NAAQS.

Comment—Why is it that although Nekoosa Paper Inc.'s boiler is 15 years old with another 10 years of operating life expected, that boiler can be operated closer to its design load and meet the stricter guideline of 20 ppm yet Weyerhaeuser Co. cannot even meet the state's requirement of 40 ppm?

Response—At the April 30, 1980 public hearing, Weyerhaeuser stated that, "Based upon some recent preliminary studies, we believe that the liquor makeup and recovery boiler modifications will allow us to consistently meet 200 ppm TRS at the recovery boiler stack. We do not believe the State-proposed 40 ppm can consistently be met at this source without replacement of the recovery boiler at an estimated capital cost of $23 million" ($29 million in 1983). Weyerhaeuser's September 19, 1983

letter states that "the recovery boiler cost would add about $87 per ADT of product, which has had an average gross profit of $10–50 per ADT. This cost would not allow any increase in production; therefore, it would make running the mill a money-losing operation. The current expected life of the entire mill is an additional 12 years. . . . We do not see any circumstances that would necessitate retiring the boiler separate from other major mill components, i.e., the paper machine."

The September 23, 1983 letter from Nekoosa Papers, Inc. says that the company can meet the 40 ppm limit set by the State at reasonable cost.

EPA is not aware of any basis on which to question Weyerhaeuser's responses, which justify their inability to meet the State's limit of 40 ppm at reasonable cost.

Comment—Does the state readjust EPA guidelines because of the influence of large corporations?

Response—As stated in 40 CFR 60.24(d), "states are allowed to balance the emission guidelines, compliance times, and other information provided in the applicable guideline document against other factors of public concern in establishing emission standards, compliance schedules, and variances." EPA is approving the 111(d) plan for TRS because the state justified the deviation from EPA's recommended emission limits.

The Arkansas 111(d) Plan for TRS, along with the August 6, 1981, clarification letter on alternate test methods and the additional information provided in response the the State's August 30, 1983, letter, is being approved today by EPA.

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 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

Date: September 5, 1984.

Alvin L. Alm,

Acting Administrator.

PART 62—[AMENDED]

Part 62 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart E—Arkansas

1. Section 62.850 is amended by adding paragraphs (b)(2) and (c)(3) to read as follows:

§ 62.850 Identification of plan.

* * * * *

(b) * * *

(2) Control of total reduced sulfur (TRS) emissions from existing kraft pulp mills submitted by the Governor on February 28, 1983, and adopted by the State on January 28, 1983.

(c) * * *

(3) Kraft Pulp Mills

2. In Subpart E—Arkansas, a new center heading is added and new § 62.856 is added to read as follows:

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.865 Identification of sources.

(a) The plan applies to existing facilities at the following kraft pulp mill plants:

(1) International Paper Company in Camden, Arkansas.

(2) International Paper Company in Pine Bluff, Arkansas.

(3) Arkansas Kraft Corporation in Morrilton, Arkansas.

(4) Weyerhaeuser Company in Pine Bluff, Arkansas.

(5) Georgia-Pacific Corporation in Crossett, Arkansas.

(6) Wekoosa Paper Company in Ashdown, Arkansas.

(7) Potlatch Corporation of McGehee, Arkansas.

[FR Doc. 84–23928 Filed 9–11–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6565

[C–17561]

Colorado; Partial Revocation of Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Water Reserve No. 107 insofar as it was construed by a Bureau of Land Management order to affect 80 acres of public land. This action will immediately open the land to public sale. It will be opened to other forms of surface entry and nonmetalliferous mining in approximately 30 days. The land has been and remains open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, BLM Colorado State Office, 1037—20th Street, Denver, Colorado 80202, 303–844–2592.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as constructed by Bureau of Land Management Order dated January 17, 1973, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 5 S., R. 93 W.,
Sec. 13, W½SE¼.

The area described contains 80 acres in Garfield County.

2. Effective immediately, subject to valid existing rights, the surface and mineral estates shall be available for sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976.

3. At 10 a.m. on October 12, 1984, the land shall be opened to operation of the public land laws generally, except for those identified in paragraph 2 above, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 12, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on October 12, 1984, the lands shall be opened to nonmetalliferous mineral location under the United States mining laws subject to valid existing rights. Appropriation of lands under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land

Managment will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: September 6, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-24094 Filed 9-11-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6620]

Changes in Flood Elevation Determinations; Colorado, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it adiministratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 USC 605(b), the Administrator, 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. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, flood plains.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: Sonoma	Petaluma (city of)	Aug. 9, 1984 and Aug. 16, 1984; *Argus-Courier.*	Hon. Fred V. Mattei, Major, City of Petaluma, P.O. Box 61, Petaluma, CA 94953.	Aug. 14, 1984	060379B
Colorado: Adams/Arapahoe	Aurora (city of)	Aug. 29, 1984 and Sept. 5, 1984; *Aurora Sentinel.*	Hon. Dennis Champine, Mayor, City of Aurora, 1470 South Havana, Aurora, CO 80012.	Aug. 16, 1984	080002B
Maryland: Anne Arundel	Anne Arundel County	July 23, 1984 and July 30, 1984; *The Capitol.*	Hon. James Lighthizer, Anne Arundel County Executive, P.O. Box 1831, Annapolis, MD 21404.	July 13, 1984; letter of map revision.	240008C
Oregon: Tillamook County (unincorporated areas).	Tillamook County	July 18, 1984 and July 25, 1984; *Headlight Herald.*	Hon. Jerry Woodward, Chairman, Tillamook County, Board of Commissioners, 201 Laurel Avenue, Tillamook, OR 97141.	July 3, 1984	410196B
Texas:					
Brazos	City of Bryan	Aug. 1, 1984 and Aug. 8, 1984; *Bryan-College Station Eagle.*	Hon. Ernest Clark, Manager of the City of Bryan, P.O. Box 1000, Bryan, TX 77805.	July 30, 1984	480082
Dallas	City of Irving	Aug. 1, 1984 and Aug. 8, 1984; *Irving Daily News.*	Hon Bobby Joe Raper, Mayor of the City of Irving, P.O. Box 3008, Irving, TX 75061.	July 21, 1984	480180A
Vermont: Caledonia	Town of Lyndon	Aug. 21, 1984 and Aug. 28, 1984; *The Weekly News.*	Hon. Paul Southouse, Chairman of the Lyndon Board of Selectmen, Office of the Town Clerk, Lyndonville, VT 05851.	Aug. 13, 1984	500028A

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: August 24, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24032 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Changes in Flood Elevation Determinations; Maryland, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Maps (FIRM) for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maryland:					
Anne Arundel (FEMA Docket No. 6595).		Mar. 22, 1984 and Mar. 29, 1984; *Capitol Gazette.*	Hon. O. James Lighthizer, Anne Arundel County Executive, Arundel Center, 44 Calvert Street, Annapolis, MD 21401.	Mar. 15, 1984; letter of map revision.	240008C
Montgomery (FEMA Docket No. 6602).		Apr. 19, 1984 and Apr. 26, 1984; *Montgomery Journal.*	Hon. Charles W. Gilchrist, Montgomery County Executive, Executive Office Building, Rockville, MD 20850.	Apr. 12, 1984	240049
Washington (FEMA Docket No. 6596).		Apr. 19, 1984 and Apr. 26, 1984; *Morning Herald.*	Ronald L. Bowers, President, Board of County Commissioners, Washington County, Courthouse Annex, Summit Avenue, Hagerstown, MD 21740.	Apr. 6, 1984	240070
New Mexico: Bernalillo	City of Albuquerque (FEMA Docket No. 6595).	Mar. 22, 1984 and Mar. 29, 1984; *Journal Tribune.*	Hon. Harry E. Kinney, Mayor of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Mar. 15, 1984; letter of map revision.	350002C
New York: Yates (FEMA Docket No. 6596).	Village of Penn Yan	Apr. 19, 1984 and Apr. 26, 1984; *Chronicle-Express.*	Hon. Bruce LeClaire, Mayor, Village of Penn Yan, Village Clerk's Office, 3 Maiden Lane, Penn Yan, NY 14527.	Apr. 6, 1984	360962
Texas:					
Dallas, Denton, & Collin	City of Carrollton (FEMA Docket No. 6602):	Mar. 22, 1984 and Mar. 29, 1984; *Carrollton Chronicle.*	Hon. Leddie Taylor, Mayor of Carrollton, P.O. Box 110488, Carrollton, TX 75011.	Mar. 15, 1984; letter of map revision.	480167C
Dallas (FEMA Docket No. 6595).	City of Mesquite	Apr. 19, 1984 and Apr. 26, 1984; *Mesquite Daily News.*	Hon. Brunhilde Nystrom, Mayor, City of Mesquite, City Hall, Mesquite, TX 75149.	Apr. 10, 1984	485490
Hays	City of San Marcos (FEMA Docket No. 6595).	Mar. 28, 1984 and Apr. 4, 1984; *San Marcos Daily News.*	Hon. Emmie Craddock, Mayor of San Marcos, 630 East Hopkins Street, San Marcos, TX 78666.	Mar. 21, 1984; letter of map revision.	485505C

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, 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.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44

FR 19367; delegation of authority to Administrator)

Issued: August 24, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24033 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6618]

Final Flood Elevation Determinations; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice to Suspend Implementation of Final Flood Elevation Determination.

SUMMARY: Pursuant to Section 202 of the Marine Mammal Protection Act (Pub. L. 98-364) as amended on July 17, 1984, implementation of the final flood elevation determination for Cameron Parish, Louisiana, published at 48 FR 52725 on November 22, 1983, is suspended. This action has the effect of reinstating the Flood Insurance Rate Map for Cameron Parish, Louisiana, dated October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: It is the intention of the Federal Emergency Management Agency to reissue a Flood Insurance Rate Map for Cameron Parish on July 17, 1985, one year from enactment of the Marine Mammal Protection Act. The Parish must modify their ordinances prior to July 17, 1985, to reflect the FIRM which will become effective on that date in order to remain eligible for participation in the National Flood Insurance Program.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: August 28, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-23909 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations; California, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below:

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
California	Pleasanton (city of), Alameda County, FEMA-6605.	Alamo Canal	Intersection of Payne Court and Holland Drive	*318
		Arroyo De La Laguna	Upstream edge of Interstate Highway 680 crossing	*321
		Arroyo Del Valle	Upstream edge of Stanley Boulevard crossing	*345
		Arroyo Mocho	Downstream edge of Hopyard Road crossing	*320
		Chabot Canal	Upstream edge of West Las Positas Boulevard crossing.	*321
		Pleasanton Canal	Upstream edge of Hopyard Road crossing	*321
		Tassajara Creek	30 feet downstream from the Southern Pacific Railroad.	*329
		Hewlett Canal	100 feet downstream from the Southern Pacific Railroad crossing.	*325

Maps available for inspection at the Public Works Department, 200 Bernal Avenue, Pleasanton, California.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
New Jersey	Cape May, City, Cape May County (FEMA Docket No. 6605).	Atlantic Ocean	Approximately 100 feet northwest of the intersection of Beach Avenue and Wilmington Avenue.	*10
Maps available for inspection at the City Hall, 643 Washington Street, Cape May, New Jersey.				
New Jersey	Monmouth Beach, Borough, Monmouth County (FEMA Docket No. 6605).	Atlantic Ocean	South corporate limits	*14
			North corporate limits	*14
Maps available for inspection at the Borough Building, 22 Beach Road, Monmouth Beach, New Jersey.				
New York	Greenport, Village, Suffolk County (FEMA Docket No. 6605).	Greenport Harbor	Shoreline of Stirling Basin	*8
			Manor Place	*8
			Monsell Place	*8
			Shoreline from Stirling Basin to Railroad Station	*10
			Front Street	*8
			Shoreline from Railroad Station to Fanning Point	*8
Maps available for inspection at the Village Offices, 236 Third Street, Greenport, New York.				
North Carolina	Unincorporated Areas of Wake County (Docket No. FEMA-6605).	Ledge Creek—Basin 1, Stream 1	Just upstream of State Road 1900 at county boundary	*262
		Unnamed Stream—Basin 1, Stream 9.	At confluence with Ledge Creek—Basin 1, Stream 1	*262
			Just upstream of State Road 1901	*262
		Newlight Creek—Basin 3, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*262
			Just upstream of State Road 1909	*262
			About 1,850 feet upstream of State Road 1910	*262
			About 6,100 feet upstream of State Road 1912	*371
		Unnamed Stream—Basin 3, Stream 3.	At confluence with Newlight Creek—Basin 3, Stream 1	*262
			Just upstream of State Road 1918	*262
			About 3,050 feet upstream of State Road 1918	*262
		Unnamed Stream—Basin 3, Stream 6.	At confluence with Newlight Creek—Basin 3, Stream 1	*262
			About 1,950 feet upstream of confluence with Newlight Creek—Basin 3, Stream 1.	*262
			About 6,850 feet upstream of confluence with Newlight Creek—Basin 3, Stream 1.	*306
		Buckhorn Branch—Basin 3, Stream 9.	At confluence with Newlight Creek—Basin 3, Stream 1	*262
			About 700 feet upstream of confluence with Newlight Creek—Basin 3, Stream 1.	*262
			About 7,700 feet upstream of confluence with Newlight Creek—Basin 3, Stream 1.	*299
		Horse Creek—Basin 4, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*262
			Just upstream of State Road 98	*262
			About 3,000 feet downstream of State Road 1923	*262
			About 1,950 feet upstream of State Road 1909	*338
		Unnamed Stream—Basin 4, Stream 3.	About 2,000 feet upstream of confluence with Horse Creek—Basin 4, Stream 1.	*336
			About 5,600 feet upstream of confluence with Horse Creek—Basin 4, Stream 1.	*379
		Water Fork—Basin 4, Stream 7	At confluence with Horse Creek—Basin 4, Stream 1	*262
			At confluence with Lowery Creek—Basin 4, Stream 10	*262
			About 1,000 feet upstream of confluence with Lowery Creek—Basin 4, Stream 10.	*262
		Lowery Creek—Basin 4, Stream 10	At confluence with Water Fork—Basin 4, Stream 7	*262
			About 2,700 feet upstream of confluence with Water Fork—Basin 4, Stream 7.	*262
			Just upstream of State Road 1909	*378
		Unnamed Stream—Basin 4, Stream 13.	At confluence with Lower Creek—Basin 4, Stream 10	*284
			About 5,200 feet upstream of confluence with Lowery Creek—Basin 4, Stream 10.	*341
		Richland Creek—Basin 5, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*203
			About 6,500 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*211
			About 850 feet upstream of U.S. Route 1	*234
		Smith Creek—Basin 6, Stream 1	Just upstream of State Road 2045	*200
			Just upstream of State Road 2044	*207
			About 2,600 feet upstream of State Road 2049	*233
		Toms Creek—Basin 7, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*199
			About 500 feet upstream of State Road 2044	*205
			About 3,850 feet upstream of State Road 2049	*276
		Hodges Creek—Basin 8, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*191
			About 300 feet upstream of State Road 2049	*198
			About 900 feet upstream of State Road 2226	*223
		Powell Creek—Basin 8, Stream 7	At confluence with Hodges Creek—Basin 8, Stream 1	*193
			Just upstream of State Road 2049	*200
			About 7,200 feet upstream of State Road 2226	*261
		Beaverdam Creek—Basin 12, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*185
			Just upstream of dam	*195
			Just upstream of State Road 2228	*236
		Poplar Creek—Basin 13, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*169
			Just upstream of State Road 2601	*175
			About 8,100 feet upstream of State Road 1007	*212
		Neuse River—Basin 15, Stream 1	At downstream county boundary	*164
			Just upstream of U.S. Route 64	*180
			Just downstream of Falls Dam (about 900 feet upstream of State Road 2000).	*205

State	City/town/county	*Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
			Just upstream of Falls Dam (about 1,000 feet downstream of State Road 2000).	*262
			At upstream county boundary	*262
		Unnamed Stream—Basin 15, Stream 7.	At confluence with Neuse River—Basin 15, Stream 1	*173
			About 3,800 feet downstream of State Road 1007	*178
			Just upstream of State Road 2601	*236
		Unnamed Stream—Basin 15, Stream 8.	At confluence with Unnamed Stream—Basin 15, Stream 7.	*176
			About 400 feet upstream of confluence with Unnamed Stream—Basin 15, Stream 7.	*178
			Just upstream of State Road 2511	*216
		Unnamed Stream—Basin 15, Stream 9.	At confluence with Neuse River—Basin 15, Stream 1	*174
			About 1,650 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*179
			Just upstream of State Road 2552	*208
		Walnut Creek—Basin 15, Stream 10.	At confluence with Neuse River—Basin 15, Stream 1	*177
			At confluence with Big Branch—Basin 15, Stream 14	*184
		Mango Creek—Basin 15, Stream 11.	At confluence with Neuse River—Basin 15, Stream 1	*179
			Just upstream of Norfolk Southern Railway	*187
			About 7,100 feet upstream of Norfolk Southern Railway.	*226
		Unnamed Stream—Basin 15, Stream 22.	At confluence with Neuse River—Basin 15, Stream 1	*189
			About 2,650 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*195
			Just upstream of State Road 2049	*220
		Unnamed Stream—Basin 15, Stream 25.	At confluence with Neuse River—Basin 15, Stream 1	*194
			About 2,200 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*200
			Just upstream of State Road 2049	*250
		Perry Creek—Basin 15, Stream 26	At confluence with Neuse River—Basin 15, Stream 1	*196
			About 4,200 feet upstream of State Road 2006	*203
			About 10,300 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*216
		Perry Creek East Branch—Basin 15, Stream 27.	At confluence with Perry Creek—Basin 15, Stream 26	*197
			About 700 feet downstream of State Road 2042	*203
			About 1,350 feet upstream of State Road 2132	*314
		Unnamed Stream—Basin 15, Stream 28.	Just downstream of Berkshire Downs Drive	*196
			About 3,500 feet upstream of Berkshire Downs Drive	*205
		Honeycutt Creek—Basin 15, Stream 31.	At confluence with Neuse River—Basin 15, Stream 1	*262
			Just upstream of State Road 2002	*262
			Just upstream of State Road 2010	*262
			About 3,400 feet upstream of State Road 2010	*262
			Just upstream of State Road 2005	*303
		Unnamed Stream—Basin 15, Stream 32.	At confluence with Honeycutt Creek—Basin 15, Stream 31.	*262
			About 2,400 feet upstream of confluence with Honeycutt Creek—Basin 15, Stream 31.	*262
			Just upstream of State Route 2010	*280
		Cedar Creek—Basin 15, Stream 34.	At confluence with Neuse River—Basin 15, Stream 1	*262
			Just upstream of State Road 2002	*262
			About 3,400 feet upstream of State Road 2002	*262
			About 3,100 feet upstream of State Road 2005	*335
		Upper Barton Creek—Basin 16, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*262
			Just upstream of State Road 1005	*262
			About 1,900 feet downstream of State Road 1844	*262
			Just upstream of State Road 1841	*361
		Unnamed Stream—Basic 16, Stream 2.	At confluence with Upper Barton Creek—Basin 16, Stream 1.	*262
			About 3,350 feet upstream of confluence with Upper Barton Creek—Basin 16, Stream 1.	*262
			Just upstream of State Road 50	*334
		Lower Barton Creek—Basin 17, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*262
			About 3,800 feet downstream of State Road 1834	*262
			Just upstream of Countrywood Drive	*300
			About 250 feet upstream of State Road 1826	*386
		Unnamed Stream—Basin 17, Stream 4.	At confluence with Lower Barton Creek—Basin 17, Stream 1.	*293
			Just upstream of Carrington Drive	*295
			Just upstream of State Road 1831	*363
		Richland Creek—Basin 18, Stream 3.	About 5,600 feet downstream of State Road 1650	*278
			About 5,300 feet upstream of State Road 1650	*327
		Unnamed Stream—Basin 18, Stream 6.	At confluence with Sycamore Creek—Basin 18, Stream 6.	*359
			Just upstream of Unnamed Road	*389
			Just upstream of State Road 1837	*447
		Crabtree Creek—Basin 18, Stream 9.	At confluence with Neuse River—Basin 15, Stream 1	*178
			About 3,200 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*183
		Stirrup Iron Creek—Basin 18, Stream 12.	At confluence with Crabtree Creek—Basin 18, Stream 9.	*277
			Just upstream of State Road 3015	*281
			At county boundary	*321
		Unnamed Stream—Basin 18, Stream 13.	At confluence with Stirrup Iron Creek—Basin 18, Stream 12.	*267
			About 200 feet downstream of State Road 1002	*289
			Just upstream of dam	*316
		Bagwell Branch—Basin 20, Stream 10.	At confluence with Swift Creek—Basin 20, Stream 1	*241
			About 2,500 feet upstream of confluence with Swift Creek—Basin 20, Stream 1.	*241

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
		Unnamed Stream—Basin 20, Stream 20.	At confluence with Swift Creek—Basin 20, Stream 1	*298
			About 3,500 feet upstream of confluence with Swift Creek—Basin 20, Stream 1.	*321
		Unnamed Stream—Basin 22, Stream 20.	At confluence with Terrible Creek—Basin 22, Stream 19.	*268
			About 5,250 feet upstream of confluence with Terrible Creek—Basin 22, Stream 19.	*312
Maps available for inspection at the Planning Department, County Courthouse, 316 Fayetteville Mall, Raleigh, North Carolina.				
Oregon	Junction City (City of); Lane County, FEMA—6592.	Willamette River	Intersection of East 6th Avenue and Birch Street	*325
Maps are available for review at City Hall, 680 Greenwood, Junction City, Oregon.				
Pennsylvania	Middleburg, Borough, Snyder County, (FEMA Docket No. 6605).	Middle Creek	At most downstream corporate limits	*492
			Confluence of Stumps Run	*495
			U.S. Route 522 (Main Street) (upstream side)	*496
			Dam (upstream side)	*497
			Approximately 500' upstream of upstream corporate limits.	*498
		Stumps Run	Confluence with Middle Creek	*495
			East Market Street (upstream side)	*496
Maps available for inspection at the Borough Building, Middleburg, Pennsylvania.				

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

Issued: August 24, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24034 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 40674-4106]

Tanner Crab off Alaska

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement the approved parts of Amendment 9 to the fishery management plan for the Commercial Tanner Crab off the Coast of Alsaka. Approved measures contained in this amendment are necessary to establish annually fishing seasons and areas based on biological information and socioeconomic needs of the fishery, and to update the acceptable biological catches on which optimum yields are based. These measures are intended to promoted an orderly fishery that is consistent with the needs of the industry and with conservation requirements.

EFFECTIVE DATE: October 7, 1984.

ADDRESS: Copies of the amendment, the enviromental assessment, and the regulatory impact review may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, Kodiak Field Office, NMFS), 907–486–4791.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) was developed by the North Pacific Fishery Managment Council (Council) and approved and implemented by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), under the Magnuson Fishery Conservation and Management Act, Pub. L. 94–265,as amended, 16 U.S.C. 1801 *et seq.* (Magnuson Act). The FMP was published in the **Federal Register** on May 6, 1978 (43 FR 21170). Following initial implementation of the FMP in December 1978, eight amendments to the FMP have been implemented.

Amendment 9 was adopted by the Council at its July 1983 meeting and contains three measures. These measures (1) establish a framework provision for setting Tanner crab fishing seasons by preseason notice and comment procedures, (2) broaden the field order authority of the Secretary of Commerce (Secretary) to adjust seasons or fishing areas for socioeconomic reasons, and (3) establish new optimum yields (OYs) for Tanner crab stocks based on the best available scientific information indicating changes in acceptable biological catches (ABCs). The preamble to the proposed rule (49 FR 26117, June 26, 1984) and the regulatory impact review prepared for the amendment and summarized in the preamble dicussed the need and justification for these measures.

After considering the merits of the three parts of Amendment 9 and their consistency with the Magnuson Act and other applicable law, the Secretary has (1) approved the framework measure to set seasons by the notice procedure that was proposed, (2) disapproved the broadened inseason field order authority, and (3) approved the updated ABCs.

The disapproved measure, as submitted by the Council, is not necessary nor appropriate for the conservation and management of the fishery. After revison, the Council may resubmit this portion of the amendment under section 304(a)(2) of the Magnuson Act. In the final rule, therefore, the proposed removal of § 671.26(c)(2), (d)(2), (e)(2) and (f)(2) and the proposed changes in § 671.27(b) are withdrawn to reflect disapproval of the broadened inseason field order authority of Amendment 9, as proposed. The final rule is also changed in § 671.26(a)(2)(ii)

to indicate that the Secretary will publish a second notice within 45 days, instead of 30 days, after the end of the comment period. This change is necessary to accommodate the actual time required by the Secretary to review and clear the final notice.

Public Comments

Public comments were invited until August 3, 1984. No public comments were received.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary and appropriate for conservation and management of fishery resources and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment for this amendment and concluded that no significant impact on the environment will occur as a result of this rule.

The Administrator of NOAA has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

Although the Administrator of NOAA had determined that the proposed rule would have had a significant economic impact upon a substantial number of small domestic entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, he has now determined that the final rule will not have such an impact. The measure which would have broadened inseason field order authority has been disapproved. The measure addressing preseason setting of seasons is purely procedural; the exercise of this authority will be analyzed to assess its impact on small entities. Finally, the revisions of ABCs and OYs reflect values currently used in management of the fishery, and thus do not constitute a change which would have a substantial economic impact on small entities. For these reasons, the General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact.

This final rule does not contain a collection of information requirement within the meaning 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 the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et. seq.*)

Dated: September 7, 1984.

Carmen J. Blondin,

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

PART 671—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 671 is amended as follows:

1. In § 671.2, new definitions for "Council" and "FMP" are added in appropriate alphabetical order to read as follows:

§ 671.2 Definitions.

* * * * *

Council means the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone 907–274–4563.

* * * * *

FMP means the Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska.

* * * * *

2. In § 671.21, Table 1 at paragraph (a) is revised to read as follows:

§ 671.21 Optimum yield.

(a) * * *

TABLE 1.—OPTIMUM YIELDS (MILLIONS OF POUNDS) OF TANNER CRAB STOCKS IN THE FISHING DISTRICTS OR REGISTRATION AREAS OFF ALASKA [1]

Registration area—District	Optimum yield
Southeastern (A):	
Southeast	1.0 to 3.0.
Yakutat	0.1 to 1.0.
Prince William Sound (E)	1.5 to 3.5.
Cook Inlet (H)	1.5 to 3.0.
Westward (J):	
Kodiak	11.0 to 33.0.
Chignik	0.5 to 5.0.
South Peninsula	2.0 to 6.0.
Eastern Aleutians	0.1 to 2.0.
Western Aleutians	0.1 to 2.0.
Bering Sea:	
C. bairdi	5.0 to 26.5.
C. opilio	20.0 to 130.5.[2]

[1] Catches of Tanner crab in a State of Alaska registration area or district will be considered part of the optimum yield specified for the contiguous Federal registration area or district of the same name.

[2] Equals domestic annual harvest.

* * * * *

3. In § 671.26, paragraph (a) is revised to read as follows:

§ 671.26 Seasons, general gear restrictions, and registration areas.

(a) *Season dates*—(1) *Criteria for setting season opening and closing dates.* The Council may recommend to the Regional Director Tanner crab season opening and closing dates that it finds to be necessary in accordance with the following factors:

(i) Deadloss—the need to prevent or minimize deadloss, i.e., mortality of crab prior to processing.

(ii) Recovery rate—the need to increase the meat recovery rate.

(iii) Weather—the need to schedule seasons to avoid severe weather conditions.

(iv) Costs—the need to mininize costs to the industry.

(v) Other fisheries—the need to consider demands by other fisheries on harvesting, processing, and transportation systems.

(vi) Coordinated season timing—the need to distribute fishing effort and thus prevent gear saturation in a particualr area.

(vii) Enforcement and management costs—the need to consider costs of enforcement and management before, during, and after an open season.

(2) *Procedures*—(i) As soon as practicable after the Council has recommended to the Regional Director season opening and closing dates, the Secretary will publish an initial notice in the **Federal Register** specifying the proposed dates. Public comments on the proposed dates and whether they are consistent with the objectives of the FMP will be invited for a period of 30 days after this notice is published in the **Federal Register**.

(ii) Within 45 days after the end of the comment period, the Secretary will publish a second notice approving, disapproving, or partially disapproving the proposed season dates based on comments received and his determination on whether the dates are consistent with the objectives of the FMP, the national standards of the Magnuson Act, and other applicable law. Season opening and closing dates presented under this paragraph will remain in effect until the Secretary issues a notice approving changes to those dates.

* * * * *

[FR Doc. 84–24097 Filed 9–7–84; 5:02 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 178
Wednesday, September 12, 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

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications Deletion of Distribution Construction Drawings

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1736.97, Incorporation by Reference of Electric Standards and Specifications, by deleting two construction drawings from REA Bulletin 50–5 (D–803), "Specifications and Drawings for 14.4/24.9 kV Line Construction," revised September 1969. The two drawings proposed for deletion are: VG 310 14.4/24.9 kV, "Three Transformers Cluster Mounted Ungrounded Wye-Delta for 120/240 Volt Power Loads," and VG 311 14.4/24.9 kV, "Three Transformers Cluster Mounted 3-Wire Grounded Delta for 240 or 480 V Power Loads."

The drawings are proposed for deletion because of the possibility of transformer ferroresonance at 14.4/24.9 kV due to the ungrounded primaries. The intended effect is minimal since other equally satisfactory three-phase electrical connections can be used.

DATE: Public comments must be received by REA no later than November 13, 1984.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Room 1256–S, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter Jackson, Engineering Standards Division, Rural Electrification Administration, Room 1262, Washington, D.C. 20250 telephone (202) 382–9092. A Draft Impact Analysis has been prepared and is available at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1736.97, Incorporation by Reference of Electric Standards and Specifications, by deleting two construction drawings from REA Bulletin 50–5 (D–803), Specifications and Drawings for 14.4/24.9 kV Line Construction. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

The Rural Electrification Administration (REA) maintains a system of bulletins that contain construction standards and specifications for materials and equipment which are applicable to electric systems facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications may be used by REA electric borrowers without any review by REA of project specifications and engineering design.

Bulletin 50–5 was approved for incorporation by reference by the Director of the Federal Register on July 12, 1983 (Volume 48, No. 134, pages 31852–53). REA will seek reapproval for incorporation by reference prior to the issuance of a final rule.

Background

The transformer banks in both drawings are for an ungrounded wye primary with a delta connected secondary. It is generally considered good engineering practice for the wye primary, in this type of transformer bank, to be ungrounded. However, at higher distribution voltages, the possibility of ferroresonance becomes more likely because of the ungrounded wye. There is a fairly good chance at 14.4/24.9 kV that ferroresonance will occur either when the phases are closed in sequence at a distance from the transformer bank, or if one or two phases become opened. To minimize the likelihood of the ferroresonance problem, which is more probable because of the relatively high primary voltage, it is proposed to delete the two drawings VG310 and VG311.

As a result of this action, electric borrowers would be discouraged from installing new ungrounded wye-delta transformer connections at 14.4/24.9 kV. There would be no change required in existing installations. The preferred connections for new three-phase 14.4/24.9 kV transformer installations would then be grounded wye-grounded-wye. This connection is generally not subject to ferroresonance problems. New customers would be able to have 4-wire grounded wye secondary of either 120/208 volts or 277/480 volts. Delta connected 120/240, 240 and 480 volt secondaries would not be available from 14.4/24.9 kV primaries.

This should cause no problems and no extra expense for most consumers, or most individual industries or for Federal, State or local government agencies. The impact should, in essence, be minimal. The only likely area of impact would be new consumers who are relocating old plants, utilizing three phase motors which operate at 240 or 480 volts three phase, to a new location on an REA electric borrower's line. Such cases would have to be discussed between the cooperatives and the consumer. Possible exceptions could be made to accommodate the consumer's equipment.

This proposal will make REA Bulletin 50–5 (D–803) consistent with Bulletin 161–19, "Guide for Electric Service on Three-Phase Motor Installations," pages 15 and 16, which recommends that ungrounded wye-grounded delta transformer connections should not be used on 14.4/24.9 kV systems.

List of Subjects in 7 CFR Part 1736

Electrtic utilities, Engineering standards.

Dated: September 6, 1984.

Jack Van Mark,

Administrator.

[FR Doc. 84-24030 Filed 9-11-84; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Inspection Service

9 CFR Parts 307 and 310

[Docket No. 83-031]

Swine Post-Mortem Inspection Procedures and Staffing Standards

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Federal meat inspection regulations by establishing new swine post-mortem staffing standards using a more efficient inspection procedure for one- and two-inspector swine slaughter configurations, and for three-inspector swine slaughter configurations with heads detached. It would increase the number of swine that can be inspected before a third inspector is required, as well as the number of sows and boars that can be inspected on a detached head inspection configuration. The proposed rule would also set forth certain related facility requirements for inspection. This action would allow higher production rates for the establishments and greater inspection efficiency for the Department.

DATE: Comments must be received on or before November 13, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mr. Clyde S. Smithson, Director, Industrial Engineering and Data Management Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2987.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that the proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse 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.

Through the use of an improved inspection procedure, this proposal would increase inspection efficiency and industry productivity in as many as 700 swine slaughter establishments, at little or no extra cost.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposal would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). Small and medium sized establishments (with one or two inspectors) would benefit by gaining more flexibility in the planning of slaughter operations, as well as increasing their productivity, at little or no extra cost.

Comments

Interested persons are invited to submit comments concerning the proposal. Written comments must be sent in duplicate to the Regulations Office and should reference the docket number located in the heading of this document. All comments submitted pursuant to this proposal will be available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Introduction: Post-Mortem Inspection

Section 4 of the Federal Meat Inspection Act (21 U.S.C 604) requires, among other provisions, that the Secretary of Agriculture, through appointed inspectors, carry out a post-mortem inspection of the carcasses and parts of certain domestic food animals, including swine, when these animals are slaughtered in an official establishment that is subject to inspection under the Act. Post-mortem inspection involves an examination by one or more trained food inspectors, under veterinary supervision, of the head, viscera (internal organs), and other parts of the carcass of each animal slaughtered, for the purpose of detecting disease or other conditions that could render the carcass or any part thereof unfit for human food or otherwise adulterated.

With the appropriate facilities, equipment, and placement of inspection stations, a swine slaughtering establishment can set its own production rates, and the Food Safety and Inspection Service (FSIS) assigns sufficient inspectors to carry out inspection at that rate. In establishments with relatively low production rates, one inspector performs all of the inspection of the head, viscera, and other parts of the carcass of each animal slaughtered at one station. In establishments with higher slaughter rates, two or more inspections may be needed. On a two-inspector configuration, these three inspection tasks must be divided between the two inspectors. On a line with three or more inspectors, each of these three inspection tasks is performed by a different inspector. Where two or more inspectors are required, they rotate between the tasks during the workday to equalize the workload.

New Post-Mortem Inspection Procedure for Large Establishments

On August 28, 1981, FSIS published an interim rule in the **Federal Register** (46 FR 43406) establishing new swine post-mortem inspection rates based on a more efficient inspection procedure. The interim rule was adopted as a final regulation on August 4, 1982 (47 FR 33673). The new procedure was tested in establishments with three or more inspectors located at three inspection stations.[1] Accordingly, the procedure affected only those operations requiring three or more inspectors and where the swine heads are inspected while attached to the carcass. The 1981 interim rule expressed FSIS's intention to extend the rules to the other classes of establishments upon completion of additional studies, which is the main purpose of this proposal.

Testing the New Procedure in Other Swine Establishments

Studies were recently completed to determine the impact and applicability of the new procedure and staffing standards to establishments which require less than three inspectors and to those establishments with three inpectors where the swine heads are inspected only when detached from the carcass.[2]

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[1] The tests are reported in two studies entitled "A Study on the Effectiveness of Current and Proposed Swine Post-Mortem Inspection" and "A Study on the Applicability of Proposed Swine Post-Mortem Inspection to Sows/Boars." Copies of these reports may be obtained without charge by writing to Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[2] A copy of the report on these studies, "Work Measurement Staffing Standard for the One to

Continued

These studies were conducted at swine slaughter establishments operating with a one or two-inspector line configuration and slaughtering both market hogs, and sows and boars. A review and evaluation of the elements in the one and two-inspector configurations showed that most of the inspection tasks are identical to the inspection tasks on which the approved work measurement standards for the three to seven inspector configurations are based, and that it takes the same amount of time to perform the same motion of work in either types of configurations.

As a result of these studies, the Agency is proposing improved inspection procedures which appear to be as effective in detecting conditions relating to adulteration as the current procedures.

Factors Influencing Increased Rate of Inspection

1. Revised Post-Mortem Inspection Procedure. The revised post-mortem inspection procedure requires fewer motions, and hence less effort and time to perform, than the procedure used prior to 1981. This has resulted from the installation of a mirror at the carcass station to eliminate turning the carcass, from the substitution of visual inspection for some of the palpation at the viscera station, and from the elimination of the requirement to turn and examine the carcass at the head station.

2. Attached and Detached Heads. The inspection of the head requires the examination of mandibular lymph nodes. These nodes are made accessible to the inspector in two ways. The head may be disjointed from the neck and left attached to the carcass by a flap of skin, or it may be removed and placed in a head rack, nose down, for the inspector's examination. Most establishments requiring three or more inspectors provide for the inspection of the head while it is still attached to the carcass by the flap of skin. However, most one- and two-inspector line configurations provide for the removal of the head from the carcass for inspection. Removal of the heads does not affect the inspection rate on market hog slaughter lines. The carcasses are short enough so that the market hog heads can be inspected while attached without requiring stooping by the inspector. Sow and boar heads hang nearer to the floor which requires the inspector to stoop and, therefore, more inspection time is necessary for sow and board head inspection.

As previously discussed, the inspection rates for three or more inspector lines, for carcasses with heads attached were promulgated on August 4, 1982. Those rates are contained in two tables (9 CFR 310.1(b)(3))—one for butcher hogs and one for sows and boars. For purposes of organization, this proposed rule would combine the two tables into one as Table 4, making no distinction, except as otherwise noted, between swine slaughter lines with heads attached and those with heads detached. FSIS is soliciting comments on Table 4 only as they relate to footnote number 1 concerning sows and boars where the heads are detached because it is the only change in the information contained in the Table. The minimum line rates, as currently contained in § 310.1(b)(3), for three-inspector configurations with heads attached are appropriately changed to reflect the maximum number of swine that can be inspected on two-inspector line configurations.

3. Addition of a Mirror at the Carcass Inspection Station. Currently, mirrors are required only for those three or more inspector slaughter lines where the swine heads are inspected while still attached. The criteria for such mirrors are set forth in § 307.2(m)(6) of the Federal meat inspection regulations (9 CFR 307.2(m)(6)). The mirror allows the inspector to review the back of the carcass without turning the carcass which decreases the time required. This proposal would extend such requirement to those sow and boar three-inspector lines where the heads are detached from the carcasses. In establishments where one or two inspectors are assigned, a mirror would not be required unless the establishment desires to increase production to the point where an additional inspector must be assigned. In that event, the inspection service would have the option to require a carcass mirror rather than place another inspector in the establishment. The inspection rates on one- and two-inspector configurations may be slightly higher if mirrors are provided. Therefore, to receive the faster inspection rate, such establishments would be required to install mirrors meeting the criteria in § 307.2(m)(6).

4. Arranging the facilities to minimize the inspector's walking distance. In one/and two-inspector configurations, the inspector must sometimes walk from one of the three inspection stations to another. If the stations are located close to each other, the inspector can perform his/her tasks with less walking time. The less the walking time involved, the more animals that can be inspected per hour.

The proposed new staffing standards for one- and two-inspector lines are based upon the distance the inspector walks between the inspection stations. The new procedure would provide an incentive for smaller plants to increase productivity by rearranging their facilities to minimize the distance between the inspection stations.

5. Two-inspector line configurations. As previously mentioned, when two inspectors are assigned to an establishment, the three inspection tasks are divided between them. Various combinations of inspection tasks have been proposed, some of which are more productive than others.

The inspection rate for market hog two-inspector configurations would be the same for both attached and detached heads. Sow and boar rates would be different for attached than detached heads because the inspection time is greater for attached heads due to the necessary stooping by the inspector.

Inspection Station Configuration for Low Production Establishments

Staffing standards for various inspection station configurations have been developed and are proposed herein for those establishments that have low slaughter production rates. In such establishments where an additional inspector may be required, FSIS would have the option of implementing a more productive inspection configuration.

List of Subjects

9 CFR Part 307

Facilities, Meat inspection, Official establishment.

9 CFR Part 310

Meat inspection, Post-mortem inspection, Slaughter.

The Proposal

The Federal meat inspection regulations would be revised as follows:

1. The authority citation for Parts 307 and 310 reads as follows:

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

2. Section 307.2(m)(6) would be revised to read as follows:

Three Inspector Swine Slaughter Configurations," may be obtained without charge from Mr. Clyde S. Smithson, Director, Industrial Engineering and Data Management Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

§ 307.2 Other facilities and conditions to be provided by establishment.

* * * * *

(m) * * *

(6) For swine slaughter lines requiring three or more inspectors, and for those one- and two-inspector configurations where the establishment installs a mirror: At the carcass inspection station one glass or plastic, distortion-free mirror, at least 5 feet x 5 feet, mounted far enough away from the vertical axis of the moving line to allow the carcass to be turned, but not over 3 feet away, and so mounted that any inspector standing at the carcass inspection station can readily view the back of the carcass.

3. Section 310.1(b)(3) would be revised to read as follows:

§ 310.1 Extent and time of post-mortem inspection; post-mortem inspection staffing standards.

* * * * *

(b) * * *

(3) *Swine Inspection.* The following inspection staffing standards are applicable to swine slaughter configurations. The inspection standards for all slaughter lines are based upon the observation rather than palpation, at the viscera inspection station, of the spleen, liver, heart, lungs, and mediastinal lymph nodes. In addition, for one- and two-inspector lines, the standards are based upon the distance walked (in feet) by the inspector between work stations; and for three or more inspector slaughter lines, upon the use of a mirror, as described in § 307.2(m)(6), at the carcass inspection station. Although not required in a one- or two-inspector slaughter configuration, except in certain cases as determined by the inspector, if a mirror is used, it must comply with the requirements of § 307.2(m)(6).

TABLE 1.—ONE INSPECTOR—STAFFING STANDARDS FOR SWINE

Distance walked [1] in feet is:—	Maximum inspection rates (head per hour)			
	Market hogs		Sows and boars	
	Without mirror	With mirror	Without mirror	With mirror
0 to 5	140	150	131	143
6 to 10	134	144	126	137
11 to 15	129	137	122	132
16 to 20	124	132	117	127
21 to 25	120	127	113	122
26 to 30	116	122	110	118
31 to 35	112	118	106	114
36 to 40	108	114	103	110
41 to 45	105	110	100	106
46 to 50	101	107	97	103
51 to 55	98	103	94	100
56 to 60	96	100	91	97
61 to 65	93	97	89	94
66 to 70	90	95	87	92
71 to 75	88	92	85	89

TABLE 1.—ONE INSPECTOR—STAFFING STANDARDS FOR SWINE—Continued

Distance walked [1] in feet is:—	Maximum inspection rates (head per hour)			
	Market hogs		Sows and boars	
	Without mirror	With mirror	Without mirror	With mirror
76 to 80	86	89	82	87
81 to 85	84	87	80	85
86 to 90	82	85	79	83
91 to 95	80	83	77	81
96 to 100	78	81	75	79

[1] Distance walked is the total distance that the inspector will have to walk between work stations during one inspection cycle (e.g., between viscera, carcass, head, and washbasin).

TABLE 2.—TWO INSPECTORS—STAFFING STANDARDS FOR MARKET HOGS

Distance walked[1] in feet by inspector B is—	Maximum inspection rates (head per hour)		
	Line configuration		
	Carcass[2]	Viscera[3]	Head[3]
	Head viscera[3]	Head carcass[3]	Viscera carcass[3]
Without Mirror			
0 to 5	151–253	151–271	151–296
6 to 10	151–239	151–255	151–277
11 to 15	151–226	151–240	151–260
16 to 20	151–214	151–227	151–244
21 to 25	151–204	151–215	151–231
With Mirror			
0 to 5	151–253	151–303	151–318
6 to 10	151–239	151–283	151–304
11 to 15	151–226	151–265	151–289
16 to 20	151–214	151–249	151–270
21 to 25	151–204	151–235	151–254

[1] Distance walked is the total distance that Inspector B will have to walk between work stations during one inspection cycle (e.g., between viscera, carcass, and washbasin).
[2] Inspector A.
[3] Inspector B.

NOTE.—On multiple-inspector kills, the inspectors must rotate between all inspection positions *during each shift* to equalize the workload. Presentation must be correct.

TABLE 3.—TWO INSPECTORS—STAFFING STANDARDS FOR SOWS AND BOARS

Distance walked [1] in feet by inspector B is—	Maximum inspection rates (head per hour)			
	Line configuration			
	Carcass [2]	Viscera [2]	Head [3]	Head [3]
	Head viscera [3]	Head carcass [3]	Viscera carcass [3]	Viscera carcass [3]
	Heads detached	Heads detached	Heads detached	Heads attached
Without Mirror				
0 to 5	144–248	144–254	144–267	144–267
6 to 10	144–235	144–240	144–253	144–253
11 to 15	144–222	144–227	144–239	144–239
16 to 20	144–211	144–215	144–226	144–226
21 to 25	144–201	144–205	144–214	144–214
With Mirror				
0 to 5	144–248	144–292	144–305	144–292
6 to 10	144–235	144–273	144–291	144–280
11 to 15	144–222	144–256	144–272	144–268
16 to 20	144–211	144–241	144–255	144–255

TABLE 3.—TWO INSPECTORS—STAFFING STANDARDS FOR SOWS AND BOARS—Continued

Distance walked [1] in feet by inspector B is—	Maximum inspection rates (head per hour)			
	Line configuration			
	Carcass [2]	Viscera [2]	Head [3]	Head [3]
	Head viscera [3]	Head carcass [3]	Viscera carcass [3]	Viscera carcass [3]
	Heads detached	Heads detached	Heads detached	Heads attached
21 to 25	144–201	144–228	144–240	144–240

[1] Distance walked is the total distance that Inspector B will have to walk between work stations during one inspection cycle (e.g., between viscera, carcass, and washbasin).
[2] Inspector A.
[3] Inspector B.

NOTE.—On multiple-inspector kills, the inspectors must rotate between all inspection positions *during each shift* to equalize the workload. Presentation must be correct.

TABLE 4.—THREE INSPECTORS OR MORE—STAFFING STANDARDS FOR SWINE

Maximum inspection rates (head per hour)	Number of Inspectors by station			
	Head	Viscera	Carcass	Total
Market hogs:				
319 to 506	1	1	1	3
507 to 540	1	2	1	4
541 to 859	2	2	1	5
860 to 1022	2	3	1	6
1023 to 1106	3	3	1	7
Sows and boars:				
306 to 439[1]	1	1	1	3
440 to 475	2	1	1	4
476 to 752	2	2	1	5
753 to 895	3	2	1	6
896 to 964	3	3	1	7

[1] This rate is 306–462 if the heads of sows and boars are detached from the carcasses at the time of inspection.

NOTE.—On multiple-inspector kills, the inspectors must rotate between all inspection positions *during each shift to equalize the workload.* Presentation must be correct.

Done at Washington, D.C., on August 24, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-24029 Filed 9-11-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. 84-31]

Assessment of Fees; National Banks; District of Columbia Banks, Federal Branches and Agencies

AGENCY: Comptroller of the Currency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is seeking public comment on a proposed revision of the fees charged by the Office for

special examinations and investigations of national banking associations and District of Columbia banks, for examinations of the affiliates of such institutions, for examinations of fiduciary activities of such institutions exercising fiduciary powers, and for examinations and investigations made pursuant to 12 CFR Part 5, Rules, Policies, and Procedures for Corporate Activities. The Office proposes to charge a uniform hourly fee derived from a formula based on the cost of these examinations and investigations. The hourly fee would be revised annually to reflect projected costs as reflected in the budget for the coming year.

In addition, the Office proposes to institute annual publication of a "Notice of Comptroller of the Currency Fees." This notice would include all the fees to be charged by the Office in the coming year, inclusive of this proposal. The notice would be published on the first business day in December of each year.

DATE: All comments should be received by the Office no later than October 29, 1984.

ADDRESS: Comments should be directed to Docket No. 84–31 Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., 3rd floor, Washington, D.C. 20219, Attention: Lynnette Carter. Telephone (202) 447–1800. All comments will be available for inspection and photocopying at that address.

FOR FURTHER INFORMATION CONTACT: Dennis J. Arczynski, Project Manager, Financial Operations (202) 447–1878 or Chari Anhouse, Attorney, Legal Advisory Services Division (202) 447–1880; Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION: The Office of the Comptroller of the Currency was created by federal legislation for the purpose of regulating the national banking system. Under the National Bank Act, 12 U.S.C. 1 *et seq.*, it has a responsibility to take every necessary and appropriate step to ensure that all national banks comply with the various laws enacted by Congress and the States.

The Office is authorized by 12 U.S.C. 481 and 482 to assess a fee based on assets on all national banks, District of Columbia banks, and federal branches and agencies of foreign banks to recover the costs associated with their supervision and examination. This is the general assessment fee at 12 CFR 8.2. Sections 481 and 482 also authorize the Office to recover the expenses it incurs in examining such institutions more frequently than twice in one calendar year, in examining any affiliate of a national bank, in examining the activities of institutions exercising fiduciary powers, in examinations and investigations conducted pursuant to 12 CFR Part 5, Rules, Polices, and Procedures for Corporate Activities.

The Office is seeking with this proposal to fully recover those expenses not recovered through the general assessment fee. The current fees set forth in 12 CFR 8.6, Daily Rate for Examinations of Affiliates and for Special Examinations and Investigations, do not fully recover the expenses for special examinations and investigations and examinations of national bank affiliates. The fee charged for these examinations and investigations has remained fixed since 1969. Since then, Office expenditures have increased by 382 percent as a result of inflation and increased responsibilities. Consequently, the Office will recover only 19 percent of its costs of conducting such examinations in 1984. In addition, the fee for trust examinations is established by a detailed formula at 12 CFR 8.7, Hourly Rate for Trust Examinations. This formula no longer reflects the current organization or examination techniques of the Office. Due to this discrepancy, the Office will recover only 84 percent of the cost of conducting trust examinations in 1984.

The Office proposes to charge a uniform hourly fee for all examinations and investigations expenses which are not recovered through the general assessment fee. This is due to the fact that, while the financial institution or the examination area in the bank may differ, the functions and activities performed by employees conducting the examination are essentially the same and the ultimate objective in each instance is identical. Therefore, the Office expense of conducting such examinations are effectively the same.

The proposed hourly rate would be derived from a formula which accurately reflects the salary, benefit, and travel costs of the employees performing the examination, as well as the general, administrative, and overhead expenses (indirect costs) required to support the Office's staff. The proposed formula for determining an hourly rate which recovers the total costs of examinations is as follows:

$$\frac{DC+DC(ICR)}{BH}=HR$$

where:

DC: Direct costs

BH: Billable hours

ICR: Indirect cost rate

HR: Hourly rate

The number of hours spent examining a bank, both on-site and off-site, multiplied by the hourly rate determined by this formula, establishes the fee charged to the institution for the examination.

The components of this formula are defined as follows:

Direct Costs: Projected salary, benefit, and travel expenses of the Office's employees performing examinations or investigations for the coming year.

Billable Hours: Projected Office employee hours devoted to examinations or investigations for the coming year.

Indirect Cost Rate: The indirect cost rate is a ratio of total indirect costs to total direct costs for the entire Office for the coming year. Indirect costs include those costs incurred for Office support activities (legal and regulatory, administrative, training, and external relations) and support costs (supplies, office rent, equipment, etc.) that cannot be clearly identified as a consequence of the performance of a single, specific function. The indirect cost rate, then, represents the average addition to direct costs required for the Office to recover its total costs of performing an activity.

Based on this formula, the revised rate for 1984 would have been $60 per hour. In 1985 and beyond, the Office proposes to revise the rate annually based upon projected costs for the coming year and be calculated pursuant to the above formula. The revised fee for 1985 and beyond would be effective as of January 1 of each year. The Office would provide a copy of the analysis determining the fee for a given year to any interested party upon request.

To ensure that all national banks and other interested parties are notified of the revised fee and the other fees of this Office, the Office proposes to publish a "Notice of Comptroller of the Currency Fees." The Notice would be published the first business day in December of each year and detail all of the Office's fees for the coming year. Under this proposal, the Notice will be distributed to all national banks and other interested parties.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Comptroller of the Currency certifies that the proposed fee revision will not have a significant impact on a substantial number of small entities. The proposed regulation would not impose additional reporting or recordkeeping

requirements on any banks subject to the jurisdiction of this Office, nor would the proposed regulation have any other significant impact on these banks. This Office anticipates that the necessary increase in fees payable by any individual bank pursuant to this proposal will be sufficiently small as to have no appreciable effect on the individual bank's financial stability.

Regulatory Impact Analysis

Pursuant to section 3(g)(1) of Executive Order 12291 of February 17, 1981, the proposed fee revision does not constitute a major rule within the meaning of section 1(b) of the Executive Order. The proposed regulation: (1) Will not have an annual effect on the economy in excess of $100 million; (2) will not impose major cost or price increases on consumers, individual industries, federal, state or local government agencies, or geographic regions; and (3) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. Therefore, no regulatory impact analysis need be prepared.

List of Subjects in 12 CFR Part 8

National banks, Assessment of Fees

PART 8—[AMENDED]

For the reasons set forth above, it is proposed to amend 12 CFR Part 8 as follows:

1. The authority citation for 12 CFR Part 8 is:

Authority: R.S. 5240, as amended, 12 U.S.C. 481, 482; 12 U.S.C. 3103; and in sec. 3, 47 Stat. 1566, 26 D.C. Code 102.

2. By revising the text of § 8.6 to read:

§ 8.6 Hourly rate for examinations and investigations.

(a) Pursuant to the authority contained in 12 U.S.C. 481 and 12 U.S.C. 482, the Office of the Comptroller of the Currency assesses a fee on an hourly basis to recover the total costs of examining fiduciary activities of national and District of Columbia banks and related entities, of conducting special examinations and investigations of national and District of Columbia banks, of conducting examinations of the affiliates of national and District of Columbia banks, and investigations and examinations made pursuant to 12 CFR Part 5, Rules, Policies, and Procedures for Corporate Activities.

(b) The fee assessed by paragraph (a) of this section will be determined by multiplying the number of hours employees of the Office of the Comptroller of the Currency spend on the examination or investigation by the hourly fee as determined in paragraph (c) of this section.

(c) The hourly fee assessed by paragraph (a) of this section will be calculated as follows:

$$\frac{DC + DC(ICR)}{BH} = HR$$

where:

DC: Direct costs
BH: Billable hours
ICR: Indirect cost rate
HR: Hourly rate

The component parts of the formula are defined as follows:

Direct Costs: Projected salary, benefit, and travel expenses to be incurred by the Office for employees performing examinations or investigations for the coming year.

Billable Hours: Projected employee hours devoted to examinations and investigations for the coming year.

Indirect Cost Rate: The indirect cost rate is a ratio of total indirect costs to total direct costs for the entire Office for the coming year. Indirect costs include those costs incurred for Office support activities (legal and regulatory, administrative, training, and external relations) and support costs (supplies, office rent, equipment, etc.) that cannot be clearly identified as a consequence of the performance of a single, specific function. The indirect cost rate, represents the average addition to direct costs required for the Office to recover its total costs of performing an activity.

(d) The hourly fee of paragraph (c) of this section will be revised annually in the "Notice of Comptroller of the Currency Fees."

3. Section 8.7 is removed and § 8.8 is redesignated as § 8.7 and paragraph (a) is revised to read as follows:

§ 8.7 Payment of interest on deliquent assessments and examination and investigation fees.

(a) Each national bank, each district bank, each Federal branch, and each Federal agency shall pay to the Comptroller of the Currency interests on its deliquent payments of semiannual assessments. In addition, each national bank and each entity with a trust department examined by the Comptroller of the Currency and each institution that is the subject of a special examination or investigation conducted by the Comptroller of the Currency shall pay to the Comptroller of the Currency interest on its deliquent payments of examination and investigation fees. Semiannual assessment payments will be considered deliquent if they are received after the time for payment specified in § 8.2. Examination and investigation fees will be considered deliquent if not received by the Comptroller of the Currency within 30 calendar days of the invoice date.

* * * * *

4. A new § 8.8 is added to read as follows:

§ 8.8 Notice of Comptroller of the Currency Fees.

On the first business day in December of each year, the Office will publish and distribute a "Notice of Comptroller of the Currency Fees." This Notice will contain all fees to be charged by the Office for the upcoming year. These fees will be effective January 1 of the following year.

Dated: August 16, 1984.

H. Joe Selby,

Acting Comptroller of the Currency.

[FR Doc. 84-24054 Filed 9-11-84; 8:45 am]
BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-AAL-4]

Proposed Establishment of Mekoryuk, AK; Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to lower the base of controlled airspace in the vicinity of Mekoryuk, AK, Airport to 700 feet above the surface so that aircraft conducting flight under instrument flight rules (IFR) would have exclusive use of that airspace when the visibility is less than 3 miles and thereby enhancing the safety of such operations.

DATE: Comments must be received on or before October 24, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 84-AAL-4, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief

Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

William C. Davis, 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, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AAL-4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the base of controlled airspace at 700 feet above the surface in a rectangular area 37 nautical miles by 15.5 nautical miles over the Mekoryuk, AK, Airport. While this airspace designation would exclude aircraft from conducting flight under visual flight rules (VFR) when the visibility is less than 3 miles, it would enhance the safety of aircraft conducting flight under IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed 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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Mekoryuk, AK [New]

That airspace extending upward from 700 feet above the surface within 6 miles southeast and 9.5 miles northwest of the Nanwak NDB (lat. 60°23'10"N., long. 166°12'46"W.) 244°T(228°M) and 064°T(048°M) bearings, extending from 18.5 miles southwest to 18.5 miles northeast of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on August 29, 1984.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-24020 Filed 9-11-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AAL-11]

Proposed Establishment of Port Heiden, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to lower the base of controlled airspace in the vicinity of Port Heiden, AK, Airport to 700 feet above the surface so that aircraft conducting flight under instrument flight rules (IFR) would have exclusive use of that airspace when the visibility is less than 3 miles and thereby enhancing the safety of such operations.

DATE: Comments must be received on or before October 24, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 84-AAL-11, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AAL-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the base of controlled airspace at 700 feet above the surface over the Port Heiden, AK, Airport within a generally circular area of approximately 800 square miles. While this airspace designation would exclude aircraft from conducting flight under visual flight rules (VFR) when the visibility is less than 3 miles it would enhance the safety of aircraft conducting flight under IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed 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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO), International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Port Heiden, AK [New]

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Port Heiden Airport (lat. 56°57'36" N., long. 158°36'48" W.); and within 9.5 miles south and 4.5 miles north of the 248° bearing from the Port Heiden NDB, extending from the 14.5-mile radius area to 23 miles west of the NDB; and within 9.5 miles west and 4.5 miles east of the 339° bearing from the Port Heiden NDB extending from the 14.5-mile radius area to 23 miles north of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on August 29, 1984.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-24021 Filed 9-11-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 101

Moored Balloons, Kites, Unmanned Rockets, and Unmanned Free Balloons; Regulatory Review Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Initiation of regulatory review: Invitation to submit proposals.

SUMMARY: The FAA announces a Regulatory Review Program regarding Part 101 of the Federal Aviation Regulations (FAR) (hereinafter called "Review Program"). This Review Program is intended to provide full public participation in matters concerning FAA evaluation of the operation of moored balloons, kites, unmanned rockets, unmanned free ballons, and the possible inclusion of remotely piloted vehicle regulations. The Review Program is patterned on the FAA's earlier airworthiness and operations review programs.

DATE: Proposals must be received on or before November 13, 1984.

ADDRESS: Send proposals to the Part 101 Regulatory Review Program, Federal Aviation Administration, Office of the Associate Administrator for Air Traffic, Airspace-Rules and Aeronautical Information Division, ATT-200, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch, (ATT-230), Airspace-Rules and Aeronautical Information Division, AAT-200, 800 Independence Avenue SW., Washington, D.C. 20591 (202-426-8783).

SUPPLEMENTARY INFORMATION:

Scope

The Regulatory Review Program announced by this notice involves Part 101 of the Federal Aviation Regulations (14 CFR Part 101) entitled "Moored Balloons, Kites, Unmanned Rockets, and Unmanned Free Balloons." The scope of Part 101 includes the following:

1. Subpart A prescribes rules governing the operation of certain balloons that are moored to the surface of the earth; kites; unmanned rockets, and unmanned free balloons;
2. Subpart B applies to the operation of moored balloons and kites;
3. Subpart C applies to the operation of unmanned rockets; and
4. Subpart D applies to the operation of unmanned free balloons.

Comments Invited

This regulatory review program is initiated pursuant to FAA's policy for the institution of public proceedings in actions related to rulemaking. Interested persons are invited to participate by submitting any proposals for amendments to Part 101 that they believe are needed. We are particularly interested in comments/proposals on the following:

1. Moored Balloons

a. Should Parts 101 and 91 be revised to clarify the respective requirements for unmanned and manned moored balloon operations?

b. Should FAR Part 91 include additional provisions for the operation of manned moored balloons, such as anticollision lights and high visibility flags required for night/day operations, respectively?

2. Subpart C—Unmanned Rockets

a. With the advent of increased private industry emphasis toward providing space satellite launching services, and the developmental processes involved, and the consequential establishment of the DOT Office of Commercial Space Transportation to meet the needs of these business ventures, the FAA must review Part 101, Subpart C, within the constraints of safety, to accommodate/support the goals of the DOT Office of Commercial Space Transportation. This may necessitate the creation of a new subpart specifically dedicated to space transportation related ventures.

b. Should consideration be given to amending this part to allow the operation of unmanned rockets in controlled airspace if such is conducted in an established controlled firing area (CFA) and such operation remains subject to present safety, cloud/obscuring phenomena criteria and visibility, and other constraints?

Note.—CFA contain activities which, if not conducted in a controlled environment, could be hazardous to nonparticipating aircraft. The distinguishing feature of the CFA, as compared to other special use airspace, is that its activities are suspended immediately when spotter aircraft, radar, or ground lookout positions indicate an aircraft might be approaching the area. Nonparticipating aircraft are not required to change their path of flight.

3. Remotely Piloted Vehicles (RPV's)

a. With the exploration of possible uses for remotely piloted vehicles, such as: Scientific data gathering; military applications; training; private/commercial ventures; model, sport and recreational use, we are requesting comments on the necessity to develop regulations specifically for the operation of RPV's in airspace other than special use airspace.

b. If there is evidence that the regulation of RPV's as a class is needed, consideration must be given to incorporation of these rules in Part 101, which is primarily directed toward unmanned vehicles, or in the general operating rules of Part 91. Comments are requested regarding: What type of regulations are needed; under which Part of the FAR, and what size and/or weight restrictions, capabilities, etc., should be used to determine the different categories, if any, of RPV operation.

Required Format and Information

Based on experience gained in previous review programs, the FAA has determined that use of a standard format and inclusion of certain specific information greatly facilitates processing, compilation, and evaluation of proposals received. Appendix B contains a sample format that should be used. Each proposal should include at least the following information:

1. The full name or title of the proponent or an acceptable acronym.
2. The FAR section affected.
3. A short title identifying the subject of the proposal (10 words or less).

4. The specific regulatory language being proposed, if at all possible. If not, provide a precise description of the objectives of the proposal.

5. The language of the existing rule the proposal would change.

6. An explanation and justification of the proposal including:

a. Background pertinent to change.

b. Why is the change necessary.

c. How the needs of aviation are served (along with reasonable consideration provided to nonaviation interests).

d. What are the environmental, economic (including inflationary) and cost/benefit consequences, if adopted.

e. What other rules are affected (such as rules in other FAR Parts).

f. What other proposals, if any, are directly related.

/. Additional data, or references to publications.

Where a proposal covers serveral sections of Part 101, the information required in Item 6 above may be stated only once and a cross reference used if similar reason and logic apply.

Compilation of Proposals

Each proposal received by the date indicated above will be evaluated. The FAA will prepare a compilation of proposals for consideration during the Part 101 Regulatory Review Program. In addition to proposals received from outside the agency, internal FAA proposals will be considered.

Agenda and Conference

All proposals received prior to the cutoff date will be considered in preparing the agenda for the Part 101 Regulatory Review Conference. The agenda, including the compilation of proposals will be distributed by November 30, 1984. At that time, a Notice of Availability of the agenda will be published in the **Federal Register.** The conference will be held in the Washington, D.C., area; date and place to be announced. There will be no admission fee or other charge to attend or participate in the conference. All conference sessions will be open on a space available basis to all interested persons who register to attend. All meetings will be recorded. Copies of the record may be purchased from the Rules Docket (AGC–24), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Fees for copies of the record will be determined in accordance with 49 CFR Part 7.

Proposed and Final Rulemaking

The conference record and related regulatory review decument will be used in developing notices of proposed rulemaking, appropriate.

Drafting Information

The principal author of this document is Mr. Brent A. Fernald, Office of the Associate Administrator for Air Traffic.

List of Subjects in 14 CFR Part 101

Aviation Safety.

(Secs. 104, 307, 313(a), and 1101, Federal Aviation Act of 1958, (49 U.S.C. 1304, 1348, 1354(a), and 1501); sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45))

Issued in Washington, D.C. on August 10, 1984.

R.J. Van Vuren,

Associate Administrator for Air Traffic.

Appendix A—Schedule for Part 101 Regulatory Review Program

—Notice initiating Part 101 Regulatory Review Program and inviting porposals to amend the Federal Aviation Regulations.

—Final date for delivering proposals to the FAA.

—Distribute agenda (including compilation of proposals and related working documents for Part 101 Regulatory Review Program) and publish a Notice of Availibility of the agenda in the **Federal Register.**

Appendix B—Format for Part 101 Review

The following format and guidelines should be followed in preparing proposals for consideration during the review.

Guidelines: Each proposal should be submitted on a separate page. The text should be within the margins not more than 6½" wide and 9" long so that it can be printed on 8" by 10½".

Sample Format

Proposal: (Leave Blank for FAA Use).
From: Mr. John Doe, XYZ Inc.
Index: (Leave Blank for FAA Use).
Far: 101
Subject: General Scope.

Proposal

Amend § 101.3 to read as follows:

§ 101.3

* * * * *

Current Rule

§ 101. Waivers.

No person may conduct operations that require a deviation from this part except under a certificate of waiver issued by the Administrator.

Explanation and Justification

* * * * *

[FR Doc. 84–24018 Filed 9–11–84; 8:45 am]
Billing Code 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

[Docket No. 40110–4107]

Amendments to the Distribution License Procedure

AGENCY: Office of Export Administration, ITA, Commerce.

ACTION: Proposed rule with request for comments.

SUMMARY: On January 19, 1984 (49 FR 2264–2267), the Office of Export Administration (OEA) solicited public comments on a proposal to amend the "Distribution License" procedure, which authorizes exports from the United States of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users.

Subsequently, OEA received comments, consulted informally with industry groups, performed audits of several Distribution License holders and foreign consignees, and conducted an extensive review of the entire Distribution License (DL) procedure. As a result of the foregoing, OEA has determined that the changes incorporated in this new proposal will not only materially strengthen controls on exports under the Distribution License, but will also alleviate burdens on the business community that would not have contributed to an enhanced expert control program.

The public is invited to make comments on each proposed change, and to specify and substantiate anticipated workload impact and economic impact for each change. When possible, commenters should indicate any anticipated increase in individual validated licenses and reexport authorizations that would result from applicable regulatory proposals.

The Department anticipates that applicants with pending DL applications and pending extensions will have 60 days from the effective date of any new requirements to bring their applications into compliance with the new requirements. A key element of the new proposal, which makes possible further flexibility in the proposed regulatory provisions, is the requirement for pre-license approval of an internal control

program containing the minimal elements specified by the Department. Within six months of the effective date of any new regulations, the Department would expect from all current DL holders a narrative statement describing their internal control system. Comments on the implementation of these regulations are encouraged.

In a separate Notice, the Department of Commerce will be announcing a schedule for public hearings during the comment period. These public hearings will be completed in time for interested parties to prepare formal, written comments.

DATE: Comments must be received by November 13, 1984.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044. Mark "DL COMMENTS" on the face of the envelope.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Telephone: (202) 377–3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this regulation involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring a notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date are inapplicable. Nevertheless, to help ascertain the economic impact of the regulation upon the general public, the regulation is being issued in proposed form and public comment is being solicited.

2. Revisions to the existing collection of information requirement (OMB control no. 0625–0052) contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980. The public is invited to submit comments on this proposed reporting requirement to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer of International Trade Administration.

3. Because no notice of proposed rulemaking is required by law, this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*

4. Because this proposed rule is being issued with respect to a foreign affairs function, it is not subject to Executive Order No. 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close November 13, 1984. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments will become a matter of public record.

Comments that are accompanied by a request that the information be treated confidentially because of its business proprietary nature or for any other reason will be accepted on the conditions described below.

Public comments on these proposed regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230.

Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

The Office of Export Administration (OEA) is especially interested in receiving comments on the business and economic effects of the proposed regulations. Because providing such comments may involve the disclosure of proprietary business information, OEA will accept comments on a confidential basis.

Persons may request confidential treatment for their comments involving proprietary information on paperwork burden, sales, or any other aspects of the business or economic impact of the proposed regulations. The request must include a full statement of the reasons why confidential treatment should be granted. The business or financial information for which confidential treatment is requested should be submitted to OEA on sheets of paper separate from any non-confidential information submitted. The top of each page should be marked with the term "CONFIDENTIAL BUSINESS INFORMATION." OEA will either accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, will return it. A nonconfidential summary must accompany each submission of confidential information. The summary will be made available for public inspection.

Information accepted by OEA as privileged under subsections (b) (3) or (4) of the Freedom of Information Act (5 U.S.C., section 552(b) (3) and (4)) will be kept confidential and will not be available for public inspection, except according to law.

Proposed Revision of Distribution License Procedure

On January 19, 1984 (49 FR 2264–2267), the Department solicited comments on proposed revisions to the Distribution License procedure, a comprehensive export licensing system for firms with international marketing programs generally involving a number of foreign consignees/distributors.

Major changes to the Export Administration Regulations during the 1970's, such as elimination of monthly reporting requirements, reduction of record keeping requirements, and relaxation of eligibility standards, have reduced a number of the safeguards in the original program.

A thorough analysis of the DL procedure has confirmed that stronger safeguards are needed. The January 1984 proposal was issued with this purpose in mind. In addition, the Department concluded in 1983 that additional staff positions should be allocated to the special licensing unit in OEA and that an audit program should be re-established.

The aim of the proposal was to achieve the national security objectives of the United States by preventing the DL procedure from being used as a method to divert controlled commodities. It was also intended to impose effective controls without impeding legal U.S. trade. The DL regulations were issued in proposed form in January 1984 because the

Department wished to obtain additional information on their impact.

The Department received about 250 responses to the request for comments. In addition, OEA gained much information on the process and the DL holders' control programs from the conduct of several foreign and domestic audits. ITA officials also met with a wide variety of firms currently using the DL to clarify comments and assess the ways in which they were administering their licenses. This knowledge was extremely beneficial to the internal review of the DL procedure conducted by an ITA task force. By analyzing the intent of both the existing regulations and the January proposal, reviewing the results of recent audit activity, and considering the comments we received, the task force was better able to focus on key strengths and weaknesses in the DL procedure. The Department has prepared a new proposed regulation based on the following observations:

- The DL is the cornerstone of the marketing program for most U.S. firms that export controlled commodities. The DL procedure facilitates billions of dollars in sales each year and involves thousands of intra-company transfers; without it, U.S. firms would be less able to compete effectively in the international marketplace.
- Operations under DL procedure have changed considerably over the years, as U.S. business has expanded greatly its overseas marketing and production operations, and foreign competition has been increasing.
- Since the program's inception, effective administration of the process has been dependent on internal corporate controls. Some firms have designed good programs, but have become complacent in carrying them out, and some have control programs that simply need to be improved.
- The great majority of U.S. exporters will not jeopardize their DL privilege through inadvertent or willful violations of the DL regulations.
- Once the Department establishes the reliability of DL participants, it is the responsibility of each exporting company to maintain an effective export monitoring program and OEA must audit such programs to ensure that the requirements of the DL procedure are met.
- There is a need and opportunity to strengthen the DL procedure to ensure adequate controls without weakening the position of U.S. firms in international markets.
- With the recent hiring of additional personnel, OEA is now able to monitor more effectively the compliance of firms and to expand its program of educating the business community on DL requirements. In addition, OEA will be able to perform more thorough pre-license reviews and audits to establish participant reliability.

Based on the industry comments and an internal ITA review, we believe that not all of the requirements proposed in January are absolutely necessary for the building of an effective export control system. The requirements that we now propose will be, we believe, effective in safeguarding the national security while not unduly burdening the business community.

DL Holder Export Control Requirement

The purpose of these current proposals is to eliminate any of the January proposals that could have restricted legitimate economic activity under the DL procedure without contributing to the national security. This new proposal places greater emphasis on self-control to be exercised by DL holders and their foreign consignees, on the reliability of these entities, and on DL holders' internal control programs (which must be acceptable to OEA as a precondition for receiving or renewing a license). The internal control program must consist of the following elements:

- Identification of positions in the applicant firm and consignee firms responsible for compliance with the requirements of the DL procedure;
- Systems for assuring compliance with product and country restrictions, including controls over reexports to approved sales territories;
- A process for screening OEMs (original equipment manufacturers) that includes the collection and analysis of the following types of information; the names of the OEM principals, the size of the OEM (*e.g.*, the number of employees), and the sales volume;
- Exporter's internal audit system or program;
- Nuclear end-use/end-user controls;
- An education program for those parties in the applicant firm and consignee firms involved in sales of products under the DL procedure;
- A system for distribution and verification of receipt by consignees of the Table of Denial Orders (Supplement No. 1 to Part 388) and other material necessary to assure compliance; and
- Methodology for screening customers against the Table of Denial Orders.

This approach will substantially reduce the potential for diversion as well as the prospect of inadvertent violations of the procedure and permit OEA to better control what is actually being exported. We have sought throughout the revised proposal to minimize the paperwork burden, retaining only what is essential for effective control.

The approach of the new proposed regulations differs significantly from that of the January proposal. There is reduced emphasis on minimal threshold requirements, such as the number of licenses or transactions, although these remain as general guidelines for which exceptions can be justified. The new approach depends more upon the applicant providing sufficient evidence of the reliability of all parties with respect to the prevention of diversion of goods to proscribed destinations. Toward that end, an applicant will have to demonstrate that it has taken adequate steps, including the institution and execution of an appropriate internal control program, and has adequate experience to assure against improper use or diversion. With this additional evidence of reliability, initial applications and renewals of DLs can and will be reviewed more thoroughly and judged primarily on the *demonstrated* ability of the parties to comply with the regulatory requirements.

Eligibility Standards

The January proposal to revise experience standards would have required that the applicant has received at least 50 individual validated licenses in the previous year, and have had a minimum one-year written relationship with consignees other than subsidiaries. Public comments noted that these requirements would not improve our control over the process and would not accurately measure applicant/consignee reliability.

The internal task force review concluded that, while the quantitative standards of the proposed criteria are useful, there are other, more effective, factors that could also be used in evaluating applications. As noted above, increased emphasis will be given to evidence of the reliability of the exporter and proposed consignees, the effectiveness of established control mechanisms, and in some cases, the results of a pre-approval audit or interview.

The present proposal of "reasonable expectation" that the DL will replace 25 individual validated licenses is utilized so as not to penalize smaller firms. The new proposal also allows for exceptions to the one-year relationship when there is other evidence of the consignee's reliability.

Customer Reexport Assurances (Certification)

The January proposal would have required distributors to obtain assurances (in the form of written certifications) against unauthorized reexports from their customers in countries not listed in Supplement No. 2 to Part 373 of the Export Administration Regulations. Public comments indicated that carrying out this requirement may present legal problems in some countries as well as a loss of customers due to their unwillingness to undertake extra paperwork when comparable goods were available from alternative sources that did not impose this requirement. The Department task force concluded that the written assurance requirement would cause delays that would negate much of the advantage of the DL, and further concluded that other means are available to seek to have foreign customers comply with the limits on reexports. The new proposal deletes the written assurance requirement and imposes a requirement (currently employed by a number of firms) that the distributor, at a minimum, notify each customer, except those in countries listed in Supplement No. 2 to Part 373, that the goods were received from the U.S. under a special license and that such license precludes unauthorized reexport. Also, customers who are approved consignees on the DL, and agencies of foreign governments, would not be subject to the notification requirement.

Customer Lists

The January proposal would have required that DL holders submit an initial list of actual or anticipated customers, followed by quarterly updates. Comments indicated that the requirement may be contrary to local laws in a number of foreign countries, that independent distributors would rather change sources of supply than reveal the identity of their customers, and that the lists, if they could be compiled, would be so lengthy that providing them would be unduly burdensome. The task force concluded that the demonstrated volume of customer names would be so great (a minimum of one million names), and would be ever-changing, with the result that meaningful review could not be accomplished. As a result, other ways were sought to assure that parties who might not be approved to receive goods under individual validated licenses are not recipients of similar goods under the DL. Thus, it was decided that, for a few selected items on the Commodity Control List, shipment under the DL would be permitted only to customers who have been in fact pre-approved by OEA; this is a practice now administratively employed on applications involving certain of these types of commodities, which have been identified in a new Supplement No. 4. In this way, effective limits on parties and equipment of primary concern can be maintained without burdening either the government or the exporting community excessively. In addition, OEA will review customers during audits of consignee activities. Moreover, DL holders and consignees are encouraged to ask the Office of Export Enforcement about unknown or questionable customers, and will be given guidance in recognizing potential patterns for diversion. A new regulatory section is also being established listing the administrative sanctions that may be imposed on firms that fail to comply with DL requirements, emphasizing strict liability for dealing with denied parties.

Drop Shipments

In the January proposal, the ability of the DL holder to ship directly to a distributor's customer ("drop shipment"), at the request of the distributor, would have been limited to customers in the distributor's own country. Most comments indicated that this restriction would have an extreme adverse effect on most marketing programs and would make the DL unattractive to many current holders. The task force acknowledges that direct shipments from the U.S. may provide increased control because of the requirement for a destination control notice on shipping papers and the ease of auditing within the U.S., while continuing to see a need for more structure to the drop shipment provision. Thus, the new proposal allows continued use of drop shipments, but provides for a more specific definition of allowable drop shipments.

Sales Territory

Another January proposal would have required six sales in each country in a consignee's authorized sales territory. The intent was to assure that territories were realistic and that the consignee had sufficient business activity in each country to be familiar with customers and country procedures to ensure adequate control. It has been determined that it is appropriate to maintain the six-sale requirement, but only for those countries in the distributor's authorized sales territory not listed in Supplement No. 2 to Part 373.

Permissive Reexports

In January, we proposed eliminating the distributors' opportunity to take advantage of a variety of permissive reexport provisions. These options generally were seen as unnecessary in view of broadening of the procedure over the years. Comments indicated that many of the permissive reexport provisions were unnecessary, but that withdrawal of all such provisions would not be equitable. The task force concluded that certain permissive reexport provisions are generally unrelated to DL holders and should be deleted (Ship and Plane Stores, G–NNR, and G–FTZ). The two broadest permissive reexport provisions for DL holders, GLV and GTE, are unnecessary because the same shipments can be made within authorized sales territories under other provisions of the DL. The new proposal deletes inapplicable or unnecessary pemissive reexport provisions, but continues other permissive reexports that would be useful to DL holders.

Commodity Descriptions

The January proposal to require more specific product information on the DL application would have required each commodity to be shipped under the license to be listed by sub-paragraph on the Commodity Control List (CCL). Comments pointed out that this would be extremely difficult for DL holders who handle a wide range of products, and would require excessive amendment requests as product lines change. In addition, most commenters noted the difficulty of listing all spare and replacement parts by sub-paragraph.

Because this requirement is considered essential to OEA knowledge of what items are being shipped under the DL, the new proposal continues to require listing of CCL entry and sub-paragraph. The task force agreed that parts to service the exporter's products need not be listed in detail on the application.

Excluded Commodities

The January proposal would have excluded certain commodities from shipment under the DL, except within the countries listed in Supplement No. 2 to Part 373. Comments noted that some commodity descriptions lacked clarity, others caught items that are being phased out of production, and most of the excluded commodities are available elsewhere, thus making U.S. exporters less competitive without restricting availability effectively. The proposed exclusions have been re-reviewed by

the task force and by OEA technicians. The result has been a more focused set of proposals that address national security concerns more precisely. The new proposal narrows the list of commodities excluded from shipment on a DL to truly strategic commodities that will be excluded for all destinations.

A few other commodities are being identified in a new Supplement No. 4. These include certain low-volume exports that, by current administrative practice, are not authorized for shipment under a DL unless the applicant lists the customers on the license application. Some of the commodities listed in the new Supplement No. 4 may not be shipped to any destination unless the applicant specifically identifies the commodities on the application, along with a listing of proposed customers for the commodities, and the commodities and customers are approved by OEA. Other commodities in Supplement No. 4 may be shipped to countries listed in Supplement No. 2 under a DL, but cannot be shipped to other destinations unless the commodities and customers are listed and OEA approves them. This action permits shipment to pre-approved customers of commodities that might otherwise have to be excluded from the DL entirely.

Administrative Penalties

The January proposal placed parties to the DL on notice that misuse of the license could result in loss of the privilege. No adverse comments were received and this provision is retained and clarified in the new proposal. These administrative penalties stand in addition to those that may be imposed under the Export Administration Act and Part 387 of the Regulations.

Audits

Another January proposal called for more extensive pre-approval review of DL applications and expanded auditing of existing license holders and consignees. Comments generally supported these actions and frequently suggested that improvements in these areas could decrease the need for some of the other proposals. These proposals have been expanded and clarified.

Administrative Conditions

The Department recognizes that export control programs in other countries may warrant the same treatment as that afforded countries in Supplement No. 2. Such treatment may be made available by administrative action within OEA. Conversely, participation in the DL procedure may be restricted by administrative action within OEA where insufficient protection is afforded against the diversion of controlled commodities.

Validity Period

This new rule proposes to increase the initial validity period of the DL from one year to two years, with a two-year extension, and with subsequent renewal periods of four years. It was considered that this change was justified on the basis of having a more thorough pre-approval license application review process and audits. An ancillary benefit will be a reduced paperwork burden on DL holders.

List of Subjects in 15 CFR Parts 373 and 376

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 373 and 376) are proposed to be amended as follows:

PART 373—[AMENDED]

1. Section 373.1 is amended by adding a paragraph (f) reading as follows:

§ 373.1 Introduction.

* * * * *

(f) *Compliance.* Improper use or failure to comply with the conditions of any special licensing procedure described in this Part 373 may, in addition to any enforcement action under Part 387 (see particularly § 387.4), result in the loss or restriction of export privileges under that licensing procedure, including:

(1) Temporary suspension of privileges under the special license for the license holder and any or all foreign consignees;

(2) Revocation of the special license;

(3) Deletion of foreign consignees;

(4) Restriction of commodities that may be shipped under the special license;

(5) Requirement that certain exports or reexports be individually authorized during an OEA review of the adequacy of procedures by the license holder or particular consignees;

(6) Restriction of sales by consignees to specific parties; or

(7) Requirement that a license holder provide an audit report to OEA of selected consignees or overseas operations.

2. In § 373.3, the introductory paragraph, paragraph (b), paragraphs (c)(1)(i), (c)(1)(iii) and (c)(2), and paragraphs (d)(1), (d)(3)(ii) (D) and (G) and (d)(2)(iv) and revised; and paragraphs (c)(1)(iv), (c)(4), (5) and (6), (d)(3)(iii) (A) and (B) are added, reading as follows:

§ 373.3 Distribution License.

A Distribution License procedure is established that authorizes exports of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users. This procedure is a special privilege reserved for firms with extensive foreign distribution, thorough knowledge of and experience with the Export Administration Regulations, and the ability and internal control mechanisms to assure compliance with the requirements of the license. Thus, there is no automatic right to participate in the Distribution License procedure. Participants will be expected to establish eligibility and will be audited at intervals to assure that the Distribution License is being used properly. the Distribution License procedure is subject to the limitations in § 373.1.

(a) * * *

(b) *Ineligible or restricted commodities.* (1) The following commodities are ineligible for export under the Distribution License procedure, and must be shipped under an individual validated license of reexport authorization:

(i) Commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium (see § 378.3):

(ii) Commodities listed in Supplement No. 1 to Part 373 (except as authorized by footnote):

(iii) Electronic, mechanical, or other devices, as described in § 376.13(a), primarily useful for surreptitious interception of wire or oral communications:

(iv) Commodities listed in a Supplement to Part 377 as being under short supply controls: and

(v) Aircraft parts and accessories covered by § 390.7.

(2) Commodities listed in Supplement No. 4 to Part 373 are subject to certain restrictions when exported under a Distribution License. Certain commodities in this Supplement cannot be exported under a Distribution License to any destination unless the applicant specifically lists the appropriate commodities and identifies the customers (and-users) of approved consignees abroad who will be receiving the commodities. Other commodities in the Supplement cannot be exported under a Distribution License to a

country *not* listed in Supplement No. 2 to Part 373 unless the applicant lists the commodities and identifies the customers. When OEA grants permission to export, the applicant and approved foreign consignees will be authorized to ship only those Supplement No. 4 items listed and approved, and only to pre-approved end-users.

(c) *Eligible exporters and consignees.*

(1) * * *

(i) A subsidiary, affiliate, or branch of the U.S. exporter. The subsidiary, affiliate, or branch must be under the full and active control of the exporter and a majority of any voting stock in the subsidiary, affiliate, or branch must be owned by the exporter; or

(ii) * * *

(iii) An end-user importing the commodities for his/her own use or for use in the production or manufacture of commodities. For purposes of this section, a foreign party who modifies, but does not change, the essential character of a U.S. commodity, or attaches a U.S. commodity in essentially original form to foreign equipment, is *not* an end-user and should be considered a distributor under (c)(1)(ii) above.

(2) Prerequisite volume of business.

(i) The exporter shall have a reasonable expectation that the Distribution License, if granted, will replace at least 25 individual validated export licenses that would otherwise be required.

(ii) The applicant must be able to establish to OEA an ongoing business relationship of at least one year with proposed foreign consignees described in § 373.3(c)(1) (ii) and (iii).

(iii) The one-year relationship may be waived upon suitable evidence of reliability, *e.g.*, if the proposed consignee—

(A) Is approved under another Distribution License;

(B) Has been established as reliable by the Department of Commerce through pre-license checks, verification of information supplied by the applicant, or extensive experience as a consignee under individual validated licenses;

(C) Is an affiliate of another approved foreign consignee and is under the full and active control of the foreign consignee.

(3) * * *

(4) Certification of an internal control program. The applicant must be able to establish the existence of an adequate internal control program to assure compliance with all conditions of the Distribution License and the Export Administration Regulations.

(5) Essential elements of an internal control program. The applicant must submit for OEA approval the firm's internal control program to ensure exporter and approved consignee compliance with all conditions of the Distribution License and the Export Administration Regulations. An internal control program shall include, as a minimum, the following:

(i) Identification of positions in the applicant firm and consignee firms responsible for compliance with the requirements of the Distribution License procedure;

(ii) A system for distribution and verification of receipt by consignees of the Table of Denial Orders (Supplement No. 1 to Part 388) and other material necessary to assure compliance;

(iii) Systems for assuring compliance with product and country restrictions, including controls over reexports to approved sales territories;

(iv) An internal audit system or program;

(v) Nuclear end-use/end-user controls;

(vi) An education program for those parties in the applicant firm and consignee firms involved in sales of products under the Distribution License procedure;

(vii) Methodology for screening customers against the Table of Denial Orders; and

(viii) A process for screening Original Equipment Manufacturers (OEMs) that includes the collection and analysis of the following types of information:

(A) Names of OEM principals;

(B) Size of OEM, *e.g.*, number of employees;

(C) Sales volume;

(D) Sales territory (including sales to the Soviet Bloc);

(E) Servicing responsibilities;

(F) Financial stability of the OEM;

(G) OEM's reputation in the trading community; and

(H) OEM's proposed use and disposition of the exported commodities.

(ix) A records maintenance program.

(6) Notification of special restrictions. It is the responsibility of the exporter to notify all consignees of any special conditions or restrictions applicable to goods received under a Distribution License.

(d) *Application for Distribution License.* (1) Prior consultation. The preparation of an initial application for a Distribution License requires a substantial amount of work by the exporter. Therefore, a prospective applicant is required to consult with the Special Licensing Unit of the Office of Export Administration before preparing and submitting an application.

(2) * * *

(3) * * *

(ii) * * *

* * * * *

(D) List separately on the application, or on an attachment, a description of each type of commodity to be exported, and the appropriate Export Control Commodity Number and sub-paragraph designation from the Commodity Control List (CCL) (Supplement No. 1 to § 399.1) for each. Only commodities included in a CCL entry specifically listed on the application and approved by OEA may be exported under a Distribution License, except that spare or replacement parts for listed commodities may be included without specifying a CCL entry *if* such parts shipments will not exceed 20% of the value of the total exports under the license during any 12 month period *and* the applicant lists on the application—"Spare and replacement parts for commodities included in CCL entries————————." (The listing of the CCL entries by Export Control Commodity Number and sub-paragraph designation will generally constitute a sufficient description of the commodities being shipped. However, the exporter is encouraged to include as specific a description as possible in order to speed the processing of the application.) OEA may impose more specific limits on the commodities covered by the license. Listing of CCL entries that include items excluded by § 373.3(b) does *not* permit export or distribution of those excluded items, except with specific approval as indicated in § 373.3(b)(2).

* * * * *

(G) Leave blank item 9(a), "Quantity," the processing code under item 9(c), and item 9(d), "Unit Price" and "Total Price."

* * * * *

(iii) * * *

(A) Notice restricting reexport. Each Form ITA–6052P submitted by a party other than an end-user as described in § 373.3(c)(1)(iii) shall include a commitment that the commerical invoice for any shipment of commodities received under the Distribution License will include a notice restricting unauthorized reexport. This notice will not be required when the shipment is to a customer in a country listed in Supplement No. 2 to this Part 373, or when the customer is either another approved consignee under the Distribution License or a foreign government agency. The notice shall read as follows:

"These commodities were authorized for export from the United State under a special Distribution License procedure on the condition that they may not be reexported without prior approval."

(B) The ultimate consignee(s) listed in item 7 of the license application must submit written certification on the Form ITA–6052P, or on a separate attachment of at least six sales during the previous year within each country in the assigned sales territory that is not listed in Supplement No. 2 to Part 373. Each time that a particular Distribution License is extended, the consignee must submit written verification of at least six sales per year within those countries.

(iv) *Comprehensive narrative statement.* (A) A comprehensive narrative statement shall be submitted by the applicant in support of the application. This statement shall describe the applicatant's internal control system and distribution methods pertinent to the application.

(B) The statement shall detail the applicant's internal control program, having, as a minimum, the requirements set forth in § 373.3(c)(5).

(C) In addition, the statement shall detail the nature and duration of the business relationship existing between the applicant and each consignee. If the consignee is a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall show clearly that the qualifications set forth in § 373.3(c) are met and shall show the form of ownership or other control exercised by the U.S. exporter. If the U.S. exporter has assigned a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, the statement shall list the country or countries. For countries not listed in supplement No. 2, the statement shall include a justification for the need to include such countries in the sales territory. (For purposes of this § 373.3, a "sales territory" is defined as a list of specific destinations within Country Groups T&V, excluding Afghanistan and the People's Republic of China, in which the exporter, or his distributor, has a history of sales, or in which sales have been planned during the validity period of the license.) If the consignee is a distributor other than a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall include the terms of the distributorship agreement and a copy of the portion of the written agreement assuring compliance with U.S. Export Administration Regulations as described in § 373.3(c)(1) (ii) and (iii). If the written agreement assigns a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, a copy of that portion of the written agreement shall also be included. In addition, the statement shall list, for each consignee, the volume of business in terms of general commodity categories involved for the preceding year.

(D) If the government of the country where the consignee is located restricts the inspection of records by a representative of the U.S. Government, the narrative statement must be accompanied by a statement from the consignee describing in full an alternative arrangement that would permit a review of the consignee's activities adequate to determine whether or not he/she has complied with the U.S. export control laws and regulations as required by § 373.3(1)(4). Approved consignees who sell to parties who subsequently will resell must include in the statement a certification that they will advise such party of the reexport restrictions on products received under the procedure.

3. Paragraph (e) of § 373.3 is amended by redesignating sub-paragraphs (1), (2) and (3) as (2) (3) and (4) respectively; by removing the phrase "of one year" from the end of the new paragraph (e)(2); by adding a sentence to the end of (e)(2)(v) reading—"The licensee shall assure that each approved consignee acknowledges receipt of reprints and addenda, and shall maintain copies of acknowledgements."; and by adding a new (e) (1) and (5) reading as follows:

§ 373.3 Distribution License.

* * * * *

(e) *Action on License Applications.*

(1) Pre-approval review. The Distribution License procedure authorizes multiple export transactions without a review and approval of each individual transaction by OEA. Thus, before approving such a license, OEA must be fully satisfied that the persons benefiting from this special licensing procedure can be relied upon to adhere to the conditions of the license and the Export Administration Regulations, and that the approval of the application will not be detrimental to U.S. interests. To permit OEA to make such judgments, each application will be reviewed by OEA and the Office of Export Enforcement to establish the reliability of the parties to the license. Such review may entail an audit of past export transactions, inspection of documents, and interviews in the United States and abroad. If OEA cannot verify the appropriateness of this special licensing procedure or establish the reliability of the proposed parties to the license, it may deny the application or modify it by eliminating persons from the application or by removing certain commodities or countries included in the application. However, failure to obtain approval to participate in this special licensing procedure does not preclude the filing of an application for an individual validated license or reexport authorization.

* * * * *

(5) Validity period. A new Distribution License will be valid for two years from the last day of the month in which it is issued, and may be extended once by amendment for a two-year period. Thereafter, a new application must be submitted. If approved, it will be valid for four years.

* * * * *

4. Paragraph (f)(2)(ii) of § 373.3 is amended by inserting in the first sentence after the phrase "reason to know the commodities" the phrase "will be diverted or reexported to unauthorized destinations or end-users, or"; and by designating the last sentence of the paragraph as a new paragraph (f)(3), titled "Rejection."

5. Section 373.3(i) is amended by adding an introductory paragraph and revising (i)(4) to read as follows:

§ 373.3 Distribution License.

* * * * *

(i) *Reexports.* Unless a distributor meets the qualifications set forth in this § 373.3(i), no commodities received by an approved consignee under a Distribution License may be reexported without specific prior written approval from OEA. The written approval may be included on the validated Distribution License, a validated Form ITA–6052P, or a validated Form ITA–699P (See Part 374).

* * * * *

(4) Permissive reexports. Approved distributors may take advantage of the permissive reexport provisions of § 374.2 (a)(4), (b), (d), (f), (g) and (i), and may reexport any commodity that at the time of reexport may be exported directly from the United States to the new country of destination under General License *G–DEST.* Adequate records of each reexport, including reference to the applicable provision of § 374.2, must be maintained by the distributor.

* * * * *

6. Paragraph (j) of § 373.3 is amended by adding the following five sentences:

§ 373.3 Distribution License.

* * * * *

(j) * * * This provision is limited to situations in which the approved consignee receiving a purchase order requests either the U.S. license holder or another approved consignee under the same license to ship directly to the customer of the consignee receiving the order, either in that consignee's own

country or his authorized sales territory. Only an approved consignee may request the "by order of privilege" under the Distribution License. Also, this procedure does not apply to reexports by one distributor consignee to another distributor consignee's customers nor to exports from the U.S. exporter to a distributor's customers located outside countries listed in Supplement No. 2 to this Part 373 if the commodity involved is included in Supplement No. 4 to this Part 373 (see § 373.3(b)(2)). OEMs not approved as consignees may not invoke the drop shipment privilege of § 373.3(j). Furthermore, unless specifically authorized on the license or subsequently in writing by OEA, the exporter or consignee may not directly invoice the party receiving the commodities under the "by order of privilege."

7. Paragraph (l) of § 373.3 is amended by adding a paragraph (4)(i), reading as follows:

§ 373.3 Distribution License.

* * * * *

(l) *Records.*

* * * * *

(4) Inspection of records.

(i) The records of both U.S. exporters and approved consignees will be audited by OEA at suitable intervals. As part of the audit procedure, a consignee may be required on occasion to submit to OEA a listing of all sales under this license during the previous month.

* * * * *

8. The following entries are added/revised in Supplement No. 1 to Part 373, "Commodities Excluded from Certain Special License Procedures", each with a footnote reading "Excluded from the Distribution License procedure *only*."—entry 1355 is added between 3336 and 1357; an additional entry 1565 is added following the present two entries numbered 1565; and an entry 1584 is added between 1570 and 1585, reading as follows:

PART 373—SPECIAL LICENSING PROCEDURES

* * * * *

Supplement No. 1.—Commodities Excluded From Certain Special Licensing Procedures

* * * * *

1355 Crystal pullers: computerized, or that are rechargeable without opening;

Molecular beam epitaxial equipment;

Electron beam systems for mask-making or semiconductor wafer or device processing;

Electron beam, ion beam, or x-ray equipment for projection image transfer;

Digitally controlled equipment specially designed for, testing digital microcircuits, and assemblies thereof, capable of test rates of 40 megahertz or greater.

* * * * *

1565 Specialized processing units that have an "equivalent multiply rate" in excess of 2 million (product) operations per second.

* * * * *

1584 Cathode ray oscilloscopes having amplifier bandwidths greater than 350 MHz;

Oscilloscopes having cathode-ray tubes incorporating microchannel plate electron multipliers capable of operating at frequencies greater than 1000 MHz;

Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 2 nanoseconds.

* * * * *

9. A Supplement No. 4 to Part 373 is added, reading as follows:

PART 373—SPECIAL LICENSING PROCEDURES

* * * * *

Supplement No. 4.—Special Distribution License Restrictions for Certain Commodities Included in the Commodity Control List

The following commodities are subject to certain special restrictions, as specified in the applicable footnote (see § 373.3(b(2)).

1355A[1]: Plasma-enhanced or photo-enhanced chemical reactor equipment, as defined in subparagraph (b)(1)(iii)(c);

Equipment designed for ion implantation, or for ion-enhanced or photo-enhanced diffusion, as defined in subparagraph (b)(1)(vii));

Photo-optical or non-photo-optical step and repeat or partial field equipment for transfer of the image onto the wafer, as defined in paragraph (b)(2)(ix);

Projection image transfer for processing slices (wafers) of 4 inches or greater in diameter;

Digitally controlled equipment specially designed for testing microcircuits, and assemblies thereof, capable of performing functional (truth table) testing at a pattern rate greater than 20 MHz.

1370A[2]: Machine tools for generating optical quality surfaces, specially designed components and accessories therefor, and specially designed software.

1532A[2]: Linear measuring machines, except optical comparators, with two or more axes having a range in any axis greater than 200mm and an accuracy (including any compensation) less (finer) than 0.0008mm per any 300mm segment of travel, as defined in paragraph (b);

Angular measuring systems having an accuracy equal to or less than 1 second of arc, except optical instruments, such as auto-collimators, using collimated light to detect angular displacements of a mirror, as defined in paragraph (c).

4585B[2]: Photographic equipment: aerial camera film having extended sensitivity and/or high resolution or high temperature processing, as defined in paragraphs (b), (c), (d) and (e).

1733A[2]: Base materials, non-composite ceramic materials ceramic-ceramic composite materials and precursor materials for the manufacture of high-temperature fine technical ceramic products: precursor materials polycarbosilanes and polydiorganosilanes (for producing silicon carbide), as defined in paragraph (d)(1); Polysilazanes (for producing silicon nitride), as defined in paragraph (d)(2);

Polycarbosilazanes (for producing ceramics with silicon, carbon and nitrogen components), as defined in paragraph (d)(3).

1746A[2]: Polymeric substances and manufactures thereof; aromatic polyamides, as defined in paragraph (d).

4755B[2]: Silicone fluids and resins: silicone diffusion pump fluids having the capacity for producing ultimate pressures of less than 10^{-8} Torr, as defined in paragraph (a).

1757A[2]: Semiconductor materials: silicone, gallium, gallium III/V compounds, gallium phosphide, indium, indium compounds, heteroepitaxial materials, elemental Cd and Te, CdTe compounds, SiH_4, $SiClH_3$, $SiCl_4$, $SiCl_3H$ and $SiCl_2H_2$, single crystal sapphire, B_2O_3, germanium, resist materials sensitive to X-rays, electron or ion beams, or specified for dry development, single crystal forms of bismuth germanium oxide, lithium niobate, lithium tantalate and/or aluminum phosphate.

PART 376—[AMENDED]

10. Section 376.10 is amended by adding paragraphs (a)(4)(xxv) and (xxvi), reading as follows:

---

[1] End-user data set forth in § 373.3(b)(2) is required for shipment to all destinations.

[2] End-user data for OEA review and approval set forth in § 373.3 (b)(2) is not required for shipment to countries listed in Supplement No. 2 to Part 373.

§ 376.10 Electronic computers and related equipment.

(a) *Digital computers.*

* * * * *

(4) Definitions of terms.

* * * * *

(xxv) "Equivalent multiply rate" is defined as the maximum number of multiplication operations that can be performed per second, neglecting setup or pipeline filling operations. This rate is based on the maximum rate achievable fully utilizing all hardware architectural features (including multiple or staged (pipelined) arithmetic units); assuming optimal operand lengths of 16 bits or greater and optimal operand locations in the "most immediate memory"; and ignoring initialization, interrupts, and data reordering times:

(A) If the basic multiplication operation includes multiple simultaneous multiplications either because of complicated computational arithmetic operations (complex multiplication, convolution, recursive filtering) or parallel pipelining, the "equivalent multiply rate" is the basic multiply rate times the number of multiplies that can be performed simultaneously;

(B) If multiple arithmetic units are used within a single processing unit, the "equivalent multiply rate" is the "equivalent multiply rate" of one unit multiplied by the number of units;

(C) If multiple processing units of the same or different types (*e.g.*, array processor, image enhancement processor) are contained in a system, the "equivalent multiply rate" is the sum of the "equivalent multiply rates" of each of the processing units.

(xxvi) "Most immediate memory" is defined as the portion of "main memory" most directly accessible by the central processing unit:

(A) For single level "main memories," the "most immediate memory" is the internal memory;

(B) For hierarchical "main memories," the "most immediate memory" is:

(1) The cache memory,

(2) The instruction stack, or

(3) The data stack.

* * * * *

Authority: Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984).

Dated: September 7, 1984.

William T. Archey,

Acting Assistant Secretary Trade Administration.

[FR Doc. 84–24126 Filed 9–10–84; 1:00 pm]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–6548; 34–21288; 35–23411; 39–923; IC–14127; IA–929; File No. S7–31–84]

17 CFR Parts 230 and 240

Electronic Filing, Processing and Information Dissemination System

AGENCY: Securities and Exchange Commission.

ACTION: Solicitation of Comments.

SUMMARY: The Commission today is publishing a release requesting comment on approaches to managing and financing a contract to be let to a private vendor who will develop and implement an electronic filing, analysis and dissemination system for the SEC. The Commission anticipates a cost sharing contract which would satisfy SEC automation needs while affording the contractor limited rights to the dissemination of the SEC's database.

DATE: Comments should be received on or before October 30, 1984.

ADDRESS: Comments should be addressed to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth St., NW., Washington, D.C. 20549. All comment letters should refer to File No. S7–31–84. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Fogash, (202) 272–2700; David T. Copenhafer, (202) 272–3796.

SUPPLEMENTARY INFORMATION:

I. Background

The SEC is currently testing a system to electronically receive and analyze the corporate disclosure documents filed by a group of volunteer companies. The system, called EDGAR for Electronic Data Gathering, Analysis and Retrieval, will permit filings to be made and processed electronically.[1] Developmental activity is taking place over a two-year period between May 1984 and May 1986 in a pilot contract awarded to Arthur Andersen and Company. At its peak the pilot system will be able to handle ten percent of the corporate disclosure documents filed with the Commission. The first electronic filing is scheduled to be received September 24, 1984.

This pilot will also test electronic dissemination on a limited basis in the Commission's Public Reference Rooms in Washington, D.C., New York and Chicago.

A primary impetus for EDGAR is the desire to achieve the technical potential for widespread, high-speed dissemination of the information filed with the Commission. To this end, the SEC ultimately plans to merge the electronic filing and processing functions being explored in the pilot project with the now separate dissemination function being provided by Disclosure Partners. This merger will take place in what is being termed the "Operational Contract" which is to be competitively awarded.

Starting in 1986, the contractor will assume full responsibility for all electronic processing created under the pilot and will begin to implement plans to expand automation to all filings. Electronic filing will grow from the approximately 10 percent of the universe being handled by the pilot to nearly 100 percent within two years.

Public comment is sought on how the investment in electronic operations should be financed. In view of the objective of improved dissemination, a structure of end-user fees rather than general tax revenue appears to be the preferred manner of financing the operational system. As a consequence, the SEC anticipates engaging a competitively chosen operational contractor in a cost sharing arrangement. The contractor will recover its costs by marketing the SEC data base in a regulated environment. The contractor will also be permitted to participate in the sale of value added services. Value added services are defined to include such products as specialized analytical routines, report generators, watch services, etc.

In attempting to come to an acceptable solution for the funding arrangement, a series of prioritized needs and concerns have evolved that guide and constrain any proposal.

1. SEC Dissemination Mandates

Copies of all public filings must be available to the public at reasonable prices. A primary objective of the proposed operational system is to improve dissemination, with particular emphasis on individual investors, in a more timely and geographically balanced manner than is presently available. Rapid growth in the use of home computers combined with improvements in telecommunications technology strongly suggest that the desired outcome can best be achieved through electronic dissemination. However, dissemination in paper and microfiche will continue to be available.

[1] For background information on the pilot, see SEC Release No. 33–6519 (March 30, 1984) [49 FR 12707].

2. Adequate Cost Recovery

Whatever operating and financing structure is established must allow the contractor to realize a reasonable return on its investment.

3. Maintenance of Competition

The SEC contractor through the sale of data and related products will have certain advantages. These advantages must be structured so as not to constrain the existing framework of services providing financial information.

4. Contractor Indispensibility

The Commission must avoid arrangements which restrict its capability to recompete and possibly replace the operational contractor at the completion of the contract term.

The automation contractor will recover its costs through the sale of data and services to institutions and individuals in both bulk and non-bulk transactions. The contractor will also be free to market a wide array of value-added services such as userdriven extract reports or specialized analytical routines combining SEC data with other financial or market information. The SEC anticipates constructing the contractual arrangements with its contractor in such a manner so as to permit the contractor to price its basic dissemination products at a rate adequate to permit the recovery within seven years of its investment in both the SEC and its own basic operations.

II. Proposed System Configuration

The SEC envisions the construction of a contractor operated processing system divided into two major components. On one side will be a subsystem devoted to receiving, storing and disseminating incoming filing information. On the other side will be a subsystem dedicated entirely to the SEC, comprised of SEC storage and SEC internal processing. This proposed separation is intended to ensure that SEC-privileged information cannot be accessed by outsiders. This separation also ensures that dissemination demands will not result in degraded processing response time.

In addition to continuing to provide dissemination services in paper and microfilm for the foreseeable future, the contractor would make available a substantial line of both basic and valu-added products. Basic services would probably be limited to three primary products:

Product	Description
1. Real-time Electronic Bulk.	• User is connected to the SEC computer continuously through a dedicated link. • User has instantaneous access to each new filing at the moment it is accepted by the SEC. • User is copying and storing the entire SEC data base as it becomes available.
2. Real-time Electronic Non-Bulk.	• User may or may not be continuously connected to the SEC. • When connected, the user has instantaneous access to new filings and to entire historical data base. • User may copy or print portions of the file as desired, but is not storing the data base at his site. • This service could also be graded (and priced) along a continuum relating to response time or some other variable.
3. Delayed Electronic Bulk (tape).	• User periodically requests a specific segment of the SEC data base and receives a tape.

An important element of this proposed construction is that it affords all users of SEC data identical, immediate access. There would be no competitive advantage based on time. The SEC's contractor has no more rapid access than the financial information services industry or the securities industry to the updated database.

In order to ensure the widest dissemination at the lowest price, the Commission may want to permit the contractor to limit the ability of purchasers of real-time, electronic bulk data to re-sell this data in bulk form. The Commission would allow the contractor to refuse access to this data to those who violate the terms under which access has been granted. This arrangement eliminates the situation in which the database is bought, for example, for $100,000 and then shared or resold to ten others at a price of $20,000 to each buyer. If, on the other hand, the SEC contractor is the sole source of all raw data, the aggregate of all such purchases works to defray the development and maintenance costs and a lower price to all buyers can be charged.

One additional point with respect to basic dissemination is that the SEC will carefully control the price charged by the SEC contractor to ensure an adequate return while avoiding excessive gains.

III. Proposed Contractual Terms and Conditions

An essential ingredient to the success of the proposed cost sharing approach is the terms and conditions under which the automation contractor will operate. As stated earlier, these terms and conditions must result in a balance which permits the contractor to recover its investment and operating expenses and earn a reasonable profit level, while at the same time ensuring there are no anticompetitive biases in the rate structure.

Exclusivity

The SEC plans to provide the contractor with some form of protection relating to its creation of the basic electronic raw material (the unenhanced database). This protection could take several forms, such as lease agreements or restrictions on speed of retransmission.

Purchasers of the SEC electronic database will be free either to use the information internally, sell the data as a refined product or sell the data as an unrefined product in transaction-oriented formats (as opposed to bulk format).

Ratemaking

The final terms and conditions surrounding sale prices and SEC ratemaking will evolve throughout the entire process of comment, RFP, proposal submission, and contract negotiations; however, the SEC will retain control over the prices charged for whatever is ultimately defined as basic dissemination. The Commission will not involve itself in the price of competitive value-added service.

Contract Duration

The Commission believes seven years is sufficient to permit the operational contractor to recover its investment and achieve a reasonable return.

IV. Value of the SEC Data Base

The SEC awarded a contract in May 1984 to Mathematica Policy Research, Inc. to determine the marketability of a comprehensive EDGAR database. The study, which was completed June 12, 1984, indicates there is significant interest and potentially large revenues associated with such a product.

The target populations consisted of four potential customer groups: individual investors, securities firms, securities attorneys, and institutional investors.

The study reached the following general conclusions:

- Potential demand is dominated at lower price levels by individual investors, and is dominated at higher price levels by other consumer groups.
- Potential demand for value-added services is only slightly less than that for basic document retrieval services. The potential demand for combined value-added services is 1.8 million subscriptions at the lowest price level.
- Among the two specific value-added services tested, individual investors have a slight preference for

securities analysis, and other consumer groups have a slight preference for data extraction services.

- In terms of percentages, demand for EDGAR is quite high among mutual funds, securities attorneys, and securities firms. For individuals and pension funds, the relatively small percentage demand still results in a significant number of potential subscriptions because of the large size of these groups.
- Individual investor demand is clustered at the lower price levels. Demand by other consumer groups is more spread out over a wide range of prices.
- Consumer groups other than individuals intend to use multiple terminals to access EDGAR information, averaging between 7 and 14 terminals per organization.

Total potential demand for access to the SEC data base is summarized in the following table. An important assumption is that service is structured in such a manner that a single vendor is selling non-bulk, on-line subscriptions. Also, the table is based on subscriptions at the lowest tested price.

DEMAND FOR EDGAR TERMINALS

	Willing to pay for a subscription	Average number of terminals	Total number of terminals
Securities industry	1,378	8.55	11,782
Securities attorney	737	14.75	10,871
Institutional investors	3,724	7.44	27,706
Individual investors	[1] 1.9	1.00	[1] 1.9
Total	[1] 1.9	1.02	[1] 2.0

[1] Millions.

In terms of projected revenues, the following figures provide some indication of where the market is. The table clearly shows revenues are maximized at an annual subscription rate of $4,800.

TOTAL DEMAND, AND POTENTIAL REVENUE FOR BASIC EDGAR SERVICES: ALL CONSUMER GROUPS

Annual price per subscription	Number of potential subscribers	Cumulative number of potential subscribers	Potential revenue at market price (millions)
$100,000	38	38	4
$90,000	38	76	7
$81,600	56	132	11
$50,000	5	137	7
$44,400	149	286	13
$23,000	41	327	8
$20,000	159	486	10
$10,500	161	647	7
$9,600	493	1,140	11
$7,20	56	1,196	9
$4,800	238,554	239,750	1,151
$3,600	206	239,956	864
$2,400	1,081	241,037	578

TOTAL DEMAND, AND POTENTIAL REVENUE FOR BASIC EDGAR SERVICES: ALL CONSUMER GROUPS—Continued

Annual price per subscription	Number of potential subscribers	Cumulative number of potential subscribers	Potential revenue at market price (millions)
$1,200	305,691	546,728	656
$900	428,910	975,638	878
$600	267,378	1,243,016	746
$300	555,686	1,789,702	540

Copies of the complete study are available by writing to: Edward A. Wilson, FOIA Officer, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

V. Suggested Areas of Response

Individuals or organizations interested in providing their comments to the Commission are encouraged to include responses to the following issues:

A. Should the proposed system be financed through user fees as opposed to general tax revenues?

B. Do you think that the Commission should regulate the price of dissemination of electronic raw data?

C. What mechanism, if any, do you believe should be employed to protect the SEC contractor's sale price for raw, bulk data? Please include a brief discussion of what you view as the advantages and disadvantages of your proposal).

D. Do you believe it is operationally feasible for the SEC to guarantee equity of access to all on-line users as suggested in this release?

E. What is your reaction to the proposed duration of seven years for the contract? Would a longer period result in a lower price to consumers?

F. Does the financing of the operational contract depend in any way on whether or not all or most companies file electronically with the SEC? (Examine the impact of the value of the database as well as on the filing community).

G. How should "basic dissemination" be defined?

H. What would be the impact of an approach which did not prohibit the resale of the raw database in bulk form, but required a waiting period of: (1) twenty-four hours; (2) one week; and (3) one month before the purchasers of the bulk data could sell it?

List of Subjects in 17 CFR Parts 230 and 240

Reporting and recordkeeping requirements; securities.

Dated: September 5, 1984.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24040 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 70a

Protection of Individual Privacy in Records; Proposed Amendment of Rules

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department proposes an amendment to its regulations on privacy to add exemptions for a number of systems of records under sections 3(j) and 3(k) of the Privacy Act. As a result of these exemptions, these systems of records will not be subject to disclosure under the Privacy Act. These exemptions are needed to prevent unwarranted disclosure of the information in the files.

DATE: Comments may be submitted until October 12, 1984.

ADDRESS: Send comments to Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of Solicitor, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone (202) 523-8188.

SUPPLEMENTARY INFORMATION: Section (j) of 5 U.S.C. 552a permits certain agencies within the Department of Labor to promulgate rules in accordance with the requirements of sections 553(b) (1), (2), and (3) (c) and (e) of Title 5, United States Code, to exempt certain systems of records from all the requirements of the Privacy Act except those set forth in 29 CFR 70a.13(a)(3). Investigatory material relating to criminal law enforcement can be protected.

Section (k) of 5 U.S.C. 552a permits the Department or its component units to promulgate rules in accordance with sections 553(b) (1), (2) and (3) (c) and (e) of Title 5, United States Code, to exempt those types of systems of records described in 29 CFR 70a.13(b)(2) from the requirements of the Privacy Act, and from requirements of the regulations set forth 29 CFR 70a.13(b)(3). In this

connection, section (k)(2) of 5 U.S.C. 552a permits the protection of investigatory material compiled for the purpose of civil law enforcement. Section (k)(3) of 5 U.S.C. 552a permits the protection of investigatory material maintained in connection with providing protective services to the U.S. President and others. Section (k)(4) of 5 U.S.C. 552a permits the protection of records required by statute to be maintained and used solely as statistical records. Section (k)(5) of 5 U.S.C. 552a permits the protection of investigatory material compiled in connection with material compiled solely for the purpose of determining suitability and so forth for Federal civilian employment.

The exemptions proposed in this amendment correlate with the exemptions proposed in the Department's annual publication of its systems of records which was published in the **Federal Register** on July 13, 1982 at page 30362 of volume 47. That notice became final on August 12, 1982.

Drafting Information

This document was prepared under the direction and control of Francis X. Lilly, Solicitor of Labor, U.S. Department of Labor, Room S–2002, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–7675.

Classification

The proposed revision is procedural in character and gives direction to the Labor Department on which systems of records are exempt from certain provisions of the Privacy Act. Therefore, this rule is not classified as a "major rule" under Exective Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition employment investment, productivity, innovation, or on the ability of United State-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendment is procedural in character. The rule gives direction to the Labor Department on which systems of records are exempt from certain provisions of the Privacy Act and thus no economic impact is expected with respect to small entities, nor with respect to other entities as well. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not contain any new collection of information requirement.

List of Subjects in 29 CFR Part 70a

Privacy.

Accordingly, Part 70a to Title 29 of the *Code of Federal Regulations* is proposed to be amended as follows:

PART 70a—PROTECTION OF INDIVIDUAL PRIVACY IN RECORDS

Authority [Unchanged]

1. The authority citation for Part 70a reads as follows:

Authority: Sec. 3(f), Privacy Act of 1974 (5 U.S.C. 552a(f), 88 Stat. 1896, 1900); 5 U.S.C. 553 unless otherwise noted.

2. In § 70a.13, paragraph (d) is revised to read as follows:

§ 70a.13 Exemptions.

* * * * *

(d) *Procedure required to exempt a system of records under special exemption.* In order to exempt a system of record described in paragraph (b)(2) of this section from the provisions of the Privacy Act set forth in paragraph (b)(3) of this section, and the corresponding provisions of this part, notice of intention to exempt must be published in the **Federal Register**, and such notice shall meet the requirements prescribed in paragraph (a)(4) of this section. The Department has published notice of intention to exempt and hereby does, in fact, exempt the following record systems:

(1) OSEC–2 (Employee Conduct Investigations) is exempt under paragraph (k)(2) from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a. Disclosure of information could enable the subject of the record to take action to escape prosecution and could avail the subject greater access to information than already provided under rules of discovery. In addition, disclosure of information might lead to intimidation of witnesses, informants, or their families, and impair future investigations by making it more difficulty to collect similar information.

(2) OASAM–17 (Equal Employment Opportunity Complaint Files) is exempt under paragraphs (k)(2) from paragraphs (d)(3), (e)(4) (F) and (G) of 5 U.S.C. 552a. Disclosure of the information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving statements or cooperating during investigations.

(3) OASAM–20 (Personnel Investigation Records) is exempt under paragraph (k)(5) of U.S.C. 552a. In acordance with paragraph (k)(1) of the Privacy Act, if the system of records is specifically authorized to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to an Executive Order, it is exempt from subsections (c)(3), (d), (e) (1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a. In accordance with paragraph (k)(5) of the Privacy Act, if the system of records is investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment, military service, federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a soures who furnished information to the government under a promise of confidentiality, it is exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

(4) SASAM–22 (Office Civil Rights Citizen Discrimination Complaint Case Files) is exempt under paragraph (k)(2) from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a. Disclosure of information could enable that subject of the record to take action to esacpe prosecution and could avail the subject greater access to information than already provided under rules of discovery. In addition, disclosure of information might lead to intimidation of witnesses, informants, or their families, and impair future investigations by making it more difficult to collect similar information.

(5) ESA–2 (Office of Federal Contract Compliance Programs Complaint Files) is exempt under paragraph (k)(2) from pargraphs (d), (e)(4) (G), (e)(4) (H), and (f) of 5 U.S.C. 552a. Disclosure of information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving

statements or cooperation in investigations.

(6) ESA–6 (Office of Worker's Compensation, Black Lung Benefit Claim Files) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. In accordance with paragraph (k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph (j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Worker's Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede signficantly the effectiveness of investigatory activities.

(7) ESA–9 (Office of Workers' Compensation Programs, Black Lung Medical Treatment Records File) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. In accordance with paragraph (k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph (j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

(8) ESA–10 (Office of Workers' Compensation Programs, Black Lung Profile Beneficiaries File) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H) and (I), and (f) of 5 U.S.C. 552a. Disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

(9) ESA–13 (Office of Workers' Compensation Programs, Federal Employees Compensation Act File) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

(10) ESA–25 (Office of Federal Contract Compliance Programs Management Information System (OFCC/MIS)) is exempt under paragraph (k)(2) from paragraphs (d), (e)(4)(G), (e)(4)(H), and (f) of the Act. The Disclosure of information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving statements or cooperating in investigations.

(11) ESA–26 (Division of Longshore and Harbor Workers' Compensation Investigation Files) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H) and (I), and paragraph (f) of 5 U.S.C. 552a. Disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of the investigatory activities.

(12) ETA–16 (Employment and Training Administration, Investigatory File) is exempt under paragraph 3(k)(2) of 5 U.S.C. 552a. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. Disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and

agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

(13) OIG–1 (General Investigative Files, Case Tracking Files and Subject/Title Index) is exempt under paragraphs (j)(2) and (k) (2), (3), and (5) of 5 U.S.C. 552a. Material relating to criminal law enforcement [3(j)(2)] is exempted from the Act except paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and paragraph (i) of the Act. Disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations could enable suspects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. This imposition of certain restrictions on the manner in which investigative information is collected, verified or retained would impede significantly the effectiveness of OIG investigatory activities and in addition, may preclude the apprehension and successful prosecution of persons engaged in fraud or criminal activity. In accordance with paragraph (k)(2) of the Privacy Act, investigatory material compiled for civil law enforcement purposes other than material declared exempt under paragraph (j)(2) of the Act, including certain material compiled from reciprocal investigations, which is maintained in OIG investigative files is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a, until such time as a determination is made based upon such information. The disclosure of information contained in civil investigative files, including names of persons and agencies to whom the information has been transmitted would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would also impede significantly the effectiveness of OIG investigatory activities. In accordance with paragraph (k)(5) of the Act, investigatory material compiled in connection with contract investigations solely for the purpose of determining integrity, suitability, eligibility, or qualifications for a DOL contract is exempt from paragraphs (c)(3), (d), and (f) of the Act to the extent that disclosure of such material would reveal the identity of a confidential source when an express promise has been given to withhold the identity of the source (or prior to September 27, 1975, under an implied promise that the source's identity would not be revealed). This exemption is necessary for OIG to collect information from certain sources who would otherwise be unwilling to provide information necessary to conduct such investigations.

(14) OIG–3 (Case Development Records) is exempt under paragraphs (j) and (k) of 5 U.S.C. 552a. Accordingly, this system of records is exempted from the provisions of paragraphs (c)(3), (4), (d), (e)(1), (2), and (3), (e)(4) (G), (H), (e)(5) and (8), and (f), and (h) of the Act as being investigatory material compiled for law enforcement purposes.

(15) OIG–4 (Temporary Matching Files, Loss Analysis Files) is exempt under paragraphs (j) and (k) of 5 U.S.C. 552a. Accordingly this system of records is exempted from the provisions of paragraphs (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I) and (f) of the Act as being investigatory material compiled for law enforcement purposes.

(16) LMSA–1 (Index Cards and Case Files, Division of Enforcement) relates to investigations under the Labor-Management Reporting and Disclosure Act and the Civil Service Reform Act, and is exempt under paragraphs (j)(2) and (k)(2) of 5 U.S.C. 552a. Material relating to criminal law enforcement is exempted from the provisions of the Act except for paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and paragraph (i) of the Act. Disclosure of this material could enable the subject of the record to evade prosecution and could, in addition, jeopardize the safety and welfare of investigators, witnesses, informants and their respective families. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a. Disclosure could enable the subject to take action to prevent detection of illegal activities or avoid the consequences of violation of the law and, further, could lead to the intimidation or harassment of investigators, witnesses, informants, or their respective families.

(17) LMSA–4 (PWBP, Office of Enforcement Index Card File) is exempt under paragraphs (j)(2) and (k)(2) of 5 U.S.C. 552a. Material relating to criminal law enforcement [(j)(2)] is exempted from the provisions of the Act except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10) and (11), and paragraph (i) of the Act. Disclosure of this material could enable the subject of the record to evade prosecution and could, in addition, jeopardize the safety and welfare of investigators, witnesses, informants and their respective families. Material related to civil law enforcement [(k)(2)] is exempt from the provisions of paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a. Disclosure would enable the subject to take action to prevent detection of illegal activities or avoid the consequences of violation of the law and, further, could lead to the intimidation or harassment of investigators, witnesses, informants, or their respective families.

(18) MSHA–10 (Discrimination Investigations) is exempt under paragraph (k)(2) of the Privacy Act from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Act. Disclosure would enable the subject to take action to prevent detection of illegal activities or avoid the consequences of violation of law and, further, could lead to the intimidation or harassment of witnesses, information, or their families.

(19) OSHA–1 (Discrimination Complaint File) is exempt under paragraph (k)(2) of the Privacy Act from paragraphs (c)(3), (d), (e)(4) (G), (H) and (I), and (f) of 5 U.S.C. 552a. Disclosure of information contained in this file could threaten investigators, witnesses

informants and their families with adverse consequences and could hinder effective enforcement of the Occupational Safety and Health Act. In order to conduct effective investigations it is necessary to guarantee the confidentiality of information being collected. Release of such information would constitute a breach of the guarantee of confidentiality, could lead to the intimidation, harassment or dismissal from employment of those involved, and would discourage those contacted in future investigations from cooperating with investigators.

(20) SOL–6 (Litigation Files, Special Litigation Task Force) is exempt under paragraph (k)(2) of 5 U.S.C. 552a. Material related to civil law enforcement is exempt from the provisions of paragraph (c)(3), (d), (e)(1), (e)(4), (G), (H), and (e)(4)(I), and (f) of 5 U.S.C. 552a. Disclosure of the records compiled with regard to the Central State litigation would substantially compromise the effectiveness of such litigation. Disclosure of these records could facilitate the concealment of evidence and lead to the intimidation of, or harm to, informants, witnesses and their respective families.

Signed at Washington, D.C. this 6th day of September, 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc 84–24059 Filed 9–11–84; 8:45 am]

BILLING CODE 4510–23–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP–30078; PH–FRL 2668–3]

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Rescission of Efficacy Data Waiver for Vertebrate Control Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the conditional registration regulations to provide that applicants routinely submit efficacy data to support the registration of pesticide products intended for control of vertebrate pests that may transmit human disease. This minor technical change will make the data requirements in the conditional registration regulations consistent with the pesticide registration data requirements proposed under 40 CFR Part 158, published in the **Federal Register** of November 24, 1982 (47 FR 53192).

DATE: Written comments on this proposed rule should be submitted on or before October 12, 1984. Comments should be identified with the notation OPP–30078.

ADDRESS: Submit written comments to: By mail: 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, deliver 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. All written comments will be available for public inspection in Room 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: 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: OMB Control Number 2000–0012.

This proposal is a minor, technical revision intended to eliminate a potential conflict between the Agency's existing conditional registration regulations and the proposed registration data requirements. The Agency's registration data requirements, in proposed 40 CFR 158.160 will routinely require applicants to provide efficacy data to support the registration of products used for control of vertebrate pests that transmit human disease. The conditional registration regulations, however, in § 162.163(b)(2)(i) indicate that applicants will be routinely required to provide efficacy data for pesticides which bear claims to control microorganisms that are harmful to humans and that cannot readily be observed by the user. To obtain efficacy data on other kinds of pesticides, including any vertebrate pest control product, the conditional registration regulations state that the Agency will make a specific request for the data.

The potential conflict between these two regulations has not yet arisen, however, because the Agency will delay the effective date of the efficacy data requirements for vertebrate control products in 40 CFR Part 158. These requirements will not become effective until after the Agency has amended the conditional registration regulations to be consistent with the proposed Part 158 rules. Thus, at present, EPA does not routinely require the submission of efficacy data on vertebrate pest control products. Rather, EPA must specifically direct applicants to provide efficacy data when it determines, on a case-by-case basis, that such information is needed.

This current arrangement is intended to be temporary, however, because the agency has decided, based on information that became known after the conditional registration rules were promulgated, that it needs efficacy data routinely on all pesticides intended for control of vertebrate pests that transmit human disease. Accordingly, the Agency is proposing to revise its conditional registration rules to be consistent with the proposed Part 158 requirements.

Following the issuance of the final conditional registration regulations in the summer of 1983, EPA realized that there were very serious concerns in the public health community about the efficacy of vertebrate control products. Many of these pesticides are used to control animals that transmit human diseases: Skunks, canids, bats, rats, mice, and certain birds. Unlike other types of pesticides, the efficacy of these vertebrate control products appears to be particularly dependent on the acceptance of the pesticide-bait formulation by the target pest. Small changes in the formulation or composition of the bait may render a product ineffective and could lead to a serious public health problem. This concern has been heightened by recent Government-sponsored tests which revealed that some new rodenticide products do not have satisfactory bait acceptance characteristics and consequently are nearly worthless.

To assure that similarly ineffective products are not permitted to enter the marketplace in the future, the Agency intends to require applicants to provide the results of testing of the end use formulation before EPA registers a new vertebrate control product. This requirement now appears in EPA's

proposed pesticide registration data requirements in 40 CFR 158.160. This requirement cannot be implemented, however, until EPA makes its conditional registration regulations consistent with proposed § 158.160 by reinstating a direct requirement for such data in the conditional registration, regulations and removing the provision that permits EPA to require such data only on a case-by-case basis. This proposal would accomplish that change.

As explained above, this proposal merely makes a minor technical revision necessary to allow proposed § 158.160 to become effective. The impacts of requiring efficacy data on vertebrate control products have already been evaluated as part of the proposed 40 CFR Part 158 rules. Based on that analysis, I have determined and hereby certify that:

1. This proposed rule is not a major regulation as defined by Executive Order 12291.

2. This proposed rule does not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 60 *et seq.*).

3. The information collection burden that would be imposed by this proposal has been approved under OMB Clearance Number 2000–0012. This proposed rule has been submitted to the Office of Management and Budget for review as required by E.O. 12291.

In accordance with FIFRA section 25(a), this proposal was provided to the Secretary of Agriculture for comment. The Secretary of Agriculture had no adverse comment on this proposal.

Copies were also submitted for comment 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. Neither Committee commented on the proposal.

The FIFRA Scientific Advisory Panel waived its review of this proposal.

(Secs. 3 and 25(a), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 through 136y))

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Pesticides and pests, Data requirements, Labeling requirements.

Dated: September 5, 1984.

William D. Ruckelshaus,

Administrator.

PART 162—[AMENDED]

Accordingly, it is proposed that 40 CFR Part 162 be amended by revising § 162.163(b)(2) and adding OMB control number 2000–0012 at the end of the section to read as follows:

§ 162.163 Data required for agency review of applications for conditional registration.

* * * * *

(b) * * *

(2) *Efficacy data.* (i) Efficacy data for each product to the extent required by 40 CFR 158.160; and

(ii) Efficacy data for each product for which a new or added use is proposed, if the product contains an active ingredient, some uses of which have been suspended, cancelled or are the subject of a notice issued under § 162.11(a)(3)(ii) and risks identified in the notice or suspension/cancellation action may reasonably be anticipated as a result of the new use.

* * * * *

(Approved by the Office of Management and Budget under control number 2000–0012.)

[FR Doc. 84–23926 Filed 9–11–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300097; FRL–2667–3]

n–Hexyl Alcohol; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that *n*–hexyl alcohol be exempted from the requirement of a tolerance when used as solvent and/or cosolvent in pesticide formulations. This proposed regulation was requested by Stepan Company.

DATE: Written comments, identified by the document control number [OPP–300097], must be received on or before October 12, 1984.

ADDRESS:

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

In person, deliver comments to: Registration Support & Emergency Response Branch (TS–767C), Registration Division, Environmental Protection Agency, Rm. 724A, 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 to the submitter. All written comments will be available for public inspection in Room 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 & Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

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

SUPPLEMENTARY INFORMATION: At the request of the Stepan Company, the Administrator proposes to amend 40 CFR 180. 1001(c) through (e) by establishing an exemption from the requirement of a tolerance for *n*–hexyl alcohol when used as solvent and/or cosolvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest or to animals.

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. *n*-Hexyl alcohol.

Name and address of requestor. Stepan Company, Northfield, Il 60093.

Bases for approval. 1. *n*-Hexyl alcohol is cleared under 40 CFR 180.1001(d) for use as a solvent/cosolvent in pesticide formulations applied to growing crops only.

2. *n*-Hexyl alcohol is cleared under 21 CFR 172.515 as a synthetic flavoring substance and adjuvant. It is also cleared under 21 CFR 172.864 as a component of direct food additive.

3. *n*-Hexyl alcohol is a naturally occurring substance in certain fruits and flavors.

4. Subacute toxicity data including 13-week feeding studies in rats and dogs indicate the no-observed-effect level (NOEL) of 10,000 parts per million (ppm) and 5,000 ppm, respectively.

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 180.1001 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-300097]. 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 requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 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: August 29, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Part 180—[Amended]

Therefore, it is proposed that 40 CFR 180.1001 be amended by adding and alphabetically inserting the inert ingredient *n*-hexyl alcohol to the tables in paragraphs (c) and (e) and removing *n*-hexyl alcohol from the table in paragraph (d) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
n-Hexyl alcohol (CAS Reg. No. 111-27-3).		Solvent, cosolvent.
* * * * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
n-Hexyl alcohol [Removed]	[Removed]	[Removed].
* * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
n-Hexyl alcohol (CAS Reg. No. 111-27-3).		Solvent, cosolvent.
* * * * *		

[FR Doc. 84-23925 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6619]

Proposed Flood Elevation Determinations; California et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administation, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premimum rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area.

The elevation determinations, however, impose no restriction, unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

THE PROPOSED MODIFIED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
California	Los Angeles (city), Los Angeles (County).	Shallow Flooding	Intersection of Apple Street and Ridgeley Drive	#1	Eliminated.
			Intersection of Virginia Road and 29th Street	#1	Eliminated.
			Intersection of Exposition Boulevard and Chesapeake Avenue.	#1	Eliminated.
			Intersection of Rodeo Road and 7th Avenue	#1	Eliminated.
Maps available for inspection at Department of Public Works, City Hall, 200 North Spring Street, Room 800, Los Angeles, California.					
Send comments to the Honorable Tom Bradley, City Hall, 200 North Spring Street, Los Angeles, California 90012.					
Idaho	Garden City (city) Ada County	Boise River	Intersection of Reed Street and East 40th Street	*2654	*2651
			Intersection of Adams Street and East 47th Street	Not Previously Determined.	*2638
Maps available at City Hall, 201 E. 50th Street, Garden City, Idaho.					
Send comments to the Honorable Margaret Mockwitz, 201 E. 50th Street, Garden City, Idaho 93714.					
Iowa	City of Des Moines, Polk County	Fourmile Creek	About 3750 feet downstream of Scott Avenue	*789	*785
			About 1400 feet upstream of Dean Avenue	*803	*797
			About 400 feet downstream of University Avenue	*805	*800
			About 3800 feet upstream of East Douglas Avenue	*828	*824
		Seventh Ward Ditch	Just upstream of Easton Boulevard	None	*815
			Just upstream of Chicago and North Western Railroad	None	*830
Maps available for inspection at the Engineering Department, City Hall, East First and Locust Streets, Des Moines, Iowa. Send comments to Honorable Peter Crivaro, Mayor, City of Des Moines, City Hall, East First and Locust, Des Moines, Iowa 50307.					
Iowa	City of Iowa City, Johnson County.	Iowa River	About 0.6 mile downstream of the confluence of Willow Creek.	None	*640
			Just downstream of Burlington Street and Dam	*644	*645
		Ralston Creek	At mouth	*642	*643
			Just downstream of Dam	*682	*679
			Just upstream of Dam	*683	*698
			Just downstream of Scott Boulevard	None	*728
		South Branch Ralston Creek	At confluence with Ralston Creek	*670	*669
			About 1,675 feet upstream of Brookside Drive	*713	*712
		Willow Creek	At mouth	*639	*641
			About 600 feet downstream of South Riverside Drive	*641	*641
		Rapdi Creek	About 2.5 miles above mouth	None	*674
			About 4.3 miles above mouth	None	*685
Maps available for inspection at the Engineering Department, 410 E. Washington Street, Iowa City, Iowa. Send comments to Honorable Neal G. Berlin, City Manager, City of Iowa, 410 E. Washington Street, Iowa City, Iowa 52240.					
Louisiana	St. Mary Parish	Gulf of Mexico	Englewood area, north of U.S. Route 90, south of Southern Pacific Railroad, east of Bayou Boeuf.	*7	*6
Maps available for inspection at the St. Mary Parish Courthouse, Franklin, Louisiana.					
Send comments to Honorable Harold G. Clausen, Sr., President of the St. Mary Parish Police Jury, Fifth Floor—Courthouse, Franklin, Louisiana 70538.					
Maryland	Washington County	Antietam Creek	Approximately 1,000 feet upstream Mount Aetna Road	*480	*475
			Corporate limits located approximately 800 upstream of U.S. Route 40.	*481	*477
			Upstream side State Route 64	*484	*483
		Tributary No. 74	Approximately 350 feet upstream of the confluence with West Branch.	*576	Zone C
			Downstream of Chessie System	*584	Zone C
Maps available for inspection at the Courthouse Annex, Summit Avenue, Hagerstown, Maryland.					
Send comments to Honorable Barry A. Teach, Washington County Administrator, Courthouse Annex, Summit Avenue, Hagerstown, Maryland 21740.					
New Hampshire	Keene, City, Cheshire County	Ash Swamp Brook	Approximately 1,330 feet downstream of State Route 9.	*474	*473
			Approximately 535 feet downstream of State Route 9	*475	*474
			Downstream State Route 9	*477	*475
			Approximately 125 feet upstream of State Route 9	*482	*479
			Approximately 1,200 feet upstream of State Route 9	*483	*481
			Approximately 1,900 feet upstream of State Route 9	*484	*483
Maps available for inspection at 3 Washington Street, Keene, New Hampshire.					
Send comments to Honorable L. Edward Reyor, Mayor of the City of Keene, 3 Washington Street, Keene, New Hampshire 03431.					
New Jersey	Atlantic City, Atlantic County	Atlantic Ocean	Intersection of Gray Avenue and Rhode Island Avenue	*12	*10
Maps available for inspection at the City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey.					
Send comments to Honorable James Usry, Mayor of the City of Atlantic City, City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401.					
New Jersey	Brigantine, City, Atlantic County	Atlantic Ocean	South side of Brigantine Boulevard from 3rd Street North to 14th Street North.	*12	*10

THE PROPOSED MODIFIED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			North of 12th Street North, east of intersection with Spaulding Place.	*11	*13
			North of interesection of 14th Street and 13th Street	*11	*10
Maps available for inspection at the City Hall, 1417 West Brigantine Avenue, Brigantine, New Jersey.					
Send comments to Honorable J. Edward Kline, Mayor of the City of Brigantine, 1417 West Brigantine, New Jersey 08206.					
New York	Liberty, Village, Sullivan County	Middle Mongaup River	Most downstream corporate limits	*1,377	*1,375
			Upstream of State Route 17 westbound off ramp	*1,380	*1,378
			Just downstream of State Route 52/corporate limits	*1,384	*1,382
			Corporate limits located just downstream of confluence of Lewis Street Brook.	*1,398	*1,397
Maps available for inspection at 167 North Main Street, Liberty, New York.					
Send comments to Honorable Ida Frankel, Mayor of the Village of Liberty, 167 North Main Street, Liberty, New York 12754.					
Oklahoma	Tulsa, City, Osage, Rogers, & Tulsa Counties.	Little Haikey Creek	Confluence with Little Haikey Creek	*706	*706
		Tributary	Upstream of South 77th Avenue	*709	*708
			Approximately 433 feet upstream of South 77th Avenue.	*712	*708
			Approximately 910 feet upstream of South 77th Avenue.	*714	*713
			Approximately 965 feet downstream of 72nd East Avenue.	*717	*716
			Downstream of 72nd East Avenue	*722	*722
Maps available for inspection at the City Hall, 200 Civic Center, Tulsa, Oklahoma.					
Send comments to Honorable Terry Young, Mayor of the City of Tulsa, City Hall, 200 Civic Center, Tulsa, Oklahoma 74103.					
Rhode Island	Portsmouth, Town, Newport County.	Sakonnet River	Approximately 200 feet north of intersection of Russell Avenue and Park Avenue.	*20	*18
			Intersection of Ormerod Avenue and Pine Street	*18	*16
Maps available for inspection at 2200 East Main Road, Portsmouth, Rhode Island.					
Send comments to Honorable Hubert E. Little, President of the Portsmouth Town Council, P.O. Box 155, Portsmouth, Rhode Island 02841.					
Texas	Grand Prarie, City, Dallas, Ellis, & Tarrant Counties.	Cottonwood Creek	Upstream S.E. 8th Street	*472	*470
			Approximately 550 feet upstream of S.E. 8th Street	*473	*471
			Approximately 1,025 feet upstream of S.E. 8th Street	*474	*472
			Downstream of S.E. 4th Street	*475	*474
			Approximately 375 feet upstream S.E. 4th Street	*476	*475
Maps available for inspection at 317 West College, Grand Prairie, Texas.					
Send comments to Honorable Anne Gresham, Mayor of the City of Grand Prairie, P.O. Box 530011, 317 West College, Grand Prairie, Texas 75053-0011.					
Texas	Plano, City, Collin & Denton Counties.	Stream 2I9	Approximately 320 feet downstream	*644	*646
			Approximately 1,800 feet upstream of Country Place Drive.	*660	*662
		Stream 5B 13	Approximately 1,000 feet upstream of confluence of Tributary to Stream 5B 13.	*702	*697
		Tributary to Stream 5B 13	At confluence with Stream 5B 13	None	*692
			Approximately 480 feet upstream of confluence	None	*694
		McKamy Branch	At downstream corporate limits	None	*683
		Prairie Creek	Upstream side of Park Boulevard	*710	*709
			Approximately 3,650 feet upstream of Park Boulevard	*725	*723
Maps available for inspection at the Municipal Annex Building, Plano, Texas.					
Send comments to Honorable Jack Harvard, Mayor fo the City of Plano, P.O. Box 358, Plano, Texas 75074.					
Texas	Robstown, City, Nueces County	Ditch A	Approximately 4,200 feet downstream of Missouri Pacific Railroad.	*70	*70
			Approximately 1,400 feet upstream of Bauer Road	*77	*77
Maps available for inspection at the Robstown City Hall, P.O. Box 872, Robstown, Texas.					
Send comments to Honorable Julio Garcia, Jr., Mayor of the City of Robstown City Hall, P.O. Box 872, Robstown, Texas 78380.					

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

Issued: August 24, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24035 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6541]

Revision of Proposed Flood Elevation Determinations; New Jersey

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Plainsboro, Middlesex County, New Jersey.

Due to recent engineering analysis, this proposed rule would revise the proposed determinations of base (100-year) flood elevations published in the **Federal Register** at 48 FR 30710 on July 5, 1983, and hence would supersede those previously published proposed rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Administration Building, P.O. Box 278, Plainsboro, New Jersey.

Send comments to: Honorable Barbara Wright, Mayor of the Township of Plainsboro, Administration Building, P.O. Box 278, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Plainsboro, Middlesex County, New Jersey, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Millstone River:	
Downstream corporate limits	*57
U.S. Route 1 Bridge (upstream)	*61
Upstream of CONRAIL	*65
Upstream of Abandoned Railroad	*67
Upstream of Nostrand Road	*72
Upstream corporate limits	*74
Devils Brook:	
Confluence of Millstone River	*62
Upstream of Private Road	*66
Upstream of Schalks Crossing Road	*73
Upstream of Dirt Road Dam	*84
Upstream corporate limits	*84
Shallow Brook:	
Confluence with Devils Brook	*74
Approximately 850' downstream of Scotts Corner Road	*80
Upstream corporate limits	*85
Bee Brook:	
Confluence with Devils Brook	*66
Approximately 3,100' upstream of Woods Road	*83
Cranbury Brook:	
Confluence with Millstone River	*65
Upstream Maple Avenue	*68
Upstream George Davison Road	*71
Confluence of Cedar Brook	*72
Cedar Brook:	
Confluence with Cranbury Brook	*72
Upstream corporate limits	*80

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

Issued: August 27, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24027 Filed 9-11-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 79-262; FCC 84-393]

Amendment To Eliminate Semi-Annual Reports and To Provide for Submission of Revised and Corected Data in Annual Reports of Overseas Telecommunications Traffic Data

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This document proposes to up-date and simplify the traffic reporting requirements for international carriers contained in §43.61 of the Commission's Rules and Regulations. The proposed rules seek to eliminate certain requirements that are no longer deemed necessary and are burdensome to the carriers.

DATES: Comments due on September 21, 1984. Replies due on October 15, 1984.

ADDRESS: Federal Communications Commission, 1919 M St., NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Laura Stein, Common Carrier Bureau, International Policy Division (202) 632–4047.

SUPPLEMENTARY INFORMATION: List of Subjects in 47 CFR Part 43:

Reports of Overseas Telecommunications Traffic, Reporting and Recordkeeping Requirements.

The collection of information requirement contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Federal Communications Commission.

Further Notice of Proposed Rulemaking

Amendment of § 43.61 of the Commission's Rules to eliminate semi-annual reports and to provide for the submisssion of revised and corrected data in the annual reports of overseas telecommunications traffic data; CC Docket No. 79–262.

Adopted: August 8, 1984.

Released: August 14, 1984.

By the Commission.

I. Introduction

1. On October 16, 1979, we issued a Notice of Inquiry and Proposed Rulemaking [1] in the above captioned proceeding requesting comments on a number of proposals concerning the overseas traffic reporting requirements contained in § 43.61 of our Rules and Regulations, 47 CFR 43.61 (1981). Pursuant to the current rule, common carriers engaged in the provision of overseas telecommunications services are required to file reports containing

[1] *Notice of Inquiry and Proposed Rulemaking*, CC Docket No. 79–262, FCC 79–620 (released October 16, 1979). (Notice).

information on overseas traffic. These reports currently are filed twice a year, the first report covering the period January through June and the second covering the period January through December. The § 43.61 reporting rules were promulgated in 1964 [2] and have never been amended.

2. It is our objective to impose reporting requirements on licensees only where necessary to enable us best to fulfill our regulatory responsibilities under the Communications Act of 1934, as amended, 47 U.S.C. 151–609 (1981). This requires us to reassess periodically the purposes served by our reporting requirements, the effectiveness of our rules in serving these purposes, and the burden that the rules place upon the resources of the industry and the Commission. To this end, the Notice solicited comments on: (a) Whether the six-month report required under § 43.61 should be eliminated; (b) whether certain filing date changes should be made; (c) whether revisions or corrections should be required in order to increase the accuracy of the data reported; and (d) whether the scope, type or format of the data required under the current rule should be revised. We further stated that we would set forth specific proposed changes in the Rules in a further notice of proposed rulemaking after reviewing and analyzing the comments and replies solicited in the Notice.

3. Comments have been filed by American Telephone and Telegraph Company (AT&T), Hawaiian Telephone Company (Hawaiian), Roger W. Hubbell, ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), TRT Telecommunications Corporation (TRT), and Western Union International, Inc. (WUI). Reply comments have been filed by AT&T and ITT.[3]

4. In this Notice, we seek to amend our rules to eliminate certain requirements that are no longer deemed necessary and are burdensome to the carriers. Over the last five years, we have studied the manner in which the Commission staff and other interested parties have used the § 43.61 traffic reports. Based upon our own observations and upon the comments filed by all interested parties, we tentatively conclude that:

(a) The six-month reporting requirement set forth in § 43.61 should be eliminated; (b) the due date for the § 43.61 annual reports should be changed from May 15 to July 31 for the data covering the preceding calendar year; (c) § 43.61 should be amended to require reporting carriers to submit on a one-time basis on October 31 of each year a revised report identifying and correcting any errors or estimates set forth in the annual report; (d) in view of our tentative conclusion in (c), § 43.61 should not be amended to require reporting carriers to submit additional revised reports between July 31 and October 31 correcting errors and estimates; and (e) § 43.61 should be amended to assure that certain data which carriers are required to submit will be in a format useful to the Commission.

Below we discuss both the views of interested parties in this proceeding and the bases for our tentative conclusions outlined above.

II. Filings and Discussion

A. (1) Current Two-Report Requirement

5. In the Notice, we stated that we are considering the elimination of the semi-annual reporting requirement. We solicited comments to determine whether the public interest benefits derived from the continued requirement of the first half-year report, in addition to the full-year report, outweigh the increased filing burdens imposed on both the carriers and the Commission staff.

6. ITT, RCA, TRT, and WUI all favor retention of the semi-annual reporting requirement. All express similar views that § 43.61 data are useful for marketing purposes. ITT and TRT also argue that the data assist management in rate making and facilities planning tasks. ITT also contends that the continuation of the half-year reporting requirement would not impose any additional burden upon the Commission, since the Commission already has the necessary computer programs to process the data it receives on punch cards from the reporting carriers.

7. AT&T, Hawaiian and Hubbell urge the elimination of the six-month report. AT&T and Hubbell specifically argue that the Commission does not need the § 43.61 data in making facility authorizations or in approving rates. Hawaiian joins these parties in suggesting that, by eliminating the semi-annual reporting requirement, substantial savings in resources would accrue to both the carriers and the Commission.

(2) Discussion

8. Although the § 43.61 data may be useful to international record carrier parties (IRCs) in their general business planning, none of the carriers has persuaded us that the semi-annual data are necessary for our regulatory needs or are required by the public interest for other reasons. Rather, it appears that the IRCs want the data only for private business purposes. Essentially, the IRCs argue that the six-month report is necessary as an historic input to the market forecasting process. We doubt that product, price, facilities construction or other marketing decisions will be adversely affected by the absence of semi-annual reports that, at best, document extremely short-term changes in traffic activity. The individual carriers know from month to month whether demand for their own services is growing, waning, or remaining constant; this information should be sufficient for the carriers' short-term business needs. The § 43.61 annual reports, as well as other data on file with the Commission,[4] will still be available for use in longer range market planning.

9. Moreover, as Hubbell correctly notes, the Commission does not generally require either the six-month or the twelve-month § 43.61 data in its facility authorization or ratemaking proceedings. While the Commission has found § 43.61 annual data useful in conducting different types of economic analyses for various proceedings, such as international facilities planning dockets, monitoring functions, estimating growth trends for the various international telecommunications services and conducting market structure studies of the international telecommunications industry, the semi-annual data is almost never used. Therefore, we propose to amend § 43.61 to require the filing of only an annual report.

B. (1) Due Dates, Resubmissions and Corrections

10. In the Notice we expressed concern that a substantial portion of the traffic data currently filed pursuant to § 43.61 may be estimates rather than actual figures. This limits the reliability and usefulness of the data submitted. Estimation can be required when delays are experienced by the carriers in receiving actual traffic counts from foreign correspondents. In such cases, it may be necessary for the carriers to estimate the traffic in order to meet the deadlines specified in our reporting requirements. Therefore, we requested information on the average proportion of estimated data for each category in the § 43.61 reports, the estimation methods employed, and the reliability of the results. We also requested information

[2] *Amendments of Part 43 of the Commission Rules and Regulations, with respect to the filing by common carriers of periodic statistical reports of their overseas traffic*, FCC 64–888 (released October 1, 1964).

[3] ITT's motion to file its reply comments one day late will be granted.

[4] *See* n. 5, *infra*.

on the lag time experienced by carriers receiving inward message traffic data from foreign correspondents. We sought the foregoing information to determine whether a change in the filing date currently set forth in the rule is warranted in order to increase the accuracy of the data reported.[5] To further assure the receipt of useful data, we also requested comments on whether a second annual report should be required to be submitted to correct any errors or estimates set forth in the initial filing. Although the rules do not now specifically require the carriers to correct errors or estimations, the carriers have as a matter of course submitted additional reports updating and correcting previously filed data. We additionally invited comments on standards that should be adopted to ensure that substantial errors in filed data are reported to us and corrected regardless of the time of discovery.

11. The commenters submitted information on the proportion of estimated data included in their § 43.61 reports and some submitted information on the accuracy of their estimates. AT&T submitted data on the percentage of inward MTS traffic that was estimated and included in its six-month report filed in 1979. Delays in the receipt of the data required AT&T to estimate about 50 percent of the traffic. AT&T claims that its method of processing its § 43.61 data does not permit it to extract the estimates easily and, therefore, it cannot determine the accuracy of its estimates by a comparison with actual data. The IRCs state that approximately 80–90 percent of the data submitted by the current filing deadline are derived from actual traffic counts. The information provided by the carriers on the lag time experienced in receiving inward message traffic data from foreign correspondents indicates that if the filing dates were extended by several months, nearly all of the data reported under § 43.61 would be taken from actual traffic counts. There is some variation in the proportion of estimates submitted by the different IRCs and also among the various service categories.

12. The IRCs state that, were traffic estimation is required to meet the current filing deadlines, they rely on internal volume statistics, revenue accounting systems and switching computers to generate the estimates. They contend that their estimates are highly accurate and present some information to support this conclusion. TRT claims its telex estimates are within 5 percent of actual traffic counts whereas WUI states that its telegraph estimates are within 0.1 percent of the actual traffic data.

13. Only three parties specifically commented on the desirability of altering the current filing dates set forth in the Rules. AT&T argues that much of the inaccuracy arising from the uses of estimates would be eliminated if the due date for the submission of the annual report were changed from May 15 to September 1. Hubbell essentially agrees with AT&T but opts for a September 30 deadline. TRT contends, however, that the value of having the reports promptly available far outweighs any countervailing benefit that might be achieved in trying to eliminate the small inaccuracies in the data through the deferral of the reporting dates. In TRT's view, the reporting date should either remain unchanged or be advanced by one month to enhance the timeliness of the data.

14. The responses to the Notice's suggestion that a one-time revised § 43.61 report might be required at the end of the year to correct any errors or estimates set forth in the inital annual filing were mixed. AT&T, Hawaiian and WUI all favor requiring a revised report, although AT&T states that, if the rule's filing date for the annual report were pushed back, the number and magnitude of the changes required to be made in the revised filing would not be substantial. Hubbell, ITT and TRT, on the other hand, dispute the need for any such additional reporting requirement. These parties argue that a revised report requirement would impose an unreasonable burden on the carriers since, for the most part, it would serve to correct insubstantial errors. Hubbell comments that, if the due date for the annual report were extended by several months, the resulting increase in accuracy of the reported information would eliminate any perceived need for the Commission to require a second revised report.

15. While the commenters suggest that § 43.61 be modified to require that substantial inaccuracies in the § 43.61 filings be reported by the carriers upon discovery, no consensus emerged on what magnitude of error should trigger the submission of corrected data. Hawaiian and TRT endorse the basic concept tentatively set forth in the Notice of establishing a graduated standard in which updating requirements differ depending on the particular service and the amount of traffic by country involved. ITT and WUI recommend that an absolute error standard of ±5 percent be used to trigger the updating requirements. RCA prefers that a fixed error amount of $100,000 per country be used as the standard for requiring report updating, whereas Hubbell only would state that "gross discrepancies" should be reported. AT&T cautions that any updating standard chosen by the Commission should be tested on an interim basis before being incorporated into its Rules and Regulations.

(2) Discussion

16. In the Notice we expressed concern that portions of the data currently included in the § 43.61 reports were estimates and that substantial differences may exist between the estimates and the actual traffic counts. We also expressed a desire to limit the filing burdens placed on carriers which recognizing the need for usable data as soon as practical.[6]

17. We believe that there are means available to increase the accuracy of the data filed pursuant to § 43.61 while still obtaining the reports before the data is stale and without imposing undue burdens on the resources of the reporting carriers or the Commission. Our goal here is to balance three factors: The need for accurate data, the need for reports to be filed as soon as practicable, and the desire to limit the need to file a number of revised or corrected reports. We believe that moving the filing date from May 15 to July 31 correctly balances these factors and is responsive to the carriers' pleadings. By easing the reporting burden to allow the carriers an additional two and one-half months in which to file the annual report required under § 43.61, we virtually will eliminate the need for the carriers to rely on estimates for the submitted data. The comments indicate that these estimates are the most important source of inaccuracies contained in the reports. Significantly, only one party, TRT, argues that the value of having the reports available as promptly as possible outweighs the benefits of deferring the reporting date. We note, however, that the effect of deferral of

[5] Section 43.61(b) now provides: Each common carrier engaged in furnishing telecommunications service between the continental United States and overseas points shall file with the Commission a report in triplicate with respect to such overseas telecommunications, not later than November 15 of each year for the preceding period of January through June, and not later than May 15 of each year for the preceding period of January through December, as provided hereafter in this section.

[6] Those carriers submitting information on the reliability of their overseas traffic estimates appear to have supplied data that fail to distinguish between estimates reported pursuant to § 43.61 and estimates performed for internal purposes. The carriers did not furnish information sufficient to support the assumption that the levels of accuracy are the same for both sets of estimates.

the current reporting date on the timeliness of the reports is not as great as it may appear. For example, of all the carriers required to file under §43.61, only two—AT&T and RCA—submitted their 1979 reports by the May 15, 1980, deadline currently set forth in the Rules. Thus, in addition to substantially reducing the number of inaccuracies contained in the § 43.61 reports, the easing of the filing deadline will assist in preserving the integrity of our reporting rules by reducing the burden of compliance.

18. We also tentatively conclude that the one-time submission, on October 31, of any corrections of errors and estimates contained in the annual report will ensure the utmost reliability of §43.61 data. As this data will already be readily accessible to the carriers, the burden of this subsequent submission is nominal. We emphasize that only corrections, rather than an entire revised report, need be submitted. In view of the July 31 and October 31 filing requirements, we tentatively conclude that the mandatory reporting between July 31 and October 31 of errors in the currently reported data is unecessary, as suggested by some carriers, and would impose an unwarranted burden on carriers.

c. (1) Revision of Scope, Type and Format of Required Data

19. In addition to considering the frequency and accuracy of carrier reporting pursuant to § 43.61, in the Notice we also initiated a comprehensive examination of the service classifications and categories of data reported under the current rule. Among other things, we specifically sought comments from interested parties on the classes of actual or potential services that are not identified and reported separately in the current § 43.61 reports. For each service listed, we requested specific suggestions concerning the appropriate measurement units that carriers should use to report the service (*i.e.*, message telephone service, messages, minutes, revenues). We also invited comments on whether data should be reported by tariff classification or by broad generic categories and whether data should be reported in a computer-readable format or in a hand-written form. We further requested comments on whether a need still exists for the submission of data for offshore points involved in domestic rate integration and for "transiting traffic" [7] data under § 43.61. Finally, we indicated that we would consider any other modifications to § 43.61 proposed by interested parties.

(2) Discussion

20. Upon examination of both the responses received in this inquiry and our own analysis of the information filed pursuant to § 43.61, we tentatively conclude that relatively few changes in the reporting requirements are needed to clarify or simplify the information reported in certain categories. However, program transmission service is an ambiguous category for which aggregate data is not useful to the Commission, particularly in view of significant traffic growth. AT&T's report specifically indicates that it combines audio program service with television transmission and reception services. RCA and ITT do not indicate whether television transmission and reception services are included in their report of program transmission service. A number of carriers report no traffice under this service category. In order to clarify the information received, we tentatively conclude that we should modify § 43.61 to specify that audio program transmission service and occasional use television transmission and reception services shall be reported separately. We note that this modification does not impose any new filing requirement but merely seeks to change the format in which the data is filed.

21. We also tentatively conclude that the requirements pertaining to the information filed for leased channels should be amended to reduce the number of transmissions rate categories of such circuits reported,[8] to make the specification of transmission rates more uniform and to assure that the higher transmission rate leased channel services developed over the last several years are reported. We propose to clarify this category of reported data because the current data is not reported by carriers in a similar manner and because this category of traffic has experienced substantial growth in recent years. Currently, the carriers report leased channel usage by transmission speeds using words per minute, bauds and, in the case of at least one carrier, bits per second.

22. Given the advent of new services that are continuously being offered and the diminution of some services that were in effect at the time the original reporting requirements were promulgated, we feel that new reporting categories for private line services are in order. We tentatively conclude that the leased channel information filed by the carriers can be made more useful and easier for them to prepare by specifying the following reporting categories:

a. Up to 1200 bits;
b. Over 1200 bits and up to 9600 bits;
c. Over 9600 bits and up to 56/64 kilobits;
d. Over 56/64 kilobits and up to 1.544/2.048 megabits;
e. Over 1.544/2.048 megabits and up to 30 megabits/18 megahertz;
f. Over 30 megabits/18 megahertz and up to 60 megabits/36 megahertz;
g. Over 60 megabits/36 megahertz and up to 120 megabits/72 megahertz; and
h. Voice only circuits.

We contemplate that the carriers will report all leased channels in these various categories based on the transmission rate the channels are capable of providing. Carriers may report data changes in categories (e), (c), and (g) in either megabits or megahertz of transponder bandwidth. Leased channels provided via basic circuits equipped with circuit multiplication equipment such as TASI or COM–2 should be reported in the voice only category. Reporting of leased channels in these categories will reduce the number of individual channels the carriers currently report. The carriers currently report a large number of low speed channels in a variety of word-per-minute speeds. All of these channels can now be reported in the first category we propose. The proposed categories will also encompass very wide bandwidth or higher transmission rate lease channels such as transponders or fractional transponders leased for television transmission. Inclusion of these leased channels will make the reports more useful. With use of these reporting categories, we believe there is no longer a need for the carriers to report the uses to which the customers put the channels they lease. Therefore, we tentatively conclude that this reporting requirement should be deleted.

23. Section 43.61 of the Commission's Rules requires carriers to file data on overseas services.[9] However, for

[7] For purposes of § 43.61, "transiting traffic" generally means "communications which both originate and terminate outside but transit the continental United States, except communications originating and terminating in the area comprising Alaska, Canada, Saint Pierre-Miguelon and Mexico . . .." *See* § 43.61(a)(16).

[8] While we have not included in our tentative conclusions that any particular reporting category should be deleted, we invite interested parties to suggest such deletions for services that have declined in importance and revenues. Two candidates which parties may want to propose for deletion are Address Press Service and Photo Transmission or Reception.

[9] Section 43.61 traffic data for Guam, Hawaii, America Samoa, and the Virgin Islands have always been submitted by the reporting carriers. This practice would not be changed by the propose rules as these points are not part of the Continental United States and this data is useful for international planning and authorization purposes.

purposes of these submissions, data on services to Mexico, Canada, Alaska and Saint Piere-Miquelon are not required to be filed. Historically, the non-filing of data for these three international and one domestic points was related to the provision of service to these locations through clear extension of our domestic networks. That is, service was provided over domestic satellite and terrestrial facilities with multiple interconnection points rather than from a limited number of international cable heads or earth stations. However, as our monitoring efforts become more sophisticated and as additional carriers submit applications to provide service to these points, a proper analysis of market data for the three international points becomes necessary. Thus, we would propose to modify § 43.61 to require carriers to submit data for these international points (but not Alaska) with their general filings. We invite interested persons to comment on the value to them of having this information available through § 43.61 reports.

24. We have completed our analysis of the numerous proposals advanced by the commenting parties suggesting revisions in the scope, type and format of the data required pursuant to § 43.61 and have set forth in the Appendix to this Further Notice of Proposed Rulemaking those specific Rule changes that we tentatively find to be warranted.

25. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354) it is certified, that section 603 and 604 of the Act do not apply because these rule changes will not, if promulgated, have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 603, 604, 605(b).

26. Accordingly, it is hereby ordered, That pursuant to the provisions of sections 4(i), 4(j), 219, 220(a), 303(r), 403, and 404 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 219, 220(a), 303(r), 403 and 404 (1970), this Further Notice of Proposed Rulemaking is instituted in CC Docket No. 79–262.

27. It is further ordered, That, pursuant to the procedures set forth in §§ 1.415, 1.419 and 1.421 of the Commission's Rules and Regulations, 47 CFR 1.415, 1.419 and 1.421 (1981), interested persons may file comments on the issues, tentative findings and conclusions discussed above and on the proposals contained in the attached Appendix on or before September 24, 1984, and Replies to such comments on or before October 15, 1984. Comments and Reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. All comments received in response to this Further Notice of Proposed Rulemaking will be available for public inspection in the Docket Reference Room (Room 239) of the Commission's Offices at 1919 M Street, NW., Washington, D.C. 20554.

28. It is further ordered, That for purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex part* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commisison's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission'r Rules, 47 CFR 1.1231.

29. It is further ordered, That the Motion of ITT World Communications Inc., to file its Reply Comments late, dated December 26, 1979, is granted.

30. It is further ordered, That the Secretary shall cause a copy of this order to be published in the **Federal Register**, and shall mail a copy of this NPRM to the Chief for Advocacy of the Small Business Administration.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 43—[AMENDED]

1. Section 43.61 is proposed to be amended by revising subparagraph (a)(1), redesignating paragraphs (a)(5) through (a)(15) as (a)(6) through (a)(16) respectively, adding a new (a)(5), revising the redesignated (a)(10), redesignating (a)(16) and (a)(17) as (a)(18) and (a)(19) respectively, adding a new (a)(17), revising the redesignated (a)(18), and paragraphs (b) and (c), by revising (e)(6), redesignating (e)(7) and (e)(8) as (e)(8) and (e)(9) respectively, adding a new (e)(7) and revising the redesignated (e)(9)(ii) to read as follows:

§ 43.61 Reports of overseas telecommunications traffic.

(a) * * *

(1) "Telecommunications service between the continental United States and overseas points" means the transmission or reception of communications by cable or radio (i) which originate or terminate at points within the continental United States and Alaska and terminate or originate at points located outside the area comprising the continental United States and Alaska, and (ii) which both originate and terminate outside but transit the continental United States and Alaska, except communications both originating and terminating at points located in the aforementioned area.

* * * * *

(5) "Switched Data Transmission Service" means the transmission and reception of data at speeds up to 800 bits per second provided on a common carrier basis;

* * * * *

(10) "Overseas point" means: (i) For reports required by paragraph (b) of this section, any country or point located outside the area comprising the continental United States and Alaska, and shall include all overseas territories or possessions of the United States, as well as the State of Hawaii; and (ii) for reports required by paragraph (c) of this section, all points outside the particular state, territory, or possession for which a report is required.

* * * * *

(17) "Television transmission and reception service" means the transmission or reception of television signals for which a charge is made on a time basis.

(18) "Transiting traffic" means: (i) For reports required by paragraph (b) of this section, communications which both originate and terminate outside but transit the continental United States or Alaska; and (ii) for reports required by paragraph (c) of this section, communications which originate and terminate outside but transit the

particular state, territory, or possession for which a report is required.

Note.—Transiting traffic shall be considered in two separate legs—one inbound and the other outbound.

* * * * *

(b) Each common carrier engaged in furnishing telecommunications service between the continental United States and overseas points shall file with the Commission a report in triplicate with respect to such overseas telecommunications, not later than July 31 of each year for the preceding period of January through December, as provided hereafter in this section.

(c) Each common carrier engaged in furnishing telecommunications service between a United States point outside the continental United States and Alaska, and overseas points shall file with the Commission a report in triplicate with respect to such overseas telecommunications not later than July 31 of each year for the preceding period of January through December. This report shall contain the information required by paragraphs (e)(1)(ii), (2)(ii), (3)(ii), and (8) of this section, excluding leased channel service with the continental United States. In applying such paragraphs and definitions contained in paragraph (a) of this section the state, territory, or possession for which the report is made should be substituted for the words, "continental United States and Alaska," where applicable.

(1) Each reporting carrier shall submit a revised report by October 31 identifying and correcting any errors or estimates set forth in the annual report.

* * * * *

(e) * * *

(6) For program audio services: The number of chargeable minutes of all paid program service handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and, for outbound traffic, the amounts of payouts to connecting carriers, other than for terminal handling in the continental United States and Alaska shall also be shown.

(7) For television transmission and reception services: (i) The number of chargeable minutes of all paid service handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and, for outbound traffic, the amounts of payouts to connecting carriers, other than for terminal handling within the continental United States shall also be shown.

* * * * *

(9) * * *

(ii)(*a*) The number of leases in effect on the last day of the period covered in the report with (*1*) United States Government agencies, (*2*) foreign governments, (*3*) press entities, and (*4*) other users, separately for cable and radio operations between the continental United States and Alaska and each overseas point; (*b*) For each type of user, the number of leases shall be further reported for:

(*1*) the number of each channel provided in each of the following ranges of transmission speeds:

Up to 1200 bits; over 1200 bits and up to 9600 bits; over 9600 bits and up to 56/64 kilobits; over 56/64 kilobits and up to 1.544/2.048 megabits; over 1.544/2.048 megabits and up to 30 megabits/18 mHz; over 30 megabits/18 mHz and up to 60 megabits/36 mHz; over 60 megabits/36 mHz and up to 120 megabits/72 mHz; voice only circuits;

(*2*) service furnished for "Full Period" (twenty-four hours per day) and for each "Short Period" (less than twenty-four hours per day).

[FR Doc. 84-23947 Filed 9-11-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 56]

Uniform Tire Quality Grading Standards

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice recites recent events relevant to NHTSA's notice proposing to reimplement the treadwear grading requirements under its Uniform Tire Quality Grading Standards (UTQGS). That notice stated the agency's belief that its existing supply of bias belted course monitoring tires (CMT's) should be adequate for the next four years, and that the agency would be able to verify the base course wear rate and the coefficient of variation for its existing supply of bias belted CMT's shortly. Since issuing that notice, NHTSA has completed its review of the data generated in recent tests of those bias belted CMT's and concluded that the coefficients of variation for those CMT's are greater than the established 5 percent limit, and therefore unacceptable. Accordingly, the agency has entered into a contract with a tire manufacturer to produce a new supply of bias belted CMT's. The need to procure new bias belted CMT's may well force the agency to postpone the proposed effective dates for reimplementation of treadwear grading for bias belted tires.

DATE: Comment closing date: All comments on this notice must be received by NHTSA on or before October 12, 1984.

ADDRESS: Comments on this notice should refer to Docket No. 25, Notice 56 and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William Boehly, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION: On April 24, 1984, the U.S. Court of Appeals for the District of Columbia Circuit vacated the agency's order suspending the treadwear grading requirements under the UTQGS (*Public Citizen* v. *Steed*, 733 F.2d 93). In response to that court's decision, this agency recently published a notice of proposed rulemaking, which set forth a schedule intended to reimplement the treadwear grading requirements at the earliest feasible time (49 FR 32238; August 13, 1984).

That notice set forth one schedule for reimplementing treadwear grading for radial tires, and another for bias ply and bias belted tires. The reason for proposing different schedules was the need to procure new CMT's for radial tires, while the existing supply of CMT's for bias ply and bias belted tires were believed to be reliable. The notice stated at 49 FR 32239 that:

> The agency has completed its testing of the bias ply and bias belted CMT's and is currently reviewing those data. NHTSA anticipates that it will be able to verify the base course wear rate and coefficient of variation for this existing supply of bias ply and bias belted CMT's shortly.

NHTSA has completed its review of the test data generated for the existing supply of bias ply and bias belted CMT's. The agency has had a longstanding policy of accepting coefficients of variation for CMT's of not more than 5 percent as satisfactory. This standard was specifically approved by the reviewing court in *B.F. Goodrich Co.* v. *Department of Transportation*, 541 F.2d 1178, at 1189 (6th Cir. 1976), *cert. denied*, 430 U.S. 930 (1977). *See also* 40 FR 23073, at 23075; May 28, 1975, 42 FR

10320 at 10321; February 22, 1977, 43 FR 30542, at 30547; July 17, 1978.

The newly available data show that the existing bias ply CMT's have a coefficient of variation within the 5 percent limit; therefore, those CMT's can be used. However, the coefficient of variation measured for the existing supply of old bias belted CMT's exceeds the 5 percent standard, and consequently it would be inappropriate to use those old bias belted CMT's for testing. The data concerning the coefficient of variation of the existing supplies of bias and bias belted CMT's are reported in [BRENNER REPORT], which has been placed in Docket No. 25, Notice 55.

This agency acknowledges that it has an obligation to reimplement treadwear grading requirements for all types of tires at the earliest feasible date, given the decision in *Public Citizen* v. *Steed*. Accordingly, it has already awarded a contract to a tire manufacturer to produce and deliver a new group of bias belted CMT's. The contract requires those tires to be delivered to the agency not later than October 1, 1984. The agency will begin an expedited testing program to determine the appropriate base course wear rate for these tires as soon as possible after they are delivered. This should allow the tire manufacturers to begin testing for their bias belted tires only slightly later than projected in the August notice of proposed rulemaking.

Nevertheless, the agency has tentatively concluded that it may be necessary to delay the proposed dates for the dissemination of treadwear grading information for bias belted tires. These tires represent the smallest group of new tires currently manufactured, and no problems have arisen with respect to the proposed dates for dissemination of treadwear grading information for the other groups of tires (bias ply and radial). Comments are specifically requested on the appropriateness of delaying the proposed dates for bias belted tires in view of the newly discovered problems with the existing CMT's and on the earliest feasible dates when treadwear information for bias belted tires could be disseminated. This notice should not be interpreted as extending the time for comment on the schedules for reimplementing treadwear grading requirements for bias ply and radial tires proposed in the August notice of proposed rulemaking.

This supplemental notice is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The only impact of this notice is to fully inform the public of information which the agency has learned since it published the August notice of proposed rulemaking, and to allow the public to comment on the course of action which should be followed in response to this discovery. Since this notice, like the August notice of proposed rulemaking, would not impose any costs, a full regulatory evaluation has not been prepared.

Pursuant to the requirements of the Regulatory Flexibility Act, the agency has considered the impact of this notice on small entities. As noted above, the agency believes there are no cost impacts associated with seeking comment on the most appropriate course of action to be taken in response to facts learned after the notice of proposed rulemaking was published. Based on this, I hereby certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

The agency has also considered the environmental impacts of this supplemental notice. NHTSA has concluded that this notice will not have a significant impact on the quality of the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, and 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, and 1423); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 7, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-24096 Filed 9-7-84; 4:50 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 40917-4117]

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

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to preempt the authority of the State of Oregon to manage salmon fisheries in the territorial waters off the coast of Oregon. The Secretary of Commerce (Secretary) finds that Oregon's action in extending its commercial troll season for chinook salmon after closure of the season in Federal waters would have a substantial and adverse effect on the carrying out of the ocean salmon fishery management plan. This action is intended to conserve ocean salmon stocks.

DATES: The effective date of the final rule will be determined following a fact-

finding hearing to be held at 9:00 a.m., Pacific Daylight Time, on September 13, 1984. Comments on this action must be received on or before September 18, 1984.

ADDRESSES: The hearing will be held at the Northwestern School of Law, Lewis and Clark, College, 10015 SW. Terwilliger Blvd., Courtroom 1, Portland, Oregon. Comments should be addressed to Dr. William G. Gordon, Assistant Administrator for Fisheries, NOAA, 3300 Whitehaven Street, NW., Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Jay S. Johnson (Assistant General Counsel for Fisheries), 202–634–4224.

SUPPLEMENTARY INFORMATION: Section 306(b) of the Magnuson Conservation and Management Act authorizes the Secretary to regulate a fishery within State waters if he finds that: (1) Fishing in the fishery is engaged in predominantly within and beyond the fishery conservation zone (FCZ) and (2) a State has taken action which will substantially and adversely affect the implementation of the fishery management plan (FMP) for the fishery. Regulations prescribing preemption procedures require publication of proposed regulations concurrently with the issuance of a notice of proposed preemption to the Governor and Attorney General of the State concerned. Preemption regulations are published at 50 CFR Part 619.

An FMP for Commercial and Recreational Salmon Fisheries off the Coasts of California, Oregon, and Washington was submitted by the Pacific Fishery Management Council (Council) and implemented by Federal regulations (43 FR 15629, April 14, 1978). Emergency regulations for 1984 salmon fishing adopted by the Council (49 FR 18853), May 5, 1984) established seasons, quotas, area restrictions, gear limitations, size limits, and bag limits in Federal waters which were consistent with similar measures in State marine waters. On August 30, 1984, the Oregon Fish and Wildlife Commission (Commission) approved regulations which extended the season one month between Cape Falcon and Cape Blanco. The season in this area for all salmon except coho was scheduled to close August 31, 1984. The season in the FCZ closed August 31, 1984; however, the Commission's action permitted continued commercial troll fishing for chinook salmon in coastal waters (0–3 miles). This action is in contravention of the FMP for salmon.

On September 7, 1984, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), served notice on the State of Oregon of initiation of a proceeding to preempt State authority to manage the salmon fisheries off its coast. An administrative fact-finding hearing is scheduled on September 13, 1984, in Portland, Oregon. If a final determination is made to preempt State authority, regulations will be issued in the **Federal Register**, effective upon filing.

Classification

The Assistant Administrator finds for good cause that the reasons for preemption make it impracticable and contrary to the public interest to provide more than ten days' notice and opportunity for prior comment under the Administrative Procedure Act.

Under section 1(a)(1) of Executive Order 12291, this action is not subject to review by the Office of Management and Budget.

This rule requires no collection of information for purposes of the Paperwork Reduction Act.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it involves no change to the management regime under the FMP.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: September 7, 1984.

Carmen J. Blondin,

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

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA, OREGON, AND WASHINGTON

For the reasons set out in the preamble, 50 CFR Part 661 is proposed to be amended as follows:

1. The authority citation for Part 661 reads as follows:

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

§ 661.3 [Amended]

2. For the reasons set out in the preamble, 50 CFR 661.3 is amended by adding the following sentence to the end of the definition of the term "Fishery Management Area":

* * * * *

* * * In addition, the Fishery Management Area includes the territorial sea off the coast of Oregon.

* * * * *

[FR Doc. 84–24098 Filed 9–7–84; 5:11 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 49, No. 178
Wednesday, September 12, 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

September 7, 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, OIRM, 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.

Revision

- Animal and Plant Health Inspection Service

Cooperative National Plant Pest Survey and Detection Program
PPQ 391 and PPQ 395
On occasion; Semi-annually
State or local governments; 3,250,800 responses; 13,225 hours; not applicable under 2504(h)
Thomas E. Wallenmaier, (301) 436–6404

- Statistical Reporting Service

Farm Labor Survey
Quarterly
Farms; 47,560 responses; 11,901 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447–6820

Jane A. Benoit,
Acting Department Clearance Officer.

[FR Doc. 84-24083 Filed 9-11-84; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

Flue-Cured Tobacco; 1985 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to announce by December 15, 1984, the amount of the national marketing quota for flue-cured tobacco for the 1985–86 marketing year. The public is invited to comment on the amount of the national marketing quota to be determined and other related factors, as set forth in this notice.

DATE: Comments must be received on or before November 13, 1984 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–3391.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, USDA, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major." The provisions of this proposed notice will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this proposed notice applies are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires the Secretary to determine and announce by December 15, 1984, the amount of the national marketing quota, the national average yield goal, and the national acreage allotment for the 1985–86 marketing year for flue-cured tobacco. The 1985–86 marketing year is the third of three consecutive years for which marketing quotas, approved by producers in a national referendum, will be in effect for such kind of tobacco.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The phrase "normal supply" is defined in section 301(b)(10)(B) of the

Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the yearly average quantity produced in the United States that was consumed during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1984–85), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1984–85), adjusted for current trends in such exports.

The reserve supply level for the 1984–85 marketing year was determined to be 2,363 million pounds. This was based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 530 million pounds (49 FR 11862). The proposed reserve supply level for the 1985–86 marketing year is 2,252 million pounds, based on a normal year's domestic consumption of 480 million pounds and a normal year's exports of 500 million pounds.

Section 301(b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1984–85 marketing year is 3,016 million pounds based on carryover of 2,165 million pounds and estimated marketings of 851 million pounds.

Section 317(a)(1) of the Act defines "national marketing quota" for any kind of tobacco for a marketing year as the amount of the kind of tobacco produced in the United States which the Secretary estimates will be used domestically and exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 15 percent of estimated domestic use and exports.

The amount of flue-cured tobacco produced and utilized domestically during the 1983–84 marketing year was 441 million pounds, and the amount exported was 453 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1984–85 marketing year is 805 million pounds, based upon estimated domestic utilization of 455 million pounds and exports of 460 million pounds with a downward adjustment of 110 million pounds to make an orderly reduction in supplies. For the 1985–86 marketing year, utilization in the United States is estimated to be approximately 430 million pounds and exports are estimated to be approximately 445 million pounds. The total supply for the 1984–85 marketing year is 764 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered. However, the national marketing quota is proposed to be within the range of 745 million to 875 million pounds.

Section 317(a)(2) of the Act defines "national average yield goal" for any kind of tobacco as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return to the growers. For the 1984 crop of flue-cured tobacco, the national average yield goal was determined to be 1,989 pounds per acre (See 49 FR 11862).

Section 317(a)(3) of the Act defines the "national acreage allotment" as the acreage determined by dividing the national marketing quota by the national average yield goal. The national acreage allotment for the 1984–85 marketing year was determined to be 404,725.99 acres (See 49 FR 11862).

A national acreage factor for apportioning the national acreage allotment to old farms will be determined by dividing the national acreage allotment, less the reserve for new farms and old farm corrections and adjustments, by the sum of the preliminary 1985 allotments for old farms prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations. The national acreage factor for the 1984–85 marketing year was .884 (See 49 FR 11862).

A national yield factor will be obtained by dividing the national average yield goal by the national average yield. The national average yield is computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations, adding the products, and dividing the sum of the products by the national acreage allotment. The national yield factor for the 1984–85 marketing year was .9020 (49 FR 11862).

For each marketing year for which acreage-poundage quotas are in effect, section 317(e) of the Act provides that a reserve may be established from the national acreage allotment in an amount equivalent to not more than one percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered produced during the immediately preceding five years. A reserve of 475 acrea was established for the 1984–85 marketing year (49 FR 11862). The establishment of a reserve is also proposed for the 1985–86 marketing year.

Section 317(g)(1) of the Act provides that if the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, the Secretary may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. The marketing of any such tobacco in this manner has never been authorized under the acreage-poundage program and is not proposed for the 1985–86 marketing year.

Proposed Determinations

Accordingly, the Secretary of Agriculture proposes to determine and announce with respect to the 1985–86 marketing year for flue-cured tobacco:

(1) A reserve supply level in the amount of 2,252 million pounds.

(2) A national marketing quota in an amount within the range of 745–875 million pounds.

(3) A national average yield goal of 1,989 pounds.

(4) A reserve from the national acreage allotment in an amount within a range of 100 acres to 4,000 acres.

(5) The marketing of N2 or other grades of tobacco which are not eligible for price support, without payment of penalty or deduction from subsequent quotas, will not be authorized.

The national acreage allotment, the national acreage factor, and the national yield factor will be computed using the final determinations which will be made

with respect to items set forth in (1) through (4) above.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741—South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

(Secs. 301, 313, 317, 375, 52 Stat. 38, as amended, 47, as amended, 66, as amended, 79 Stat. 66, as amended (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C. on September 7, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc 84-24031 Filed 9-11-84; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Critical Area Treatment Measures; Maryland Eastern Shore RC&D Area, Maryland

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for certain Critical Area Treatment Measures in Maryland. The proposed project actions will occur within the Maryland Eastern Shore RC&D Area, which encompasses the nine Eastern Shore counties of Cecil, Kent, Queen Anne's, Caroline, Talbot, Dorchester, Wicomico, Somerset, and Worcester.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301-344-4180.

SUPPLEMENTARY INFORMATION: Environmental assessments of these federally assisted actions indicate that these projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

Project actions will control erosion on a maximum of approximately three miles of streambank, five miles of shoreline, 250 acres of upland, and 100 acres of roadside. Structural practices will include installation of grassed waterways, diversions, grade stabilization structures, stone revetments, treated timber or aluminum bulkheads, and other practices that will aid in the stabilization and protection of the soil and water resource base. Nonstructural practices will include vegetative stabilization of eroding areas with species such as smooth cordgrass (*Spartina alterniflora*) and saltmeadow cordgrass (*S. patens*), as well as other adapted species. Installation of both structural and nonstructural practices will also include grading, shaping, backfilling, liming, fertilizing, and mulching to establish ground covers, grasses, legumes, shrubs, and trees.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. The environmental assessment file for each project will be available for public inspection through the office of Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 6, 1984.

Gerald R. Calhoun,

State Conservationist.

[FR Doc. 84-24074 Filed 9-11-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Service Supply License Procedure.

Form Numbers: Agency—ITA—6026P, EAR 373.7(d)(k); OMB—0625-0041.

Type of Request: Revision of a currently approved collection.

Burden: 106 respondents; 3,878 reporting hours.

Needs and Use: The Service Supply License Procedure is used to authorize multiple shipments of parts from the U.S. or by approved service facilities abroad for the purpose of servicing equipment (A) previously exported from the U.S. (B) produced abroad by a foreign subsidiary of a U.S. firm or (C) produced abroad by a foreign manufacturer whose equipment incorporates parts exported from the United States.

Affected Public: Businesses or other for-profit organizations, small businesses or organizations.

Frequency: Monthly.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Sheri Fox, 395-3785.

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 OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: August 31, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-24038 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Color Television Receivers From Korea; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on color television receivers from Korea. The review covers three of the six known manufacturers and/or exporters of this merchandise to the United States

currently covered by the order, and generally the period October 19, 1983 through April 30, 1984. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equil to the calculated differences between United States price and foreign market value on each of their sales during the period of review. Interested parties and invited to comment on these preliminary results.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1984 the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 18336–7) an antidumping duty order on color television receivers from Korea and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Traiff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of color television receivers, complete or incomplete, from Korea. The order covers all color television receivers regardless of tariff classifications. The merchandise is currently classifiable under item numbers 685.1125, 685.1126, 685.1127, 685.1128, 685.1129, 685.1135, 685.1144, 685.1148, 685.1155, 685.1456, 685.1458, 685.1460, and 685.1463 of the Tariff Schedule of the United States Annotated. The review covers three of the six known manufacturers and/or exporters of Korean color television receivers to the United States currently covered by the order, and generally the period October 19, 1983 through Aprial 30, 1984.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and ESP were based either on the packed delivered, f.o.b. port, or plant price to the first unrelated purchaser in the United States. Where applicable, we made deductions for U.S. Customs duty, ocean freight, marine insurance, U.S. and foreign brokerage, handling charges, export license fees, Korean customs clearing fees, forwarding expenses, wharfage expenses, U.S. and Korean inland freight, commissions to unrelated parties, discounts, rebates, and the U.S. subsidiary's selling expenses.

We accounted for taxes imposed in Korea but rebated or not collected by reason of the exportation of the merchandise to the United States by subtraction from home market price as best information available. Where applicable, we added back to the U.S. price the amount of import duties and defense taxes on imported parts, rebated upon exportation of the color televisions, which had been assessed upon importation of the materials used to produce the televisions. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 7773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based either on the packed f.o.b. factory or delivered price with adjustments, where applicable, for inland freight, cash discounts, rebates, differences in certain advertising, warranty, royalty, sales promotion, credit and packing costs. We also made an adjustment for indirect selling expenses to offset U.S. selling expenses for ESP calculations. We made a further adjustment, where applicable, for differences in the physical characteristics of the merchandise. We denied claims for certain differences in warranty, credit, incentive discount, rebate, advertising, trademark, physical characteristics of the merchandise, packing, sales commission, credit sale rebate costs, and a claim for certain indirect selling expenses because they could not be verified at out on-site examinations of the companies' books and ledgers or because the claims were not properly quantified.

Preliminary Results of the Review

As a result of our comparison of United States price to Foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Period	Margin (percent)
Daewoo	10/19/83–4/30/84	25.09
Gold Star	10/19/83–4/30/84	20.08
Samsung	10/19/83–4/30/84	52.50

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held on October 1, 1984. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. For any future shipments from a new exporter not covered in this review, whose first shipments occurred after April 30, 1984, and who is unrelated to any reviewed firm, a cash deposit of 25.09 percent shall be required. These deposit requirements are effective for all shipments of Korean color television receivers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53)).

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–24058 Filed 9–11–84; 8:45 am]

BILLING CODE 3510–DS–M

Polychloroprene Rubber From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polycholoroprene rubber from Japan. The review covers the six known

manufacturers and/or exporter of this merchandise to the Untied States and the period December 1, 1982, through November 30, 1983. The review indicates the existence of no dumping margins during the period.

As a result of the review, the Department has preliminary determined not to assess dumping duties on sales during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 10694) the final results of its last administrative review of the antidumping finding on polychloroprene rubber from Japan (38 FR 35393, December 6, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 446.1521 and 446.2000 of the Tariff Schedules of the United States Annotated.

The review covers the six known manufacturers and/or exporters of this merchandise to the United States and the period December 1, 1982, through November 30, 1983.

Five firms did not ship Japanese polychloroprene rubber to the United States during the period. The estimated antidumping duties cash deposit rates for those firms will be the most recent rate for each firm.

Untied States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. U.S. warehouse price to the first unrelated purchaser in the United States. Where applicable, we made deductions for U.S. customs duties, U.S. entry and port charges, ocean freight, marine insurance, loading and handling charges, and foreign inland freight. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comprison. Home market price was based on the delivered price to unrelated purchasers with adjustments, where applicable, for inland freight and insurance. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 1982, through November 30, 1983:

Manufacturer/Exporter	Margin (percent)
Denki Kagaku Kogyo, K.K	[1]0
Denki Kagaku Kogyo, K.K/Hoei Sangyo Co., Ltd	[1]55
Mitsui, K.K	[1]0
Showa Neoprene, K.K	0
Showa Neoprene, K.K Hoei Sangyo Co., Ltd	[1]0
Suzugo Corporation	[1]55
Toyo Soda Manufacturing Co., Ltd	[1]0
Toyo Soda Manufacturing Co., Ltd./Hoei Sangyo Co., Ltd	[1]0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on all appropriate entries.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. The Department shall not require a cash deposit of estimated antidumping duties for future entries from a new exporter not covered in this or prior reviews, whose first shipments of polychloroprene rubber occurred after November 30, 1983, and who is unrelated to any reviewed firm. These deposit requirements are effective for all shipments of Japanese polychloroprene rubber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24067 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receiving Sets, Monochrome and Color, From Japan; Preliminary Results of Administrative Review of Dumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Dumping Finding and Tentative Determination to Revoke in Part.

SUMMARY: The Department of Commerce has conducted an administrative review and tentatively determined to revoke in part the dumping finding on television receiving sets, monochrome and color, from Japan. This notice covers television receiving sets manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co. Ltd. The period of review is April 1, 1981, through March 31, 1982.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Michael A. Hudak, or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 53142) the final results of its last administrative review of the dumping finding on television receiving set from Japan (36 FR 4597, March 10, 1971) for televisions manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co., Ltd. and announced its intent to begin its

next administrative review of Orion and Otake. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image.) Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

We indicated in the final results of the last administrative review covering Orion and Otake (48 FR 53142) that during this review we would determine whether or not "component televisions" are within the scope of this finding. Component televisions consist of separate monitors and control centers. The monitor is capable of displaying a video image but contains neither a tuner nor the circuitry necessary for reception of a broadcast television signal. The control center incorporates the tuner apparatus for reception and amplification of a broadcast television signal but lacks the ability to produce a video image. These two components are compatible with each other and with other types of components, such as video tape recorders and home computers. The monitor and tuner may be marketed separately, and they may be compatible with components produced by other manufacturers.

The finding on television receivers from Japan is limited to merchandise capable of receiving a broadcast television signal and producing a video image in its condition as imported (whether or not finished or assembled). Monitor and tuner components of component television are not within the scope of the finding when imported separately, because each component individually, while complete, lacks the necessary dual capability of receiving a broadcast television signal and producing a video image. However, when imported together, the monitors and tuners have the necessary dual capability and, therefore, are the same class or kind of merchandise as television receivers. Accordingly, we preliminarily determine that component televisions are within the scope of the finding on television receivers from Japan only when the monitor and tuner components are imported together.

United States Price

In calculating United States price the Department used purchase price as defined in section 772 of the Tariff Act.

Purchase price was based on the f.o.b. price to unrelated purchasers in the United States. Where applicable, deductions were made for foreign inland freight, shipping charges, bank charges, and commissions to unrelated parties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to purchasers in a third country (Canada), as defined in section 773 of the Tariff Act, because there were no sales of such or similar merchandise, manufactured by Orion and sold by Otake in the home market. Third country price was based on the f.o.b. price, with adjustments for shipping charges, bank charges, and foreign inland freight. We made a further adjustment where applicable, for differences in the physical characteristics of the merchandise. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no margins exist for the period from April 1, 1981, through March 31, 1982.

The Department has concluded that all sales of televisions manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co., Ltd. were made at not less than fair value for a two-year period. As provided for in § 353.54(e) of the Commerce Regulations, Otake has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that television receiving sets manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co., Ltd. are being sold by Otake at less than fair value.

Therefore we tentatively determine to revoke the finding on television receiving sets, monochrome and color, from Japan with regard to televisions manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co., Ltd. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured by Orion Denki, Ltd. and exported to the United States by Otake Trading Co., Ltd. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be no later than 5 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department will instruct the Customs Service not to assess antidumping duties on all appropriate entries.

Further, the Department shall not require a cash deposit of estimated antidumping duties in accordance with section 353.48(b) of the Commerce Regulations, for Otake. A cash deposit of 3.37 percent shall be required on future entires of this merchandise for any shipment from a new exporter not covered in this or prior reviews, whose first shipment occurred after March 31, 1982. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: September 5, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24068 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-079]

Viscose Rayon Staple Fiber From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On July 13, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on viscose rayon staple filer from Italy. The review covers the one known exporter of this merchandise to the United States, Snia Fibre, S.p.A., and the period June 1, 1983, through May 31, 1984. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Ron Nichols or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1984, the Department of commerce ("the Department") published in the **Federal Register** (49 FR 28595) the preliminary results of its administrative review of the antidumping finding on viscose rayon staple fiber from Italy (44 FR 33878, June 13, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Italian viscose rayon staple fiber to the United States, Snia Fibre, S.p.A., and the period June 1, 1983, through May 31, 1984. There were no known shipments of this merchandise to the United States during the period, and there are no known unliquidated entries.

Final Results of the Review

We gave interested parties an opportunity to coment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results, and we determine that a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, of 18.6 percent shall be required on all shipments of Italian viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–24069 Filed 9–11–84; 8:45 am]

BILLING CODE 3510–DS–M

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores, S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain.

By Order of April 9, 1982, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982), December 7, 1982, 47 FR 55989 (December 14, 1982), March 22, 1983, 48 FR 12762 (March 28, 1983), May 19, 1983, 48 FR 23471 (May 25, 1983), August 26, 1983, 48 FR 40418 (September 7, 1983), November 30, 1983, 48 FR 54676 (December 6, 1983), February 28, 1984, and June 1, 1984, 49 FR 23906 (June 8, 1984), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of June 1, 1984 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982, is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Heights, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through November 1984 in the shipment release documents filed by Piher International Corp. in support of its Application for this extension, provided all such exports are G–DEST under the Export Administration Regulations (15 CFR Parts 368–399 (1983)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after November 1984 should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective September 1, 1984.

Dated: August 31, 1984.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84–24070 Filed 9–11–84; 8:45 am]

BILLING CODE 3510–DT–M

[C–357–403]

Oil Country Tubular Goods From Argentina; Preliminary Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of oil country tubular goods. The estimated net bounty or grant is 0.90 percent *ad valorem*. We are directing the U.S. Customs Services to suspend liquidation of all entries of oil country tubular goods from Argentina which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Laura Winfrey or Stuart Keitz: Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0160 or (202) 377–1769.

SUPPLEMENTARY INFORMATION:

Preliminary determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of oil country tubular goods. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- Post-financing of exports under Circular OPRAC 1–9.
- Import duty reductions on raw materials.

We estimate the net bounty or grant to be 0.90 percent *ad valorem*.

Case History

On June 13, 1984, we received a petition from the Lone Star Steel Company, and the CF&I Steel Corporation filed on behalf of the U.S. industry producing oil country tubular goods. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Argentina of oil county tubular goods receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 3, 1984, we initiated such an investigation (49 FR 28289). We stated we expected to issue a preliminary determination by September 6, 1984. On August 3, 1984, LTV Steel Company entered this proceeding as a co-petitioner with Lone Star Steel Company and CF&I Steel Corporation.

Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, section 303 of the Act applies to this investigation. The merchandise being investigated is dutiable. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government or Argentina in Washington, D.C., on July 13, 1984. On August 17, 1984, we received responses to the questionnaire.

Scope of Investigation

The products covered by this investigation are "*oil country tubular goods*" (OCTG), which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, to either American Petroleum Institute (API) or non-API specifications (such as proprietary), as currently provided for in the *Tariff Schedules of the United States, Annotated* (*TSUSA*) under items 610.3216, 610.3219, 610.3249, 610.3252, 610.3256, 610.3258, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4957, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished or unfinished condition.

There is one known producer and exporter in Argentina of oil country tubular goods to the United States. We have received information from the government of Argentina regarding Dalmine Siderca S.A.I.C. (Dalsid) which is the sole exporter of this product to the United States during the period for which we are measuring bounties or grants, April 1983 through March 1984.

Analysis of Programs

Throughout this notice, we refer to general principles applied to the facts of the current investigation. These general principles are described in detail in the Subsidies Appendix to the "Final Affirmative Countervailing Duty Determination and Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina" published in the Federal Register on April 26, 1984 (49 FR 18806).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to rigorous verification. If the response cannot be supported at verification and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

Based upon our analysis to date of the petition, the additional information filed by petitioners and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of oil country tubular goods under the following programs.

A. Post-Financing of Exports Under Circular OPRAC 1–9

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1–9. OPRAC 1–9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. The interest rate charged on OPRAC 1–9 loans is the regulated rate used by commercial banks, as established by Central Bank Regulations. The system of financing is through the Central Bank of Argentina, which delegates the responsibility for granting the loans to intermediary banks. Dalsid received loans under the OPRAC 1–9 program.

To determine if the loans to Dalsid provided under the OPRAC 1–9 program constitute a bounty or grant, we compared the rate of interest charged on the OPRAC 1–9 loans, with the national average commercial rate for short-term borrowing, as required in the Subsidies Appendix.

For the purpose of this preliminary determination, we have used a

weighted-average of the various forms of short-term borrowing available from Argentine banks during the period for which we are measuring bounties or grants, as the national average commercial rate for short-term borrowing. We are using the regulated rate, the unregulated rate, and the rate tied to the wholesale price index in our weighted-average interest rate. These rates are established by the Central Bank of Argentina and are compiled by the Fundacion de Investigaciones Economicas Latino Americanos (FIEL). Beginning August 1, 1983, funds were no longer lent at the unregulated rate. Therefore the basis for the weighted-average for the rest of the period of investigation is the regulated rate and the rate tied to the wholesale price index.

Using this weighted-average as a benchmark, we calculate a bounty or grant on exports of .69 percent *ad valorem*.

B. Import Duty Exemptions on Raw Materials

Argentine tariff law authorizes import duty exemptions on raw materials when there is no domestic production or insufficient domestic production of the raw material to meet domestic demand, provided that importation will not interfere with domestic production. Neither Dalsid nor the government of Argentina provided enough information about the program to establish that these benefits are not limited to a specific industry or group of industries. Therefore, for purposes of this preliminary determination, we conclude that import duty exemptions constitute a bounty or grant to Dalsid.

To calculate the benefit of the duty exemption, we multiplied the value of raw materials imported by Dalsid during the period of investigation by the duty rate for each of these inputs. Because any import duties that would have been paid would be eligible for a rebate upon exportation under the reembolso program, we had to factor out the import duties exempted on Dalsid's export sales from our calculation of the total amount of import duties exempted. We then divided the remainder by the total value of all Dalsid's sales to calculate a net bounty or grant of 0.21 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

A. "Reembolso"—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund by cash payment on export of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product. Dalsid participates in the reembolso program.

Under the Act, the non-excessive rebate of indirect taxes levied at the final stage, and of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy. With respect to such non-VAT rebates, in order to determine whether a cash payment on export is a bona fide rebate of indirect taxes, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on exports and indirect taxes paid, and (3) whether the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

The reembolso program is designed to refund taxes that "bear directly or indirectly on exported products." We view taxes borne by a product as indirect, and taxes on, for example, income and labor as direct.

Based on our review of the total tax incidence which the reembolso is designed to rebate, we are satisfied that the reembolso operates "for the purpose of rebating indirect taxes," and that it meets our first test.

In 1980, the Value Added Tax was established (Law 22.294/80) and in 1981, certain minor taxes were suspended (Law 22.374/81). As a result of these modifications to the Argentine tax system, the government in 1983 reviewed the incidence of taxes on oil country tubular goods in order to reevaluate the levels of the reembolso. In reviewing the studies on fiscal incidence of taxes, the government selected Dalsid as representative of the oil country tubular goods industry, as it is the only Argentine firm producing these products. In conjunction with the more general study conducted in 1978, this review provides a sufficient basis for our preliminary determination that there is a clear link between eligibility for the reembolso and indirect taxes paid.

In the questionnaire response, the government of Argentina provided us with data from its most recent analysis of the tax incidence on oil country tubular goods. This analysis, which was completed in 1983, shows that the taxes levied on oil country tubular goods, which the reembolso is designed to rebate, total 25.1 percent of the f.o.b. value of the exports. Six categories are included in the analysis: domestic raw material inputs, imported raw material inputs, transformation costs, labor, taxes paid directly, and export taxes.

In calculating the allowable tax incidence in the domestic and imported raw material categories, we only included those indirect taxes levied at prior stages of production that apply to physically incorporated inputs. Using this standard, we found that for domestic raw materials 5.4 percent of the tax incidence claimed is allowable and for imported raw materials 0.6 percent is allowable. We are satisfied that the government has reasonably calculated and documented the tax incidence on the physically incorporated raw materials, and has demonstrated a clear link between such tax incidence and the rebate paid on export, thus meeting our third test.

Regarding taxes paid on the transformation costs, we are preliminarily including those indirect taxes paid on materials used in transforming the raw materials into oil country tubular goods, which meet our standard for physical incorporation. Taxes on energy, equipment and services do not meet this standard. Thus of the 8.9 percent claimed, 1.5 percent is disallowed.

The taxes on labor, which total 1.2 percent, do not meet our standard for physical incorporation into the final product. We have therefore disallowed this amount.

The export taxes paid on oil country tubular goods, which include foreign exchange and stamp taxes, also meet our third test because they are itemized, and the rate of each tax and its incidence category are all indirect taxes. The total incidence of the taxes in this category is 2.5 percent.

Three taxes were included in the category of the taxes paid directly on oil country tubular goods. For the purpose of this preliminary determination, we are satisfied that two of the three taxes listed are indirect taxes and also meet our third test. No information was provided in the response concerning the Emergency Tax which permits us to determine if this tax is direct or indirect. Therefore, for this preliminary determination, we are disallowing this portion of the taxes paid directly on oil country tubular goods. Applying this standard, we found that of the 5.4 percent tax incidence claimed, 0.8 percent is allowable and 4.6 U.S. is not.

Of the total 25.1 percent tax incidence calculated in the reembolso study, we have allowed 10.84 percent.

Since July 5, 1982, the reembolso for oil country tubular goods has been 10 percent (Resolution ME 8/82). Because the reembolso does not exceed the total allowable indirect taxes of 10.84 percent, we determine that the reembolso does not confer a bounty or grant on oil country tubular goods.

B. Government Loan Guarantees

Petitioners alleged that the Argentine OCTG industry benefits from preferential loan guarantees provided by the government of Argentina.

In its response, Dalsid provides information concerning loan guarantees provided to it by the Banco Nacional de Desarrollo (BANADE), which is a development bank administered by the government of Argentina. Dalsid contracts for these guarantees only when required to by the lender. The terms and conditions of the guarantees are the same for all clients in Argentina. In order to receive a loan guarantee from BANADE, Dalsis is required to provide a counter-guarantee to secure the guarantee. Dalsid's guarantee could take the form of mortgages or securities. In addition, Dalsid pays a guarantee fee to BANADE of 0.1 percent.

We therefore preliminarily find that these loans guarantees are provided to Dalsid by BANADE on a strictly commercial basis, thus providing no preferential bounty or grant to Dalsid.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs, listed in the notice of "Initiation of Countervailing Duty Investigation," were not used by the manufacturers, producers, or exporters in Argentina of oil country tubular goods.

A. Medium- and Long-Term Loans Under Law 22.510 and Under Decrees 989/81 and 1894/83

Petitioners allege that the Argentine OCTG industry benefits from preferential medium- and long-term loans under Law 22.510 and under Decree 989/81 and 1894/83.

The response indicates that Dalsid has not received either medium- or long-term loans under either Law 22.510 or under Decrees 989/81 and 1894/83.

B. Capital Tax Exemptions Under Decrees 5038/61 and 548/81

Petitioners allege that the Argentine OCTG industry receives preferential capital tax exemptions.

The response indicates that Dalsid does pay capital taxes and does not avail itself of either Decree 5038/61 or Decree 548/81.

C. Subsidized Raw Material Inputs Under Decree 619

Petitioners allege that the Argentine OCTG industry benefits from subsidized raw material inputs under Decree 619, which provides that the Argentine government may subsidize industries supplying basic inputs, such as oil residue coal, electricity, and natural gas, to the steel industry.

The response indicates that Dalsid does not use Decree 619.

D. Government Trade Promotion Programs

Petitioners allege that the Argentine OCTG industry benefits from trade promotion programs which are funded by the government of Argentina and are designed to increase participation of Argentine companies in international trade fairs and trade missions.

As the response indicates, Dalsid has not participated in any such trade fairs. Further, no financial or other considerations were provided by the Argentine government in connection with such fairs.

E. Pre-Financing of Exports Under Circular OPRAC 1–1

Petitioners allege that the Argentine OCTG industry benefits from preferential short-term loans for pre-financing of exports under Circular OPRAC 1–1. Circular OPRAC 1–1 instituted a pre-financing program for Argentine exports as an alternative to the Circular RF 153 program for pre-financing of exports through dollar-indexed pesos. This program was initiated on Augsut 21, 1981, and terminated on March 31, 1982. Under Circular OPRAC 1–1, loans could not exceed one year, and firms receiving OPRAC 1–1 loans could not also receive Circular RF–153 loans. Dalsid did not use these loans.

F. Additional Reembolso for Exports From Southern Argentine Ports

Petitioners allege that the Argentine OCTG industry receives additional rebates of taxes through the reembolso program for exports from southern Argentine ports.

The response indicates that according to the laws governing the reembolso program for exports from southern ports, exporters of OCTG are not not eligible for this program.

G. Exemption From Stamp Tax Under Decree 186/76

Petitioners allege that the Argentine OCTG industry receives an exemption from paying stamp taxes, which is authorized under Decree 186/76.

The response indicates that Dalsid is not eligible for exemption for the Stamp tax under Decree 186/76.

H. Benefits Under the "Argentine Steel Industry Development Contribution Fund"

Petitioners allege that the Argentine OCTG industry benefits from the "Argentine Steel Industry Development Contribution Fund," a fund which earmarks certain import surcharge taxes for steel industry development.

According to the response, Dalsid has never received any benefits from this fund and this particular fund was eliminated January 16, 1981, by Law 22.374.

I. Preferential Exchange Rates for Steel Industry Imports

Petitioners allege that the Argentine OCTG industry benefits from preferential exchange rates allowed under Argentine law for imports of machinery, parts, raw material, fuels, and other products used or installed in steel plants.

As indicated in the response, from July 6, 1982, through October 31, 1982, there was a dual exchange rate in Argentina. One rate existed for "commercial" transactions and one for "financial". On November 1, 1982, the Central Bank established a single exchange rate. During the period for which we are measuring bounties or grants, only one exchange rate was in effect for both commercial and financial transactions.

J. Price Premiums From Argentine Government Purchases of Argentine-Produced Steel

Petitioners allege that the Argentine OCTG industry benefits from price premiums paid by the Argentine government on its purhcases of Argentine-produced steel products.

The response indicates that the Argentine government does not have a program for paying premium prices for its purchases of Argentine produced OCTG.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Argentina which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 0.90 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing at 10:00 a.m. on October 12, 1984, to afford interested parties an opportunity to comment on this preliminary determination at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 6, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24105 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-403]

Oil Country Tubular Goods from Brazil; Preliminary Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of oil country tubular goods. The estimated net subsidy is 11.39 percent *ad valorem* for Confab, 6.88 percent *ad valorem* for Mannesmann, and 1.48 percent *ad valorem* for Persico. We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tubular goods from Brazil that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5050 or 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of oil country tubular goods. For purposes of these investigations, the following programs are found to confer subsidies:

- Preferential Working Capital Financing for Exports (Resolutions 674 and 882)
- Export Financing Under the CIC-CREGE 14-11 Circular
- IPI Export Credit Premium
- Export Profits Exemption from Corporate Income Tax

We estimate the net subsidy to be 11.39 percent *ad valorem* for Confab, 6.88 percent *ad valorem* for Mannesmann, and 1.48 percent *ad valorem* for Persico.

Case History

On June 13, 1984, we received a petition from the Lone Star Steel Company of Dallas, Texas, and the CF&I Steel Corporation of Pueblo, Colorado, on behalf of the U.S. industry producing oil country tubular goods. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of oil country tubular goods receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on July 3, 1984, we initiated such an investigation (49 FR 28290). We stated that we expected to issue a preliminary determination by September 6, 1984. On August 3, 1984, the petition was amended and the LTV Steel Company of Cleveland, Ohio became co-petitioner.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On July 23, 1984, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening material injury to, a U.S. industry (49 FR 31782).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C., on July 13, 1984. On August 17, 1984, we received a response to the questionnaire.

Scope of the Investigation

The products covered by this investigation are oil country tubular goods (OCTG), which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, to either Amercian Petroleum Institute (API) or proprietary specifications, as currently provided for in the *Tariff Schedules of the United States, Annotated (TSUSA)* under items 610.3216, 610.3219, 610.3233, 610.3249, 610.3252, 610.3256, 610.3258, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4957, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished or unfinished condition.

There are three known producers and exporters in Brazil of oil country tubular goods to the United States. We have received information from the government of Brazil regarding Confab Industrial S.A. (Confab), Mannesmann S.A. and Mannesmann Commercial S.A. (Mannesmann), and Persico-Pizzamiglio S.A. (Persico). For purposes of this preliminary determination, the period for which we are measuring

subsidization ("the review period") is calendar year 1983.

Analysis of Programs

Throughout this notice, we refer to general principles applied to the facts of the instant investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to rigorous verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

In its response, the government of Brazil provided data for the applicable period, including financial statements and debt information for Confab, Mannesmann, and Persico.

Petitioners have alleged that both Mannesmann and Persico are uncreditworthy. For purposes of this preliminary determination, we assessed the creditworthiness of Mannesmann and Persico for the period 1978 through 1983. Based on our examination of Mannesmann's financial statements, we found Mannesmann to have been profitable in all but two of the last six fiscal years; in general, the financial position of the company was favorable. Therefore, we preliminarily determine Mannesmann to be creditwothty. In the case of Persico, we were provided with translated financial statements for the 1982 and 1983 fiscal years only. Based on our review of Persico's translated financial statements and a brief examination of the company's untranslated financial statements for the period 1978–1981, we found that, even though Persico incurred losses in the last two fiscal years, the company appears to have been profitable prior to that time. Accordingly, we preliminarily determine Persico to be creditworthy, but have requested translated financial statements for the last six years so that we may perform our usual detailed analysis.

For purposes of this preliminary determination, we are calculating an *ad valorem* subsidy rate for each company because of the material differences in the programs under which subsidies were received and in the subsidy rates of each company. We allocated the benefits received by each respondent in 1983 over the total sales value or export value, as appropriate, of each respondent.

Based upon our analysis of the petition and the response to our questionnaire, we preliminarily determine the following:

I. Programs Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of oil country tubular goods under the following programs.

A. Preferential Working Capital Financing for Exports (Resolutions 674 and 882)

Resolution 882 financing, administered by the Carteira do Comércio Exterior (CACEX) of the Banco do Brasil, is a form of short-term lending of working capital to purchase inputs for the production of goods destined for export. On January 1, 1984, Resolution 882 superseded Resolution 674, under which such financing was previously granted. Eligibility is determined on the basis of past exports or an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the interest rate ceiling on loans obtained under the program was raised from 40 to 60 percent. Resolution 882 changed the interest rate to full monetary correction plus three percent, the interest and principal being payable in one lump sum at the expiration of the loan. Confab, Mannesmann, and Persico have participated in the program.

Following CACEX approval of their applications, participants in the program receive certificates representing portions of the total dollar amount for which they are eligible. The certificates may be presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation. Use of a certificate establishes a loan obligation with a term of up to one year (360 days). Certificates must be used within 12 months of the date of issue and loans incurred as a result of their use must be repaid within 18 months of that date.

Since Resolution 882 financing is contingent on export performance, and provides funds to participants at interest rates lower than those available from commercial sources, we preliminarily determine that this program confers an export subsidy. In our notice of "Certain Carbon Steel Products from Brazil; Final Affirmative Countervailing Duty Determinations," which was published in the April 26, 1984 issue of the Federal Register (49 FR 17988), we used an effective benchmark rate reflecting compensating balances. Since that date, we have gathered information in a recent section 751 review which indicates that compensating balances are not usually required of their customers by Brazilian banks. Therefore, we used the minimum nominal discount rate of accounts receivable, which does not reflect compensating balances, as published in *Analise/Business Trends*, as our benchmark in calculating the subsidy.

Moreover, in earlier cases where we have used the nominal discount rate of accounts receivable, we used an uncompounded rate as our benchmark for Resolution 882 loans. We now feel that this rate is inappropriate, since compounding is necessary in order to equate the charges on a 90-day loan with an annual loan. Accordingly, we compounded the benchmark described above in our calculations (see the Subsidies Appendix).

We calculated the benefit as of the date of repayment of the loan, which is also the date the interest is paid under Resolution 882; in doing so, we applied the difference between the benchmark and the Resolution 882 rate to the amount of principal. This approach is consistent with our policy that we may recognize program-wide changes in a subsidy program that occur after the review period but prior to the preliminary determination. We allocated the benefit over the total value of all exports by each company under investigation, and calculated a subsidy rate of 10.15 percent *ad valorem* for Confab and 2.82 percent *ad valorem* for Mannesmann; Persico had no Resolution 674/882 loans due in 1983.

B. Export Financing Under the CIC–CREGE 14–11 Circular

Under its CIC–CREGE 14–11 circular ("14–11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract

equal to the amount of the loan. In addition to requiring exchange contracts, the Banco do Brasil requires that these loans be fully secured by collateral in the form of tangible property. The bank normally requires that the value of collateral equal at least 130 percent of the amount of the loan. The bank also charges a commission on all such loans.

All exporters of manufactured products with production cycles of less than 180 days may apply for these loans. The maximum level of eligibility is based on the value of the applicant's exports in the previous year. Companies receiving Resolution 882 loans have a maximum eligibility of 10 percent. All others have a maximum eligibility of 15 percent.

Although this program does in certain aspects appear to operate on a purely commercial basis, the government of Brazil has not supplied sufficient data to support its assertion that commissions, exchange contract requirements and collateral requirements serve to raise the effective rates on these loans to a level of comparability with those on short-term loans from other commercial sources. Without sufficient information with which to quantify these additional charges, we must compare unadjusted nominal rates on 14–11 loans with our commercial benchmark, *i.e.*, the nominal discount rate of accounts receivable, as the best information available. This comparison shows that the rate on 14–11 loans is below the benchmark.

Only Persico has obtained loans under this program. To calculate the benefit, we compared the inferest rates charged with the appropriate benchmark and applied the difference to the principal amounts. We then allocated the benefit over the total value of Persico's exports, which resulted in a subsidy rate of 0.96 percent *ad valorem* for Persico.

C. IPI Export Credit Premium

Brazilian exporters of manufactured products are eligible for a tax credit on the Imposto sôbre Produtos Industrializados (Industrialized Products Tax, or IPI). The IPI export credit premium has been found to confer a benefit in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981, in accordance with Ministry of Finance "Portaria" (Notice) No. 270 (amended by Portaria No. 252 on November 29, 1982).

Subsequent to April 1, 1981, this credit premium was partially phased out in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"). The government of Brazil reduced the benefit from 15 percent to 14 percent on March 31, 1982; from 14 percent to 12.5 percent on June 30, 1982; and from 12.5 percent to 11 percent on September 30, 1982.

We divided the credits earned in 1983 by each respondent over the total value of each company's exports in that year, and calculated a net subsidy of 0.18 percent *ad valorem* for Confab, 1.79 percent *ad valorem* for Mannesmann, and 0.52 percent *ad valorem* for Persico.

D. Export Profits Exemption From Corporate Income Tax

Under Decree-Laws 1158 and 1721, exporters of oil country tubular goods are eligible for an exemption from income tax of a portion of profits attributable to export revenue. Confab and Mannesmann S.A. took an exemption from income tax payable in 1983 on a portion of export profits earned in 1982. We multiplied that portion by the nominal corporate tax rate, and allocated the benefit over the total value of 1983 exports to calculate a subsidy rate of 1.06 percent *ad valorem* for Confab and 1.27 percent *ad valorem* for Mannesmann.

II. Programs Determined Not To Be Used

We preliminarily determined that manufacturers, producers or exporters in Brazil of oil country tubular goods did not use the following programs, listed in our notice of "Initiation of a Countervailing Duty Investigation; Oil Country Tubular Goods from Brazil" (49 FR 28290).

A. Funding for Expansion Through IPI Tax Rebates

Decree-Law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales.

The government of Brazil stated in its response that steel fabricators, a category which includes producers of oil country tubular goods, are not eligible for IPI rebates under Decree-Law 1547. Accordingly, we preliminarily determine that this program was not used by the producers of the products under investigation.

B. Exemption of IPI Tax and Customs Duties on Imported Equipment

Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council, or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capcity in Brazil.

Decree-Law 1726 repealed this program in 1979. Subsequently, no new projects were eligible for these benefits. However, companies whose projects were approved prior to the repeal still receive these benefits pending completion of the project.

The government of Brazil stated in its response that neither Confab, Mannesmann, nor Persico received any benefits under this program during the review period. We will seek confirmation of this assertion at verification, and preliminarily determine that this program was not used by the producers of the products under investigation.

C. Accelerated Depreciation for Equipment

Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. According to the government of Brazil, no respondent company availed itself of this program during the review period. We will seek confirmation of this assertion at verification, and preliminarily determine that this program was not used by the producers of the products under investigation.

D. Resolution 330 of the Banco Central do Brasil (BCB)

Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of oil country tubular goods would be eligible for financing under this program. However, the government of Brazil stated in its response that neither Confab, Mannesmann, nor Persico had participated in this program during the review period. We will seek confirmation of this assertion at verification, and preliminarily determine that this program was not used.

E. The BEFIEX Program

The Comissao para a Concessao de Beneficios Fiscais a Programas Especiais de Exportaçao (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFIEX) grants at least three categories of benefits to Brazilian exporters:

- Under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties and the IPI tax on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials and intermediary products;
- Under article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from 4 to 6 years;
- Under article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved projects.

In its response, the government of Brazil stated that none of the respondents had received benefits through this program. Most of the merchandise produced by the respondents is sold in Brazil, and they are not able to make the required export commitments. Moreover, receipt of fiscal incentives under the CDI program described *supra* makes a company ineligible for BEFIEX incentives. Accordingly, we preliminarily determine that this program was not used during the review period.

F. The PROEX Program

Petitioners allege that short-term credits for exporters were established under the Programa de Financiamento à Produçao para a Exportaçao (PROEX), previously referred to as the Apôio à Exportaçao program. In its response, the government of Brazil stated that none of the respondents participated in this program during the review period.

G. Incentives for Trading Companies

Petitioners allege that the respondents distribute their export sales through such intermediaries as trading companies, and that under Resolution 643 of the BCB, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 882. In its response, the government of Brazil stated that the respondents were ineligible for participation in this program, because such participation is precluded by receipt of Resolution 674/882 financing. Accordingly, we preliminarily determine that this program was not used during the review period.

H. Construction of a port for the Steel Industry

Petitioners allege that Brazil's Third National Development Plan (1980–85) provides for the construction of a port at Praia Mole designed mainly for the export of steel products and the imports of coal.

In its response, the government of Brazil indicated that the Praia Mole facility is located at Ponta Tubarao near Vitoria in the state of Espirito Santo. Its purpose is to allow the Companhia Siderurgica de Tubarao (CST) and Açominas to import coal and export iron ore and steel. It also indicated that Praia Mole, which is currently about half-completed, was not used for the exportation of oil country tubular goods during the review period. Accordingly, we preliminarily determine this facility was not used by the producers of the products under investigation.

I. The CIEX Program

Decree-Law 1428 authorizes the Comissao para Incentivos à Exportaçao (Commission for Export Incentives, or CIEX) to reduce import taxes and the IPI tax up to 10 percent on certain equipment for use in export production. In its response, the government of Brazil stated that the respondents did not receive any benefits under this program. Accordingly, we preliminarily determine that this program was not used by the producers of the products under investigation.

J. Resolution 68 (FINEX) Financing

Resolution 68 of the Conselho Nacional do Coméercio Exterior (CONCEX) provides that CACEX may draw upon the resources of the Fundo de Financiamento à Exportaçao (FINEX) to extend dollar-denominated loans to foreign buyers of Brazilian goods.

In its response, the government of Brazil stated that the respondents did not receive any benefits under this program during the review period. We will seek confirmation of this assertion during verfication, and preliminarily determine that this program was not used by the producers of the products under investigation.

III. Programs for Which Additional Information Is Needed

A. Government Guarantees on Long-Term Loans

Petitioners allege that the respondents have benefited from certain government guarantees on foreign-currency loans. In its response, the government of Brazil states that the Banco Nacional do Desenvolvimento Econômico e Social (BNDES) guaranteed a number of foreign-currency loans issued to Persico under Resolution 63 of the Banco do Brasil.

We have no information that Resolution 63 loan guarantees are not limited to a specific enterprise or industry, or group of enterprises or industries, or to industries in specific regions. However, the information available to us in the response indicates that the loan guarantees, for which Persico paid a fee, did not have any bearing on the interest rate and terms of the loans, and that the loan guarantees were made on terms not inconsistent with commercial considerations.

We intend to seek additional information during verification on: (1) Whether Resolution 63 loan guarantees are provided on an industry-specific or region-specific basis, (2) whether such guarantees are available from commercial sources, (3) the conditions under which government loan guarantees are granted in Brazil, and (4) the actual commercial experience of other Brazilian firms with respect to government loan guarantees.

B. Local Tax Incentives

Petitioners allege that the respondents benefited from certain unspecified local tax measures and incentives in Brazil. In its response, the government of Brazil states that it knows of no local tax measures that would benefit the respondents. We intend to seek additional information on local tax measures in Brazil during verification.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tublar goods from Brazil which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise as follows:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Confab Industrial S.A.	11.39
Mannesmann S.A. & Mannesmann Commercial S.A.	5.88
Persico-Pizzamiglio	1.48
All Other Manufacturers/Producers/Exporters	5.64

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) 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 determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on October 24, 1984, at the U.S. Department of Commerce, room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 17, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act [19 U.S.C. 1671b(f)].

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24106 Filed 9-11-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-469-406]

Oil Country Tubular Goods From Spain; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitutes subsidies within the meaning of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Spain of oil country tubular goods ("OCTG"). The net subsidy rates for each company are listed in the "Suspension of Liquidation" section of this notice. We are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of OCTG from Spain which are entered, or withdrawn from warehouse, for consumption on or after September 12, 1984. The Customs Service shall require a cash deposit or bond on these products in the amounts equal to the estimated net subsidies. If this investigation proceeds normally, we will make our final determinaiton by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, John M. Davies, or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-0167, (202) 377-1784, or (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Spain of OCTG. The following programs are preliminarily determined to confer subsidies:

- Medium- and Long-term Loans and Loan Guarantees;
- Certain Types of Short-term Loans Provided under the Privileged Circuit Exporter Credits Program; and
- Excessive Rebates of Indirect Taxes on Exports under the Desgravacion Fiscal a la Exportacion ("DFE")

For exports made prior to July 11, 1984, we estimate the net subsidy to be 21.24 percent *ad valorum* for Altos Hornos de Vizcaya, S.A. ("AHV"), 1.59 percent *ad valorem* for Tubos Reunidos, S.A. ("TR"), and 15.49 percent *ad valorem* for all other manufacturers, producers, or exporters in Spain of OCTG. For exports made on or after July 11, 1984, we estimate the net subsidy to be 19.04 percent *ad valorem* for AHV, 1.59 percent *ad valorem* for TR, and 13.93 percent *ad valorem* for all other manufacturers, producers, or exporters in Spain of OCTG.

Case History

On June 13, 1984 we received a petition from the Lone Star Steel Company and the CF & I Steel Corporation filed on behalf of the OCTG industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners alleged that manufacturers, producers, or exporters in Spain of OCTG receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports are materially injuring, or threatening to materially injure, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on July 3, 1983, we initiated an investigation (49 fR 28425). We stated that we expected to issue a preliminary determination by September 6, 1984. On August 3, 1984, the petition was amended and LTV Steel Company of Cleveland, Ohio, became co-petitioner.

Since Spain is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. On July 30, 1984, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (49 FR 31782).

We presented a questionnaire concerning the allegations to the government of Spain at its embassy in Washington, D.C., on July 13, 1984. On August 23, 1984, we received replies to the questionnaire from the government of Spain and Tubos Reunidos, S.A. On August 24, 1984, we received a response from Altos Hornos de Vizcaya, S.A. These two companies account for approximately 75 to 80 percent of Spanish OCTG exports to the United States during the period of investigation.

Scope of Investigation

The products covered by this investigation are oil country tubular goods. For the purpose of this investigation, the term "oil country tubular goods" covers hollow steel products of circular cross-section

intended for use in the drilling of oil or gas. These include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, to either American Petroleum Institute (API) or non-API specifications (such as proprietary), as currently provided for in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3216, 610.3219, 610.3233, 610.3249, 610.3252, 610.3256, 610.3258, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 6104946, 610.4954, 610.4957, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, 610.5244. This investigation includes OCTG that are in both finished or unfinished condition.

Altos Hornos de Vizcaya, S.A. and its subsidiary Laminaciones de Lesaca, S.A., Babcock and Wilcox Espanola, S.A., Tubos Reunidos, S.A., Transformaciones Metalurgicas Especiales, S.A., and Tubacex C.E. de Tubos per Extrusion, S.A. are the only known producers and exporters in Spain of the subject products which were exported to the United States. The period for which we are measuring subsidization is the 1983 calendar year.

Analysis of Programs

AHV and TR answered our questionnaire. For purposes of this preliminary determination, we have used the information provided by these two companies.

Certain subsidies discussed in this notice were conveyed through a series of laws and decrees issued by the government of Spain. Those laws and decrees include the following:

Decree 669/74 of March 14, 1974: This decree established the National Steel Industry Program, 1974–1982. To achieve the specific goals established by this program, the government authorized certain benefits for integrated and non-integrated steel firms which included preferential loans and loan terms, accelerated amortization of non-liquid investments, substantial reduction of certain taxes, and expropriation of land for new plant construction.

Law 60/1978 of December 23, 1978: This law authorized government aid in the form of preferential loans and loan terms and capital infusions for the three integrated steel producers in Spain, including AHV.

Order of May 22, 1980: This order authorized the Banco de Credito Industrial ("BCI") to extend additional government credits to non-integrated steel companies who had made investments under Decree 669/1974. BCI is a government credit institution which issues loans under government direction to companies in the Spanish steel industry.

Royal Decree 878/1981 of May 8, 1981: This decree, also known as the Integral Iron and Steel Reconversion Plan, provided aid to the integrated steel producers in the form of preferential interest rates and terms on outstanding loans, new loans with preferential interest rates and terms, loan guarantees, and capital infusions. Certain of the subsidy programs are administered by the Institution Nacional de Industria ("INI"), a public holding company created in 1941 as an autonomous government agency to promote and stimulate the industrial development of Spain. INI's responsibilities cover a variety of sectors ranging from basic services to basic industries such as iron and steel.

General principles applied to the facts in this investigation are described in the "Subsidies Appendix" contained in the Federal Register notice of our Final Affirmative Countervailing Duty Determination and Countervailing Duty Order on Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina (49 FR 18006).

For purposes of this preliminary determination, we have calculated company-specific *ad valorem* subsidy rates in accordance with 19 CFR 355.28(a)(3), which states that "If separate enterprises have received materially different benefits, such differences shall also be estimated and stated." We have found that there are significant differences in the size and structure of the companies under investigation and in the usage of programs determined to confer subsidies.

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to rigorous verification. If the response cannot be supported at verification and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

Based upon our analysis of the petition, the material provided by the government of Spain in response to our questionnaire, and other available information, we determine the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Spain of OCTG under the following programs:

A. Medium- and Long-Term Loans and Loan Guarantees

Petitioners alleged benefits which constitute subsidies in the form of preferential loans terms and loan guarantees. We requested information from each company under investigation on all medium- and long-term loans outstanding during the period of investigation. Both AHV and TR reported medium- and long-term loans outstanding during the period for which we are measuring subsidization.

We determine that the government of Spain authorizes or directs banks to lend funds to certain companies in certain industries at rates or on terms inconsistent with commercial considerations.

Generally, to calculate any subsidy on these loans, we used the loan methodology detailed in the Subsidies Appendix. For fixed rate loans, we used long-term benchmark interest rates developed in previous countervailing duty investigations on Certain Steel Products from Spain (47 FR 51428) and on Carbon Steel Wire Rod from Spain (49 FR 19551). As best information on the weighted average cost of capital, we used the long-term benchmark interest rates used for fixed rate loans. For variable rate long-term loans, we applied the 1983 short-term benchmark interest rate (described in section 1–B below), with an adjustment where appropriate for foreign currency exchange commissions, to the 1983 outstanding loan balance. Since we were unable to find a commercial loan guarantee for use as a benchmark, we evaluated the long-term loans with government guarantees using the appropriate fixed rate or variable rate methodology outlined above.

The majority of loans reported by AHV and TR contained provisions for deferred principal repayment. We varified in our investigation of Certain Steel Products from Spain that loans made at preferential interest rates to these companies and loans made at commercial rates within and outside of Spain contained similar deferral provisions. Therefore, for purposes of this preliminary determination, we are not treating deferral principal repayments as a separate countervailable benefit.

We did not find subsidies on loans to AHV and TR which reportedly carried no INI or government guarantee or which were not the result of government mandate.

1. AHV: In the 1982 investigation of Certain Carbon Steel Products from Spain (47 FR 51428), AHV was deemed uncreditworthy for the years 1979 through 1981. Based upon our Subsidies Appendix methodology and after careful review of the financial statements for the years 1982 and 1983, we continue to find AHV uncreditworthy for the prior period as well as for 1982 and 1983. To determine the creditworthiness of a company, we analyze its present and past financial condition, as reflected in various financial indicators calculated from its financial statements. We examined several of the company's standard financial ratios. Important ratios in which AHV reflected unfavorable performance in the years 1979 through 1983 are times interest earned (operating income divided by interest charges), net income as a precent of sales, debt to equity and return on equity.

For the time that it was creditworthy, prior to 1979, we used the long-term benchmark interest rates described above for AHV. For its uncreditworthy period we used as a benchmark average maximum interest rates published by the Banco de Espana plus the "risk premium" (as described in the Subsidies Appendix).

2. TR: Based on our Subsidies Appendix methodology and upon evidence of continuing operating profits during the period 1980 through 1983, we preliminarily find TR to be creditworthy for the 1983 period of review. We reviewed TR's annual reports (translated) and financial statements. The company's net income, return on equity, cash flow and other important financial ratios are favorable. Accordingly, we applied the long-term loan methodology described above.

We allocated the countervailable benefit from each loan over the total sales value of steel production of the company. We preliminarily determine that the *ad valorem* subsidy for medium- and long-term loans is 6.74 percent to AHV and 0.90 percent to TR.

B. Certain Types of Short-term Loans Provided Under the Privileged Circuit Exporter Credits Program

Petitioners alleged benefits which constitute subsidies in the form of short-term preferential loans. We requested information on all short-term loans outstanding during the period for which we are measuring subsidization. AHV reported no short-term financing under this program during this period. TR reported that it has obtained short-term financing under the Privileged Circuit Exporter Credits Program during the period of investigation.

The government of Spain requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged circuit accounts. These funds are made available to exporters at preferential interest rates through a variety of credit programs. While there is no direct outlay of government funds, the benefits conferred on the companies are the result of a government mandated program to promote exports. Of the four privileged circuit programs available to companies we preliminarily determine that OCTG producers benefited from two programs, the working-capital loans program and the pre-financing of exports program.

1. *Working Capital Loans.* Under the privileged circuit program, firms may obtain working-capital loans for one year, the total of which is not to exceed a specified percentage of their previous year's exports. In 1983, the privileged circuit working-capital loan interest rate ceiling mandated by the Government was 10 percent, including fees and commissions.

To calculate the subsidy we compared the interest rate charged on working capital loans with the national average commercial interest rate on loans.

We chose as our 1983 benchmark for short-term operating capital loans, the 1983 weighted-average commercial, lending rate of 17.64 percent for loans of one to three years.

To determine the benefit, we compared the interest rate charged on working capital loans with the national average commercial interest rate of 17.64 percent. This interest differential was multiplied by the total amount of TR's privileged circuit working capital loans. The resulting amount was allocated over the total sales value of all exports of TR in 1983. We preliminarily determine that the *ad valorem* subsidy for privileged circuit loans to TR is 0.58 percent.

2. *Prefinancing of Exports Program.* TR reported that it also received preferential prefinancing of exports. TR obtained loans with terms of two to six months to finance exports of OCTG to the United States.

We chose as our 1983 benchmark for short-term prefinancing of exports the 1983 weighted-average commercial lending rate of 17.12 percent for loans of three months.

To determine the benefit, we compared the interest rate charged on prefinancing of exports with the national average commercial interest rate of 17.12 percent. This interest differential was multiplied by the amount of TR's privileged export credit loans. The interest benefit was allocated over the total sales value of TR's exports to the United States during 1983. We preliminarily determine that the *ad valorem* subsidy for short-term prefinancing of exports to TR is 0.11 percent.

For this preliminary determination, we have compared nominal rates with nominal rates in our calculation of subsidies.

For the final determination, we will try to get more information concerning these loans in order to make an effective to effective rate comparison.

C. Excessive Rebates of Indirect Taxes on Exports Under the Desgravacion Fiscal a la Exportation ("DFE")

Petitioners alleged that countervailable benefits are conferred on Spanish OCTG producers under the DFE program by the excessive rebate of indirect taxes on the export of OCTG.

Spain employs a cascading tax system under which a turnover tax is levied on each intermediate sale of a product through its various stages of production up to, but not including, the final sale at the retail level. The DFE is the program designed to rebate to exporters these accumulated turnover taxes as well as final stage taxes on exportation.

To calculate the amount of subsidy potentially conferred by the DFE it is necessary to determine whether the remission of indirect taxes is excessive. According to the responses, the indirect taxes borne by billet (the only input being identified as physically incorporated in the final product) and the corresponding share of billet to the value of OCTG, lead to an allowable rebate exceeding the DFE payment of 14.5 percent (prior to July 11, 1984) and 12.3 percent (after July 11, 1984).

Information submitted by respondents indicates, however, that only one of the firms under investigation, TR, purchased billet from unrelated suppliers. The other producer, AHV, is fully integrated and has provided no information on its purchased inputs, or what taxes, if any, were paid on these purchases.

Accordingly, we find that for TR and DFE does not constitute an excessive remission of indirect taxes and hence confers no subsidy.

For AHV the integrated producer that provided no information on purchased inputs we find the entire DFE rebate of 14.5 percent to be a subsidy for the period previous to July 11, 1984. On July 11, 1984, the DFE rebate applicable to all

exporters of OCTG was reduced to 12.3 percent as part of Spain's transition to the value-added tax. Therefore, any exports of the merchandise under investigation on or after this date are subject to the lower DFE rate. Accordingly, we preliminarily determine that the DFE rebate confers an *ad valorem* subsidy of 12.3 percent on exports from AHV on or after July 11, 1984.

II. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that manufacturers, producers, or exporters in Spain of OCTG do not use the following programs that were identified in the notice of "Initiation of Countervailing Duty Investigation of OCTG from Spain".

A. Certain Privileged Circuit Credits

We discussed Privileged Circuit Credits in general, *supra*. We preliminarily determine that two programs, working-capital loans and prefinancing of exports provide subsidies to OCTG manufacturers, producers, or exporters. We preliminarily determine that the two remaining privileged circuit programs identified in our notice of initiation were not used by AHV or TR during the period of investigation. They are:

(1) Commercial services loans, and
(2) Short-term export credit.

B. Warehouse Construction Loans

Exporters desiring to construct warehouse facilities adjacent to loading zones may borrow 70–75 percent of the total investment. We preliminarily determine that AHV and TR have received no loans under this program.

C. Regional Investment Incentives Programs

The government of Spain and regional and municipal authorities provide various investment incentive programs. We preliminarily determine that AHV and TR have not participated in these regional programs.

D. Accelerated Depreciation and Reduction in Taxes

Decree 669/1974 permits the steel indutry to employ accelerated depreciation of non-liquid investments and to obtain a substantial reduction in certain taxes. We preliminarily determine that these programs were not used by AHV and TR.

E. Expropriation of Land for New Construction

Decree 669/1974 provided aid to certain industries by expropriating land for new plant construction. We preliminarily determine that AHV and TR have not used this program.

F. Grants

Petitioners allege that the Spanish OCTG producers have received grants from the government. We preliminarily determined that neither AHV nor TR have received grants from the government of Spain.

G. Energy Discounts

Petitioners allege that the OCTG producers receive discounts or rebates on energy prices under Law 878/1981. We preliminarily determine that AHV and TR have not received discounts or rebates on energy prices.

III. Programs for Which Additional Information Is Needed

Petitioners allege that the producers of OCTG purchase their steel inputs from Spanish producers which may themselves be subsidized. At this time, we do not have sufficient information from petitioners or respondents to determine whether countervailable benefits are being provided or to quantify the *ad valorem* amount of the possible subsidies regarding steel inputs. TR responded that it purchases steel inputs from unrelated companies; however, AHV did not respond directly to our questionnaire. Therefore, we intend to seek additional information on this issue during verification.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of OCTG from Spain which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amounts of 21.24 percent for AHV, 1.59 percent for TR, and 15.49 percent for all other manufacturers, producers, or exporters in Spain of OCTG for all exports made prior to July 11, 1984. For exports made on or after July 11, 1984, the amounts are 19.04 percent for AHV, 1.59 percent for TR, and 13.93 percent for all other manufacturers, producers, or exporters in Spain of OCTG. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination of whether these imports materially injure, or threaten to materially injure, a U.S. industry 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination on October 8, 1984, at 10:00 a.m. at the U.S. Department of Commerce, Room 3092, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 30, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–24108 Filed 9–11–84; 8:45 am]
BILLING CODE 3510–DS–M

[C-333-401]

Cotton Shop Towels From Peru; Suspension of Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Suspension of Countervailing Duty Investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving cotton shop towels from Peru. The basis for the suspension is an agreement to cease exports of this product to the United States.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Case History

On March 28, 1984, we received a petition from Milliken and Company filed on behalf of the U.S. cotton shop towel industry. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners alleged that manufacturers, producers, or exporters in Peru of cotton shop towels received, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act. We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation and on April 17, 1984, we initiated an investigation (49 FR 15250). We stated at that time that we expected to issue a preliminary determination by June 21, 1984.

Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and, therefore, section 303 of the Act applies to this investigation. The merchandise under investigation is dutiable. Therefore, under this section, the petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

We presented questionnaires concerning the allegations to the government of Peru at its Embassy in Washington, D.C., on April 24, 1984. On June 7, 1984, we received replies to the questionnaires.

We issued an affirmative preliminary determination on June 21, 1984. (49 FR 26273). We determined preliminarily that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act are being provided to manufacturers, producers or exporters in Peru of cotton shop towels. We preliminarily determined the net bounty or grant to be 44 percent *ad valorem*. The programs preliminarily determined to bestow countervailable benefits were the certificate of tax rebate (CERTEX) program and the non-traditional export fund (FENT).

We directed the U.S. Customs Service to suspend liquidation of all entries of the product under investigation which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants.

Verification of the questionnaire responses from the government and Fabrica de Tejidos La Union Limitada, S.A., (La Union) took place during the week of July 23-29, 1984.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. A public hearing was requested, but cancelled upon notice to the parties to the investigation of the initialing of a suspension agreement. Both petitioners and respondents filed pre-hearing briefs commenting on our preliminary determination.

On August 3, 1984 we initialed a proposed suspension agreement. Petitioners have had 30 days in which to submit comments regarding the proposed suspension agreement. By a letter dated August 31, 1984, petitioner informed us that it had no objection to the proposed suspension agreement.

Scope of Investigation

The product covered by this investigation is cotton shop towels. This merchandise is currently classified under item number 366.2740 of the Tariff Schedules of the United States Annotated (TSUSA).

The period for which we are measuring bounties or grants is the calendar year 1983.

Suspension of Investigation

The Department has consulted with the petitioners and has considered any comments submitted with respect to the proposed suspension agreement. We have determined the agreement will lead to the cessation within 6 months of imports from Peru of the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed September 4, 1984, are set forth in Annex I of this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of cotton shop towels from Peru effective June 27, 1983, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination: Cotton Shop Towels from Peru," 49 FR 26273, is hereby terminated. Any cash deposits on entries of cotton shop towels from Peru pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

Annex I—Suspension Agreement, Cotton Shop Towels from Peru

Pursuant to the provisions of section 704 of the Tariff Act of 1930 (The Act), and § 355.31 of the Department of Commerce Regulations, the Department of Commerce (the Department) and Fabrica de Tejidos La Union Limitada, S.A. (La Union), Av. Nicolas Ayllon 2681, El Augustino, Lima, Peru, and Santa Cecilia Compania Textil, S.A. (Santa Cecilia) Av. de las Torres 261 Lima 3, Peru, enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigation with respect to cotton shop towels from Peru, subject to the terms and provisions set forth below.

A. Product Coverage

This agreement applies to cotton shop towels from Peru which are the subject of the above referenced investigation, manufactured or exported by La Union, and Santa Cecilia and which are currently provided for under item number 366.2740 of the *Tariff Schedules of the United States* (hereinafter the subject product).

B. Basis for the Agreement

As of the effective date of this agreement, La Union and Santa Cecilia, exporters which account for substantially all of the exports of the subject product from Peru to the United States, agree not to make further exports of the subject product to the United States, either directly or through intermediaries, from Peru or through third countries.

C. Monitoring

La Union and Santa Cecilia will supply to the Department such information as the Department deems necessary to ensure that they are in full compliance with the terms of this agreement, so as to enable the Department to monitor this agreement effectively in accordance with section 704 of the Act and § 355.31 of the Department of Commerce Regulations. Such information shall include a quarterly statement of La Union's and Santa Cecilia's exports of the subject product to the United States and to all countries. The statement shall include the volume of the subject product exported either directly or through intermediaries, together with any information La Union and Santa Cecilia possess as to the ultimate destination of the merchandise, if this differs from the country to which the initial export is made. The statement shall be itemized by country of destination. In the absence of exports of the subject product to the United States, either directly or through intermediaries, La Union's and Santa Cecilia's quarterly statements shall so indicate. La Union and Santa Cecilia agree to submit such quarterly statements to the Department within 30 days after the beginning of the subsequent calendar quarter. La Union and Santa Cecilia will permit such data collection and verification as the Department deems necessary for monitoring this agreement. The Department may also request such information and conduct such verifications periodically purusant to the administrative reviews conducted under section 751 of the Act. If the Department requests information in addition to the quarterly statements specified above, it will explain, upon making such request, the reason or reasons why it considers such information and/or verification thereof necessary to ensure full compliance with terms of this agreement. La Union and Santa Cecilia will notify the Department immediately should they alter their positions with respect to any terms of this agreement.

D. Violation of the Agreement

The Departmental shall terminate this agreement and resume the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Department of Commerce's Regulations, with respect to the subject product if the Department determines, pursuant to section 704(i)(1) of the Act, that either La Union or Santa Cecilia has not honored its obligations under this agreement. Additionally, the Department will resume this investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Department of Commerce's Regulations, if it determines that the suspension of this investigation is no longer in the public interest or that effective monitoring is no longer practicable, as required by section 704(d)(1) (A) and (B) of the Act, or if this Agreement has been violated. Additionally, should La Union's and Santa Cecilia's annual imports of cotton shop towels from 1983 account for less than 85 percent of the cotton shop towels imported to the United States from Peru during any subsequent period of review, the Department, on its own initiative or at the request of the petitioner, may terminate this agreement and reopen the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Department of Commerce's Regulations. If reopened, the investigation will be resumed for all cotton shop towel exporters as if the affirmative preliminary determination was made on the date that the Department terminates this agreement.

E. Other Provisions

In entering into this agreement, La Union and Santa Cecilia do not admit that any benefits they have received in Peru on cotton shop towels are bounties, grants, or subsidies within the meaning of the United States countervailing duty law or any other United States law.

The effective date of this suspension agreement is the date of publication of notice of suspension of this investigation in the **Federal Register.**

Signed on this 4th day of September, 1984, for Fabrica de Tejidos La Union Limitada, S.A. and Santa Cecilia Compania Textil, S.A.
Gary M. Welsh

The Department intends immediately to begin an administrative review under section 751 of the Act. For further information regarding this review, contact Richard Moreland at (202) 377–2786.

Nothwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Dated: September 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24107 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-402]

Oil Country Tubular Goods From Korea: Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of oil country tubular goods (OCTG). The estimated net subsidy is 0.80 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Korea which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or bond on these products in the amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Rick Herring, Tom Bombelles, or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377–1785; 377–0187; or 377–3174; or 377–5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is a reasonable basis to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Korea of oil country tubular goods. The following programs are preliminarily determined to confer subsidies:

- Export Financing under the Export Financing Regulations
- Long-term Loans Provided Through the National Investment Fund
- Accelerated Depreciation under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption"
- Tax incentives for Exporters under Articles 22, 23 and 24 of the "Act

Concerning the Regulation of Tax Reduction and Exemption"
- Import Duty Deferrals under Article 36 of the Customs Act of Korea.

We estimate the net subsidy to be 0.80 percent *ad valorem*.

Case History

On June 13, 1984, we received a petition from Lone Star Steel Company and CF&I Steel Corporation filed on behalf of the OCTG industry. In compliance with the filing requirements of section 355.26 of our Regulations (19 CFR 355.26), petitions alleged that manufacturers, producers, or exporters in Korea of OCTG receive directly or indirectly benefits which constitute subsidies within the meaning of section 701 of the Act and that these imports materially injure, or threaten material injury to a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation and on July 3, 1984, we initiated an investigation (49 FR 28291). We stated that we expected to issue a preliminary determination by September 6, 1984. On August 3, 1984 LTV Steel Company entered this proceeding as a co-petitioner with Lone Star Steel Company and CF&I Steel Corporation.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act an injury determination is required for this investigation. On July 30, 1984, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that these imports materially injure, or threaten material injury to a U.S. industry (49 FR 31782).

We presented questionnaires concerning the allegations to the government of Korea at its embassy in Washington, D.C. on July 13 and July 23, 1984. On August 17, August 20 and August 21, we received replies to these questionnaires. On August 20 we presented a second supplemental questionnaire to the government of Korea. We received a response to this questionnaire on August 31. On July 18 and August 20, counsel for petitioners submitted additional information concerning the alleged subsidies. This information has been taken into consideration in this preliminary determination.

Scope of Investigation

The products covered by this investigation are oil country tubular goods (OCTG). For the purpose of this investigation the term "oil country tubular goods" covers hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, to either American Petroleum Institute (API) or non-API specifications (such as proprietary), as currently provided for in the *Tariff Schedules of the United States, Annotated (TSUSA)* under items 610.3216, 610.3219, 610.3233, 610.3249, 610.3252, 610.3256, 610.3258, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4957, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, 610.5244.
This investigation includes OCTG that are in both finished or unfinished condition.

There are five Korean producers of the subject merchandise which exported to the United States during the period of investigation: Hyundai Pipe Company (Hyundai Pipe), Korea Steel Pipe Company (Korea Steel), Pusan Steel Pipe Company (Pusan), DongJin Steel Company (DongJin), and Union Steel Manufacturing Company (Union). In addition, there are five trading companies which exported the subject merchandise to the United States during the period of investigation. The trading companies are the Hyundai Corporation, Kukje-ICC Corporation, Sunkyong Limited, Samsung Co., Ltd., and Daewoo Corporation.

Analysis of Programs

Throughout this notice, we refer to general principles applied to the facts of the current investigation. These general principles are described in detail in the "Subsidies Appendix" to the "Final Affirmative Countervailing Duty Determination and Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina" published in the **Federal Register** on April 26, 1984 (49 FR 18006). For purposes of this preliminary determination, we are calculating a country-wide rate. The period for which we are measuring subsidization is the 1983 calendar year which corresponds to the most recent fiscal year for each of the Korean producers and exporters.

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to rigorous verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

Based upon our analysis to date of the petition, the additional information filed by petitioners and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Korea of OCTG under the following programs:

A. Short-Term Export Financing Under the Export Financing Regulations

Petitioners allege that the producers and exporters in Korea of OCTG receive preferential short-term export financing under the following programs:
- Export Loans under the 1972 Regulations for Export Financing
- Export Loans provided under the Foreign Trade Act
- Deferred Payment Export Loans
- Preferential Exchange Rates for Export Loans Based on Letter of Credit.

According to the response of the government of Korea, short-term export financing is authorized through the Export Financing Regulations. These Regulations, which were promulgated by the Monetary Board in 1972, were last amended in November 1983. The Bank of Korea establishes the guidelines for the implementation of these regulations and the commercial banks administer the export financing program.

Eligibility for short-term export financing is limited to the following:
- Exporters in receipt of letters of credit;
- Exporters concluding documents of acceptance or documents against payment contracts;
- Exporters purchasing local supplies;
- Exporters stockpiling raw materials;
- Exporters with certificates based on past export performance;
- Producers of raw materials for export; and
- Companies awarded domestic projects based on international public tender.

The maximum term of short-term export loans is 90 days. These loans, unlike short-term domestic financing, cannot be rolled over.

Prior to June 28, 1982 short-term export loans provided under the Export Financing Regulations were charged a lower interest rate than short-term domestic loans. From June 28, 1982 until January 23, 1984 the Monetary Board

established a uniform rate of 10 percent for both export and domestic short-term financing provided by commercial banks. Since January 1984 the Monetary Board has been liberalizing the interest rate structure by allowing banks to lend at lower than the uniform rate depending on the creditworthiness of the company. The interest rate in effect during the period for which we are measuring subsidization was 10 percent for short-term export loans.

In order to determine whether short-term export financing under the Export Financing Regulations provides benefits which constitute export subsidies to the producers and exporters of OCTG, we must compare the 10 percent rate to the appropriate benchmark. As specified in the Subsidies Appendix, the benchmark for short-term loans is the most appropriate national average commercial method of short-term financing. Petitioners argue that the unofficial money (or curb) market establishes the appropriate market interest rate. The government of Korea's response contends that short-term loans from Korean commercial banks represent the most comparable commercial financing. Based upon our review and analysis of information submitted by both petitioners and respondents and upon our research of the credit and interest rate structure in Korea, we preliminarily determine that the most appropriate national average commercial rate consists of a weighted-average of the interest rates charged by all sources of short-term commercial financing in Korea. These sources include: commercial banks, financing companies, commercial paper and the curb market. Using a weighted-average is comparable to what we did in our final affirmative determination in *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina* (49 FR 18006), in which we determined that a weighted average of the regulated and unregulated interest rates best represented the national average commercial rate.

We did not select the curb market as the sole source for our benchmark because, contrary to petitioner's allegations, the curb market was not the "normal" source of commercial funds for many Korean companies and cannot be construed as a "national average." Although the information provided by petitioners establishes that use of the curb market is not limited to small and high-risk firms and that nearly all Korean firms borrow on the curb market at least occasionally, their evidence does not show that it is the dominant or normal source of funds for most companies. Indeed, to the contrary, the evidence suggests that the importance of the curb market is declining. Most firms normally would go to commercial banks or to foreign capital markets for financing. They would use the curb market only occasionally and generally for very short periods when they had a pressing liability and were temporarily unable to get access to standard commercial sources of funds. (See in particular, Korea Chamber of Commerce *Survey*, June 1984, Exhibit 13 of the Government of Korea's response, August 17, 1984.)

We also did not use the interest rate on short-term borrowing from commercial banks as the sole benchmark as urged respondents. Respondents alleged the curb market was too small in size to use, is principally used by small and risky firms, and is tainted by element of illegality.

First, the size as reported to Korean tax authorities is highly suspect given the reported wide incidence of tax evasion by those lending in the curb market. Independent evidence suggests it is significantly greater in size than the percentage of 0.65 reported in the response. Second, although small and high-risk firms may be the dominant users of the curb market, the evidence shows that virtually all companies use it at times. Thus, it is a normal, albeit not dominant, source of commercial financing for many companies. Third, the curb market is not illegal. What is illegal is the apparently widespread tax evasion which is associated with nonreporting of interest earned by those lending in the curb market. Accordingly, we disagree with respondent's arguments concerning use of the curb market rate in determining the benchmark.

The factors used to weight each of the four intrest rates were based on data from a number of sources, including the monthly *Statistical Bulletin* of the Bank of Korea and a research report prepared by the Korean Economic Research Institute. The *Statistical Bulletin* provides the size of, and interest rates charged on, short-term financing by banks, finance companies and commercial paper. The Economic Research institute report provides data on the size of the curb market in Korea.

For the curb market interest rate, we reviewed studies and articles from a variety of sources. We chose a rate of 3 percent per month as representative. This rate was compounded to yield an annualized rate of 42.6%. Using the data from all of these sources, we calculated a weighted-average short-term commercial rate. Applying this weighted-average as the benchmark we calculate an estimated subsidy of 0.58 percent *ad valorem*. The statistics and information upon which we based our calculation of the national average commercial rate are subject to verification. Any additional information submitted by petitioners and respondents whch is verified will be considered for the final determination.

With respect to petitioner's other allegations that other preferential short-term export financing is provided through the Foreign Trade Act, through a deferred payment program and through preferential exchange rates for export loans based on letters of credit, these program are discussed in the section "Programs Preliminarily Determined Not to Confer Subsidies."

B. Long-Term Loans Through the National Investment Fund

On December 14, 1973, the government of Korea promulgated the National Investment Fund Act (Law No. 2635). The stated "purpose of this Act is to prescribe necessary matters for the establishment and effective management of the National Investment Fund on the bases of extensive nationwide savings efforts and participation, to secure and supply the investment and loan funds needed to promote the construcion of major industries, including the heavy and chemical industries, as well as to help increase exports." Since one of the two stated purposes of the Act is to help increase exports, we preliminarily determine that National Investment Fund (NIF) loans constitute export subsidies if they are provided at preferential rates. As outlined in the Subsidies Appendix, the appropriate benchmark for long-term loans will be company-specific, unless the company lacks adequate comparable commercial experience. If a company lacks adequate comparable commercial experience, we use a national average loan interest rate. As discussed in the section "Programs For Which Additional Information Is Needed," we have determined that we need additional information on long-term loans through both specialized banks and commercial banks before determining whether such loans themselves constitute a subsidy. Because such loans are the only other comparable financing to NIF loans, and because we have not made a determination with respect to these loans, we do not consider that there is comparable commercial experience with which to compare NIF loans. Therefore, for purposes of this preliminay

determination we are using a national average rate for our benchmark. Because NIF long-term loans have variable interest rates, we do not perform present value calculations. Instead, we compare the interest rate paid by each company to the national average commercial rate for short-term loans during the period for which we are measuring subsidization. Using the weighted-average rate that we calculated for short-term export financing under the Export Financing Regulations as the benchmark, we find that the interest rates on NIF loans are preferential and as such confer benefits which constitute export subsidies. For NIF loans, we calculate an estimated subsidy of 0.03 percent of *ad valorem.*

C. Accelerated Depreciation

Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. Of the firms investigated, only Pusan used accelerated depreciation under this program. Because the use of accelerated depreciation is contingent upon export performance, we preliminarily determine that this program confers benefits which constitute export subsidies.

To calculate the benefits from the accelerated depreciation program for the period in which we are measuring subsidization (calendar year 1983), we determined the tax savings received in 1983 based on the accelerated depreciation which had been deducted from the 1982 income taxes payable in 1983. The amount of tax savings received under this program was divided by the total value of exports in 1983 to determine an estimated subsidy of 0.07 percent *ad valorem.*

D. Tax Incentives for Exporters

Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses. Under Article 22, a corporation may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23 governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. A corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses or when the one-year grace period expires. Pusan, Korea Steel, Kukje, Samsung, and Daewoo received benefits under these programs in 1983. We preliminarily determine that these export reserve programs confer benefits which constitute export subsidies because they provide a deferral of direct taxes specifically related to exports.

Because these export reserve funds are a one-year deferral of tax liabilities, we treat them as an interest free loan to the corporation equivalent to the tax savings on these funds. Accordingly, we have quantified the benefits from the reserve funds by calculating the amount of tax savings and then applying a rate of interest which the firm would have had to pay for a short-term loan. We are using the weighted-average rate calculated for short-term export financing *(supra).* Using this benchmark, we calculate an estimated subsidy of 0.09 percent *ad valorem.*

E. Import Duty Deferrals

Article 36 of the Customs Act of Korea permits the Ministry of Finance to designate an industry as eligible to pay customs duties on an installment basis, rather than upon entry. Prior to 1984, only "important" industries designated by the Ministry of Finance were eligible for import duty deferrals. The steel industry was allowed to make installment payments on import duties for a two-and-a-half to three year period. Because duty deferrals prior to 1984 were provided only to "important" industries designated by the Ministry of Finance, and because the respondents did not provide any information to show that during 1983 this program was not limited to a specific enterprise or industry or group of enterprises or industries, we preliminarily determine that these duty deferrals are countervailable.

We treat the deferral of duty as an interest-free loan during the period in which the payment of the duty is outstanding. To quantify the benefit from this program, we take the amount of duty deferred and apply a rate of interest the firm would have had to pay for a loan of comparable size and duration from commercial sources. Because the interest rates on long-term loans in Korea are variable, we consider that the appropriate benchmark is the corporate bond rate during the year in which duties were deferred. Using this benchmark, we calculate an estimated subsidy of 0.05 percent *ad valorem.*

II. Programs Preliminarily Determined Not To Confer a Subsidy

We preliminarily determine that benefits which constitute subsidies are not being provided to manufacturers, producers, or exporters in Korea of OCTG, under the following programs:

A. Certain Short-Term Export Financing

As discussed in the section "Programs Preliminarily Determined to Confer Subsidies", we found short-term export loans under the Export Financing Regulations to be countervailable. However, for the reasons discussed below, we find that certain other short-term export financing through the Foreign Trade Act, through deferred payment export loans or through preferential exchange rates for export loans are not countervailable:

1. *Export Financing under the Foreign Trade Act.* Petitioners allege that the government of Korea provides the steel industry with preferential short-term export financing under the Foreign Trade Act. According to the response of the government of Korea, the Foreign Trade Act was repealed on January 16, 1967. The government of Korea further states that short-term export financing is

not provided under the Foreign Trade Transactions Act. This law sets forth general trade procedures such as import-export licensing, and does not provide export financing. Since export loans are not provided under the Foreign Trade Transactions Act, we preliminarily determine that this Act does not confer a countervailable benefit to producers or exporters of OCTG.

2. *Deferred Payment Export Loans.* Petitioners allege that Korean producers and exporters of OCTG benefit from deferred payment of loans used to finance OCTG exports. According to the response of the government of Korea, there is no program offering deferred payment of export loans. Export loans are limited to a period of 90 days, except for certain exempted items which are not subject to this investigation. Therefore, we preliminarily determine there is no program offering deferred payment export loans that provides countervailable benefits to OCTG producers or exporters.

3. *Preferential Exchange Rates for Export Loans.* Petitioners allege that producers and exporters of OCTG receive preferential exchange rates for export loans based on letters of credit. Petitioners allege that the exchange rate used for loans based on letters of credit was ten percent more favorable to Korean exporters than the actual exchange rate. According to the response of the government of Korea, there is no preferential exchange rate used to convert export financing. For export loans granted under the Export Financing Regulations, a Won/U.S. dollar conversion factor which is lower than the official exchange rate is utilized merely to establish a ceiling on export financing.

For example, on loans for raw material imports the loan principal is determined by a fixed rate of W530/USD multiplied by the U.S. dollar value of the corresponding letter of credit. Therefore, we preliminarily determine that there is no program of preferential exchange rates for export loans that provides countervailable benefits to OCTG producers and exporters.

B. Medium- and Long-Term Export Financing

Petitioners allege that Korean exporters receive preferential medium- and long-term financing from the Export-Import Bank of Korea to finance exports of OCTG. According to respondents, the Export-Import Bank of Korea does not provide loans to the steel industry to finance the exports of OCTG. Respondents also state that the Korean Development Bank does not provide medium- or long-term export financing. Therefore, we preliminarily determine that there is no program offering medium- and long-term export loans that provides countervailable benefits to OCTG producers or exporters.

C. Investment Tax Credit

Petitioners allege that producers and exporters of OCTG may receive preferential tax benefits under Article 72 of the "Act Concerning the Regulation of Tax Reduction and Exemption" which provides for a temporary investment tax credit when the government deems it necessary for adjustment of economic activities. During the period from January 1, 1982 through December 31, 1982 Article 57–2 was the enforcement decree for Article 72. Article 57–2 specifies that the investment tax credit was available for the acquisition of fixed assets used directly for manufacturing or mining business. Consistent with past practice, programs available to all industries in the manufacturing and mining sectors are not limited to "a specific enterprise or industry, or group of enterprises or industries", and thus do not provide domestic subsidies. Since the tax credit is not contingent on export performance, it does not provide an export subsidy. Thus, we preliminarily determine that this program does not constitute a subsidy on the products under investigation during the period for which we are measuring subsidization.

D. Import Duty Reduction and Exemption for Raw Materials

Petitioners allege that producers and exporters of OCTG receive a reduction or exemption of import duties on iron ore and coal. The 1983 Tariff Schedules of Korea show that imports of iron ore and coal were not subject to any import duties. Therefore, we determine that there is no program providing a reduction or exemption of import duties on iron ore and coal that provides countervailable benefits to OCTG producers or exporters.

E. Subsidized Steel Inputs

Petitioners allege that DongJin may benefit from subsidies received by its parent company. Until 1984, DongJin was a wholly-owned subsidiary of Pohang Iron & Steel Company (POSCO), manufacturer of hot-rolled coil, blooms and billets. Petitioners allege that subsidies received by POSCO on those products may be being passed on to DongJin.

DongJin's raw material for OCTG is J–55 grade of hot-rolled steel coil. During 1983, DongJin purchased this product from POSCO and from an unrelated foreign supplier. The price paid by DongJin to POSCO was comparable to the price DongJin paid to its foreign supplier for hot-rolled coil. Furthermore, DongJin has informed us that no rebates or discounts are received from POSCO on these purchases. Consequently, we preliminarily determine that DongJin receives no countervailable benefits through its purchases of inputs from POSCO.

III. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that OCTG manufacturers, producers, or exporters in Korea do not use the following programs that were identified in the notice of "Initiation of Countervailing Duty Investigation of OCTG from Korea":

A. Preferential Utility Rates and Port Charges

Petitioners allege that "designated companies" under the Iron and Steel Industry Rehabilitation Order are eligible on a case-by-case-basis to receive discounts from regular utility and port rates. According to the responses, the rates charged to OCTG producers and exporters for utilities and the use of ports are the same as those charged to all other industrial users. In its response, the government states that this program under the Iron and Steel Industry Rehabilitation Order was never implemented.

B. Tariff Reductions on Imported Plant and Equipment

Petitioners allege that the government of Korea allows reductions of import duties for certain industries on certain items designated by the Ministry of Finance. According to the responses of the government of Korea and the companies, this program was not used by OCTG producers or exporters.

C. Free Export Zone Program

Petitioners allege that producers and exporters of OCTG receive tax benefits based upon location in a free export zone. According to the responses of the government of Korea, the producers and the trading companies, no OCTG manufacturer or exporter is located in a free export zone.

D. Foreign Capital Inducement Law

Petitioners allege that OCTG producers and exporters may be receiving financial and tax benefits under the Foreign Capital Inducement Law. According to the responses, no benefits have been received under this program.

E. Export Insurance

Petitioners allege that the government of Korea provides annual contributions to an export insurance program. According to the responses, export insurance was not used for exports of OCTG to the United States.

F. Steel Industry Development Scheme

Petitioners allege that the Korean Ministry of Commerce and Industry is sponsoring a steel industry development scheme in which the government will spend 210 billion won on POSCO's (DongJin's parent company) plant expansion project.

According to the response of the government of Korea, the Ministry of Trade and Commerce is not sponsoring such a scheme. POSCO's recent plant expansion was financed through retained earnings and foreign and domestic bank loans.

G. Training Aid

Petitioners allege that the steel industry has received training aid from the government of Korea. According to the response of the government of Korea and the OCTG producers, the steel industry has never received training grants.

H. Wage Controls

Petitioners allege that the government of Korea controls wages for government-run firms such as POSCO, resulting in lower production costs for this segment of Korean industry. It is further alleged that DongJin may benefit from government wage controls by virtue of its status as a wholly-owned subsidiary of POSCO. According to the response of the government of Korea, wages in Korea are not controlled by the government for private or state-owned enterprises. In addition, DongJin states in its response that the government does not control, in any way, the wages it pays to its employees.

I. Port Facilities

Petitioners allege that the government of Korea is constructing a port at Kwangyang Bay to facilitate the importation of coal and iron ore. It is further alleged that POSCO, and therefore its subsidiary, DongJin, will benefit from this port. According to the response of the government of Korea and the steel companies, POSCO, not the government, is constructing the port facilities. The port is scheduled for completion in 1987 and will not be used by any producer that exported OCTG to the United States during the period for which we are measuring subsidization.

IV. Programs for Which Additional Information Is Needed

We determine that additional information is needed on the following programs.

A. Medium- and Long-Term Government Financing

Petitioners allege that the steel industry has received preferential financing through Korean banks based on the government direction of credit and programs geared to providing loans to strategic industries. In Korea, two major groups of domestic institutions provide long-term financing: official financial institutions and commercial banks. The official institutions that have been involved in financing the steel industry include the Korea Development Bank (KDB), the Korean Exchange Bank (KEB), and the Export-Import Bank of Korea. With respect to commercial banks, until 1981 the government was the majority shareholder in each of these institutions. In addition, the government established the National Investment Fund (NIF) in 1973, through which long-term financing is made available to heavy and chemical industries, electronics and electric power industries and projects aimed at increasing food production. We have discussed long-term loans through the NIF in the section on "Programs Preliminarily Determined to Confer Subsidies."

For each of the official banks, the government has identified certain industries and sectors as priority sectors. These "designated" industries and sectors include shipbuilding, energy, iron and steel, electronics, non-ferrous metals, petro-chemicals, automobile manufacturing, machinery, aviation, agriculture and fisheries. With regard to the commercial banks, the government has not officially designated priority industries: however, national industrial and economic policies, as outlined in Korea's five-year plans and other official publications, do identify and designate certain industries for priority development. These are generally the same industries designated for the official financial institutions.

In previous determinations we have found that a subsidy exists where the government directs banks to lend funds to certain industries or groups of industries on terms inconsistent with commercial considerations or at preferential rates (see Final Affirmative Countervailing Duty Determination, *Carbon Steel Wire Rod from Spain*, 49 FR 19551, 19553). The issue presented here is whether the 11 disparate sectors designated as priority sectors can be said to constitute "a specific enterprise or industry or group of enterprises or industries" within the scope of section 771(5)(B) of the Act, or whether this grouping is too large. If too large, then by definition there is not subsidy (assuming no priority industry receives a disproportionate share of credit from the banks). In prior determinations we have found programs available to the entire agricultural sector to be available to more than a specific group of industries and thus not countervailable (see Final Negative Countervailing Duty Determination, *Fresh Asparagus from Mexico*, 48 FR 21618). Likewise, a program available to all extractive industries was not a subsidy (see Final Affirmative Countervailing Duty Determinations, *Certain Steel Products from France*, (47 FR 39332). Even more to the point, in the Suspension of Countervailing Duty Investigation, *Carbon Steel Wire Rod from Brazil*, 47 FR 42399), we found that FINAME loans were available to a wide variety of sectors in Brazil. We said in that determination: "While the steel industry is one of the chief recipients, this appears to be warranted in view of the capital requirements of a large capital intensive industry. Other large capital-intensive industries have received loans in similar proportions. In addition, numerous other sectors also received loans from FINAME during this period."

Reliance on the Final Affirmative Countervailing Duty Determination, *Certain Steel Products from Brazil*, (49 FR 17988), as contrary precedent is inappropriate. Exemption from the IPI tax was found countervailable because even though nominally available to 14 product sectors, we found that only specific companies producing certain priority products and having approved expansion projects received the exemption. The exemption was not even available to all steel companies. Thus, consistent with past precedent, we would find that the range of sectors identified by the government of Korea for priority development is too broad to constitute a group of industries. However, this does not end our inquiry.

As implied in the Brazilian rod determination and as stated in the Final Affirmative Countervailing Duty Determination, *Certain Steel Products from Korea*, (47 FR 57535), even if a program on its face is not limited to "a specific enterprise or industry or group of enterprises or industries," we look to see if it was selective in its implementation (*i.e.*, if the steel companies received a disproportionate share of the long-term loans). For

example in the Final Negative Countervailing Duty Determination in *Fireplace Mesh Panels from Taiwan*, (48 FR 11305), we said that a program ". . . which does not target benefits or otherwise effectively predetermine the provision of benefits to an industry or a limited group of industries . . .". is not a subsidy. Accordingly, we must analyze whether the designated industry under investigation has received a disproportionate share of available credit and whether there are different interest rates being charged each of the designated industries.

We know that during 1983, (1) the steel industry did not receive loans in greater proportion than its share of the GNP, and (2) all industries, whether designated or not, were charged a 10 percent interest rate on their long-term loans. However, we know that during the 1970's priority sectors were charged lower interest rates than non-priority sectors. These interest differentials were reduced starting in mid-1980 and were eliminated on June 28, 1982 (Korea Exchange Bank, Monthly Review (November 1983) at 6–7; Exhibit 12 to the petition of United States Steel Corporation, petitioner in an ongoing investigation involving structural shapes and cold-rolled carbon steel flat-rolled products from Korea). A number of the loans to OCTG producers that were outstanding in 1983 were provided in the 1970's. We have no information on the record showing that in the 1970's the steel industry did receive a disproportionate share of available credit or that it was charged a more preferential interest rate than other industries. Accordingly, we cannot determine at this time whether a subsidy was provided. We are seeking additional information on these two issues.

In addition, we requested information as to whether the government of Korea channels interest rate subsidies in the form of assistance to meet interest obligations through the National Investment Fund (NIF) and the Korean Development Bank (KDB) to producers of OCTG. According to its response, the government of Korea does not provide any assistance to the steel industry in meeting its interest obligations. However, we intend to seek additional information with regard to this issue.

B. Government Provision of Equity

In their July 18 submission, petitioners alleged that POSCO, the parent company of DongJin received government equity infusions on terms consistent with commercial considerations and that this equity subsidy may have been passed through POSCO to DongJin. In order to determine whether any equity investment made by POSCO into DongJin is a subsidy, we must, as a threshold matter, determine whether the infusion was on terms inconsistent with commercial considerations.

The circumstances of DongJin's formation, and POSCO's equity infusion into it, are quite complex. According to the responses, DongJin was established on October 27, 1982 by POSCO. POSCO made a seed money equity infusion into DongJin at that time. DongJin was apparently formed to purchase the assets and inventory of a former steel company, Illsin. Illsin had been declared bankrupt in May, 1982. In accordance with Korean bankruptcy law, the courts foreclosed upon Illsin's assets in order to settle accounts with creditors, and sold these assets to two banks. These banks, in turn, offered the assets for sale to all purchasers as required by Korean banking regulations. DongJin purchased the assets.

The Subsidies Appendix states that to be "equityworthy" a company must show the ability to generate a reasonable rate of return within a reasonable period of time. We have insufficient information on the record to determine whether DongJin meets this standard at the time POSCO made its equity infusion. We are seeking additional information on this issue.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the response that cannot be verified in our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tubular goods from Korea which are entered, or withdraw from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amount of 0.80 percent *ad valorem.*, This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its determination of whether these imports materially injure, or threaten material injury to a U.S. industry within 45 days after our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 26, 1984 at the U.S. Department of Commerce, Room 6802, 14th Street and Constitutional Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address with 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 22, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–24104 Filed 9–11–84; 8:45 am]

BILLING CODE 3510-DS-M

[C–201–404]

Preliminary Affirmative Countervailing Duty Determination: Oil Country Tubular Goods From Mexico

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute

bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of oil country tubular goods as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is preliminarily determined to be 5.65 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tubular goods from Mexico which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination on November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–5414 or 377–4412.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits that constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of oil country tubular goods as described in the "Scope of Investigation" section of this notice. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)—to producers;
- Nacional Financiera, S.A. loans (NAFINSA);
- Preferential Federal Tax Incentives (CEPROFI)
- Energy Discounts

The estimated bounty or grant is 5.65 percent *ad valorem*. For this preliminary determination we are using the government of Mexico's questionnaire response and the company specific information provided by Tubos de Acero de Mexico, S.A. (TAMSA), the company that accounts for more than 85 percent, by volume, of the exports of the products under investigation to the United States.

Case History

On June 13, 1984, we received a petition from the Lone Star Steel Company of Dallas, Texas, and the CF&I Steel Corporation, of Pueblo, Colorado, on behalf of the oil country tubular goods industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of oil country tubular goods (OCTG) receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found the petition to provide sufficient grounds upon which to initiate an investigation, and on July 3, 1984, we did so (49 FR 28292). We stated that we expected to issue a preliminary determination by September 6, 1984. On August 3, 1984, the petition was amended and LTV Steel Company of Cleveland, Ohio became co-petitioner.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, sections 303(a)(1) and (b) of the Act apply to this investigation. Accordingly, the domestic industry is not required to allege that, and the United States International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C. on July 13, 1984. On August 17, 1984, we received responses to the questionnaire from the government of Mexico, Hylsa and TAMSA. We subsequently notified the government of Mexico that we would not require responses from the other companies which had been identified as producers and/or exporters of the products under investigation.

Scope of the Investigation

The products covered by this investigation are "oil country tubular goods," which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, to either American Petroleum Institute (API) or proprietary specifications, as currently provided for in the *Tariff Schedules of the United States, Annotated (TSUSA)* under items 610.3216, 610.3219, 610.3233, 610.3249, 610.3252, 610.3256, 610.3258, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4957, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished or unfinished condition.

The period for which we are measuring subsidization is calendar year 1983. The Mexican government responded that there are seven known producers of OCTG, of which only four are exporters. Hylsa and TAMSA responded to the questionnaire. However, because Hylsa did not export the products under investigation during calendar year 1983, and TAMSA accounts for more than 85 percent, by volume, of the exports of OCTG to the United States, we used the information provided by TAMSA in making this preliminary determination.

Analysis of Programs

Throughout this notice, we refer to general principles applied to the facts of the current investigation. These general principles are described in detail in the Subsidies Appendix to the "Final Affirmative Countervailing Duty Determination and Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina", published in the Federal Register on April 26, 1984 (49 FR 18006). For purposes of this preliminary determination, we are calculating a country-wide rate.

In response to our questionnaire, the government of Mexico and the responding companies provided data for the applicable period. Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to rigorous verification. If the response cannot be supported at verification and the program is otherwise countervailable, the program will be considered to confer a bounty or grant in the final determination.

Based upon our analysis to date of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to

manufacturers, producers, or exporters in Mexico of OCTG under the following programs:

A. Preferential Financing Programs

1. *Fund for the Promotion of Exportation of Mexican Manufactured Products (FOMEX) to Producers.* FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions that establish contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank for Foreign Trade.

During the period for which we are measuring subsidization, exporters could obtain either FOMEX pre-export loans denominated in pesos with a maximum nominal annual interest rate of 8 percent, or denominated in dollars with a maximum annual interest rate of 6 percent. The maximum interest rates chargeable were increased in April 1984. TAMSA received pre-export, peso-denominated FOMEX loans during the period under investigation.

Because the FOMEX pre-export financing program provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon the exportation of OCTG.

We used the national average commercial rate as the benchmark for short-term peso-denominated borrowing. For this purpose, we chose the nominal rate publishd monthly by the Banco de Mexico in the *Indicadores Economicos* (the "IE" rate). These rates are the weighted averages of the rates charged by commercial banks on peso loans.

We determined the benefits from these loans based on a comparison of the cost to the recipient of the FOMEX financing and the cost of comparable commercially available loans. Because these loans are export-related, we allocated the benefit received over TAMSA's total exports during the period for which we are measuring subsidization. On this basis, we calculated a bounty or grant in the amount of 0.35 percent *ad valorem.*

2. *Nacional Financiera, S.A. Loans (NAFINSA).* The petitioners alleged that the OCTG industry receives loans at preferential interest rates through NAFINSA. The government of Mexico did not provide any information with regard to the operation of NAFINSA. TAMSA received short-term loans at interest rates less than those for comparable commercially available loans from NAFINSA during the period of investigation. Because we have no evidence on the record that these loans are not limited to a specific industry, group of industries, or to companies in specific regions, we preliminarily determine that these loans confer a bounty or grant.

We used the national average commercial rate as the benchmark for short-term peso-denominated borrowing. For this purpose, we chose the same rate we chose for the FOMEX loans to producers. These rates are the weighted averages of the rates charged by commercial banks on peso loans.

We determined the benefits from these loans based on a comparison of the cost of the NAFINSA financing and the cost of comparable commercially available loans. We allocated the benefit received over TAMSA's total sales during the period for which we are measuring subsidization. On this basis, we calculated a bounty or grant in the amount of 0.02 percent *ad valorem.*

B. Preferential Federal Tax Credits (CEPROFI)

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms. CEPROFI tax credits are granted for investments in plant and equipment and for certain payments relating to increased employment and wages. The value of the tax credits are established as a percentage of the investment made. Certain types of investments receive higher percentage tax credits than do others.

CEPROFI certificates are tax certificates of fixed value, which may be used for a five-year period to pay Mexican federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries on equal terms.

Article 25 of the decree authorizing the issuance of CEPROFIs, published in the *Diario Official de la Federacion (Diario Official)* on March 6, 1979, requires each recipient to pay a 4 percent supervision fee. The 4 percent supervision fee is "paid in order to qualify for, or to receive" the CEPROFIs, and is therefore an allowable offset from the gross bounty or grant as defined by section 771(6)(A) of the Act.

CEPROFs for the purchase of Mexican-made capital goods in the amount of 5 percent of the value of the good, have been determined not to be countervailable. (*See* Final Affirmative Countervailing Duty Determination on Lime from Mexico, August 18, 1984). Therefore, with respect to the countervailable CEPROFIs for the purchase of Mexican-made capital goods, the benefit to the recipient is the difference between the 20 percent countervailable CEPROFI and the 5 percent non-countervailable CEPROFI.

The benefit provided by CEPROFIs is the amount of the certificates received less both the amount determined not to be countervailable and the supervision fee.

TAMSA received CEPROFIs for increased employment and for investment in equipment and buildings. Because these types of CEPROFIs are limited to a specific group of industries or to companies located in specific regions. We preliminarily determine that these CEPROFIs confer a bounty or grant.

We allocated the amount of CEPROFI benefits received during the period of investigation over TAMSA's total sales of all products. On this basis we calculated a bounty or grant of 5.04 percent *ad valorem.*

C. Energy Discounts

Petitioners alleged that OCTG producers receive discounts on energy prices from the state-owned electricity, oil and natural gas suppliers.

The program under which these discounts are available was established by a Presidential Decree published in the *Diario Oficial* on December 29, 1978. Based on a Presidential Decree published on June 19, 1979, the deadline for accepting applications was November 30, 1982. Those companies that qualified prior to the deadline are eligible to receive benefits until November 30, 1988, when the program is due to expire. The discounts are available to any company which makes new investment and is located in the priority zones.

TAMSA qualifies for, and receives, a discount on its purchases of natural gas. Because receipt of these discounts is limited to companies investing in priority zones, we preliminary determine that this program confers a bounty or grant.

We allocated the amount of the discounts received during the period over TAMSA's total sales of all products. On this basis we calculated a bounty or grant of 0.24 percent *ad valorem.*

II. Program Preliminary Determined Not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Mexico of OCTG under the following program:

A. National Preinvestment Fund for Studies and Projects (FONEP)

FONEP finances economic, technical, and feasibility studies for Mexican firms. Loans to finance feasibility studies have been determined not to confer bounties or grants. (*See* Final Affirmative Countervailing Duty Determination on Bars and Shapes from Mexico, 49 FR 32887).

III. Programs Preliminarily Determined Not to be Used

We preliminarily determine that the following programs have not been used by the companies that manufacture, produce, or export OCTG in Mexico. Unless otherwise indicated, the basis for these determinations is the Mexican government's statement that the responding manufacturers, producers, and exporters of OCTG did not receive benefits under these programs.

A. Preferential Financing Programs

1. *Fund for the Promotion of Exportation of Mexican Manufactured Products (FOMEX)—to importers.* FOMEX may provide preferential financing to U.S. importers of Mexican products.

2. *Fund for Industrial Development Providing Credit for the Production of Exports (FONEI).* FONEI grants long-term credit for the creation, expansion, or moderization of enterprises in particular geographic regions.

3. *Article 94 Loans.* Under section II of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations (the Banking Law) the Bank of Mexico establishes channels of credit to different sectors of economic activity.

4. *Guarantee and Development Fund for Medium and Small Businesses (FOGAIN).* All small- and medium-size businesses may receive loans under FOGAIN; however, rates vary according to location in various priority zones within Mexico.

5. *National Preinvestment Fund for Studies and Projects (FONEP).* FONEP finances economic, technical, and feasibility studies for Mexican firms. FONEP loans to finance feasibility studies have been determined not to confer bounties or grants, see the "Program Determined Not to Confer Bounties or Grants" section of this notice. However, we preliminarily determine that FONEP financing of economic and technical studies has not been used by the Mexican OCTG industry.

6. *National Fund for the Development of Industry (FOMIN).* FOMIN is a trust fund that funds small- and Medium-sized companies through stock purchases or loans at rates below those of commercial lending institutions.

B. Accelerated Depreciation

Companies may benefit from accelerated depreciation based on their status as a priority industry or their location in specific regions of the country.

C. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Industries in Mexico may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the U.S.

D. Subsidized Steel Inputs

The responses stated that the only raw materials that TAMSA purchases are purchased from unrelated suppliers. Without relationship between the purchaser and the supplier, we have no reason to believe, nor is there any evidence of a pass through of subsidies. Therefore, we preliminarily determine that this program is not used.

E. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)

FIDEIN is aimed at developing industrial parks and cities.

F. Government Financed Technology Development

The National Development Program may assist industries in Mexico through grants for the purchase of technology for new plants.

IV. Program for Which More Information Is Needed

We preliminarily determine that more information is needed with regard to the following program:

A. Port Facilities

Petitioners allege that the Mexican OCTG industry benefits from the preferential use of Mexican port facilities. The responses stated that, although TAMSA does export through the Port of Veracruz, they do not receive or benefit from any type of preferential port charges.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tubular goods from Mexico which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amount of 5.65 percent *ad valorem.* This suspension will remain in effect until further notice.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 4, 1984, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In additon, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 27, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24103 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-402]

Potassium Chloride From the German Democratic Republic: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that potassium chloride

(potash) from the German Democratic Republic (GDR) is being, or is 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 we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise that 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 112.17 percent of the ex-factory value of the merchandise. If this investigation proceeds normally, we will make a final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Frank Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; Telephone (202) 377–4087.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that potash from the GDR is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 112.17 percent.

If this investigation proceeds normally, we will make a final determination by November 20, 1984.

Case History

On March 30, 1984, we received a petition from counsel for AMAX Chemical, Incorporated and Kerr-McGee Chemical Corporation filed on behalf of the domestic producers of potash. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioners alleged that imports of potash from the GDR are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Act, and that these imports materially injure or threaten material injury to a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on April 18, 1984 (49 FR 18004). On May 14, 1984, the ITC determined that there is a reasonable indication that imports of potash are materially injuring a U.S. industry.

On April 27, 1984, a questionnaire was presented to the government of the GDR. On June 5, 1984, we received a response from Kali Bergbau, the state controlled producer of potash in the GDR. As discussed under the "Foreign Market Value" section of this notice, we have preliminarily determined that the GDR is a state-controlled-economy country for the purpose of this investigation.

Scope of Investigation

The merchandise covered by this investigation is potassium chloride, otherwide known as muriate of potash, as currently provided for in item 480.50 of the *Tariff Schedules of the United States.*

Because Kali Bergbau accounted for all exports of this merchandise to the United States, we limited our investigation to that firm. We investigated all sales of potash for the period October 1, 1983, through March 31, 1984.

Fair Value Comparisons

To determine whether sales in the United States of the subject merchandise 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 the purchase price of the subject merchandise to represent the United States price for sales by Kali Bergbau because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase based on the f.o.b. price to unrelated purchasers. We made deductions for foreign inland freight, brokerage, and loading charges.

In accordance with the policy set forth in our recent final determination in the investigation of carbon steel wire rod from Poland (49 FR 29434, July 20, 1984) we based these deductions on charges in a non-state-controlled-economy country. The country we used in this investigation was the Federal Republic of Germany (FRG). We used costs in the FRG for the reasons stated below in the "Foreign Market Value" section.

Foreign Market Value

In accordance with section 773(c) of the Act, we used prices of potash sold in the home market of the FRG to determine foreign market value. This is because petitioners alleged that the GDR is a state-controlled-economy country and that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(a). After an analysis of the GDR's economy, and consideration of the briefs submitted by the parties, we have preliminarily concluded that the GDR is a state-controlled-economy country for purposes of this investigation. Basic to our decision on this issue is the fact that the central government of the GDR strictly controls the prices and levels of production of the fertilizer industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled-economy.

After an analysis of countries producing potash, we determined that the FRG would be the most appropriate surrogate. However, we have been unable to develop actual prices for potash in the FRG prior to the preliminary determination.

Therefore, pursuant to § 353.8(a)(1) of our regulations, we based foreign market value on average home market price list prices, during the period under investigation, for the only producer of potash in the FRG. We made deductions for inland freight, based upon the petitioner's estimate of the average distance to purchasers in the FRG, and for a discount for prompt payment as shown on the price list. We made an adjustment for differences in the potassium oxide (K20) content of the potash sold in the FRG, which contains 50 percent K20, and that exorted from the USSR, which contains 60 percent K20. In making this adjustment, we used the relative percentages of K20 in the potash sold in both markets to determine the difference in market value of the merchandise as authorized by § 353.16 of our regulations.

In the absence of information concerning actual sales in the FRG, we made no circumstance of sale adjustments in reaching this preliminary determination. In addition, counsel for the respondent asserted that the producer in the FRG grants discounts from the price list prices and that the listed prices are for a different level of trade than for GDR sales to the United States. However, we do not have adequate information on which to make a deduction for the reported discounts or to adjust for a difference in the level of

trade. We will seek further information on sales in the FRG, including possible circumstance of sale and level of trade adjustments, for the final determination.

Verification

We will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of potash from the GDR that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall 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 exceeded the United States price, which was 112.17 percent of the ex-factory value. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on October 4, 1984, at the U.S. Department of Commerce, room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 27, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24102 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-402]

Potassium Chloride From Israel; Preliminary Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that potassium chloride from Israel is not being, nor is 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.

If this investigation proceeds normally, we will make a final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377-4929.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that there is no reasonable basis to believe or suspect that potassium chloride from Israel is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act, 1930, as amended (19 U.S.C. 1673b) (the Act). We found that the United States price of potassium chloride from Israel exceeded the foreign market value on approximately 95 percent of all sales of this product. The weighted-average margin for the Dead Sea Works, Ltd. (DSW) was 0.08 percent, which is *de minimis*.

If this investigation proceeds normally, we will make a final determination by November 20, 1984.

Case History

On March 29, 1984, we received a petition filed by AMAX Chemicals Inc., Lakeland, Florida, and Kerr-McGee Chemical Corporation, Oklahoma City, Oklahoma, on behalf of U.S. producers of potassium chloride who represent a major portion of that industry. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Israel are being, or likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

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 April 18, 1984 (49 FR 18005). On May 14, 1984, the ITC determined that there is a reasonable indication that imports of potassium chloride from Israel are materially injuring a U.S. industry (49 FR 21813).

We presented a questionnaire concerning the allegations to DSW, the only known Israeli producer of potassium chloride, in Washington, D.C., on April 24, 1984, and requested a response by May 23, 1984. In a letter dated May 3, 1984, DSW requested an extension until June 6 to submit its response. We granted an extension until June 6 and on that date we received a response from DSW.

Scope of Investigation

The product covered by this investigation is potassium chloride, currently provided for under item 480.5000 of the *Tariff Schedules of the United States Annotated.* Since DSW is the sole Israeli manufacturer of this merchandise we limited our investigation to this one firm. We investigated 100 percent of sales of this merchandise by DSW to the United States during the period October 1, 1983, through March 31, 1984.

Fair Value Comparisons

To determine whether sales of the subject mechandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

Since we found that the Israeli home market prices were constantly adjusted upward to reflect the high rate of inflation in Israel during the period of investigation, we calculated a foreign market value for each month of the period of investigation. We then made our fair value comparisons using the appropriate monthly foreign market value.

United States Price

As provided in section 772(c), of the Act, we used the exporter's sale price of the subject merchandise to represent the United States price for sales by DSW because the merchandise was first sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the F.O.B. bulk unpacked price to United States purchasers. We made deductions from the gross price to unrelated purchasers, where appropriate, for Israeli inland freight, U.S. and Israeli brokerage fees, commissions, credit expenses, ocean freight, marine insurance and United States warehousing. The United States warehousing deduction was calculated based on the best information available to the Department. We have requested from DSW, and we utilize in our final determination, information on warehousing as well as other expenses occurred in the United States by or for the account of DSW.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on DSW's home market prices. DSW made sufficient sales of potassium chloride in the Israeli home market to form a basis for fair value comparisons. Since the vast majority of DSW's home market sales were made in U.S. dollars all home market sales not so made were converted to U.S. dollars prior to calculating foreign market value. Accordingly, all deductions and adjustments to home market sales which had been calculated in Israeli shekels were converted to United States dollars. All currency conversions of Israeli shekels to U.S. dollars for home market sales were made in accordance with § 353.56(a) of the Commerce regulations using the certified daily exchange rates.

We calculated foreign market value by deducting from the gross, packed F.O.B. ex-works or Dimona prices to unrelated purchasers the following items, where appropriate: packing, inland freight, credit expense, and commissions. We did not allow a claimed adjustment under § 353.15(c) for home market indirect selling expenses since we have no information on indirect selling expenses in the United States market. To the extent additional information reveals indirect selling expenses in the U.S. market, we will adjust foreign market value for indirect selling expenses up to the amount of such expenses in the U.S., in accordance with § 353.15(c) of the Regulations.

Verification

In accordance with section 773(a) of the Act, we will verify all information used in making our final determination.

ITC Notification

In accordance with 733(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR § 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on October 3, 1984, at the United States Department of Commerce, Conference Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 26, 1984. Oral presentations will be limited to issues raised in the briefs. All written view should be filed in accordance with 19 CFR 353.46 within 30 days of publication of this notice, at the above address and at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24100 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-402]

Potassium Chloride From Spain; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that potassium chloride from Spain is being, or is 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 we have directed the U.S. Customs Service to suspend the liquidation of all entries of potassium chloride from Spain that 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 amounts equal to 43.65 percent. If this investigation proceeds normally, we will make a final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that potassium chloride from Spain is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act 1930, as amended (19 U.S.C. 1673b) (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 43.65 percent.

If this investigation proceeds normally, we will make a final determination by November 20, 1984.

Case History

On March 29, 1984, we received a petition filed by AMAX Chemicals Inc., Lakeland, Florida, and Kerr-McGee Chemical Corporation, Oklahoma City, Oklahoma, on behalf of U.S. producers of potassium chloride who represent a major portion of that industry. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

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 April 18, 1984 (49 FR 18005). On May 14, 1984, the ITC

determined that there is a reasnable indication that imports of potassium chloride from Spain are materially injuring a U.S. industry (49 FR 21813).

We presented a questionnaire concerning the allegations to Comercial de Potasas, S.A. (COPSA), the only known Spanish exporter of potassium chloride, in Madrid, on May 7, 1984, and requested a response by June 6, 1984. On June 14, 1984, we received a response from COPSA.

Scope of Investigation

The product covered by this investigation is potassium chloride, currently provided for under item 480.5000 of the *Tariff Schedules of the United States Annotated.* Since COPSA is the sole Spanish exporter of this merchandise we limited our investigation to this one firm. We investigated 100 percent of sales of this merchandise by COPSA to the United States during the period October 1, 1983, through March 31, 1984.

Fair Value Comparisons

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 the purchase price of the subject merchandise to represent the United States price for sales by COPSA, because the merchandise appears to be sold to unrelated purchasers prior to its importation into the United States. We will seek for purposes of our final determination additional information concerning when these transactions take place. We calculated this price based on the FOB, C&F or CIF unpacked prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, Spanish brokerage fees, ocean freight, and marine insurance.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on COPSA's home market prices. COPSA made sufficient sales of potassium chloride in the Spanish home market to form a basis for fair value comparisons. We calculated home market prices on the basis of the unpacked, ex-mine price to unrelated purchasers. In accordance with § 353.15 of our regulations (19 CFR 353.15), we made a circumstance of sale adjustment for differences in credit terms. We also adjusted, where appropriate, for the differences between the commissions on sales to the United States and indirect selling expenses in the home market used as an offset to United States commissions in accordance with 19 CFR 353.15(c). We will also seek additional information concerning sales in the home market.

Verification

In accordance with section 773(a) of the Act, we will verify information used in making our determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of potassium chloride from Spain which are entered, or withdrawn, for consumption on or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise exceeded the United States price, which was 43.65 percent. This suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "(n)o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(a)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Accordingly, if a level of export subsidies is determined in the final countervailing duty determination on potassium chloride from Spain, it will be subtracted from the dumping margins for deposit or bonding purposes.

ITC Notification

In accordance with section 773(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, wither publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 A.M. on October 3, 1984 at the United States Department of Commerce, Conference Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 20, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24099 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-402]

Potassium Chloride From the Union of Soviet Socialist Republics: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that potassium chloride (potash) from the Union of Soviet Socialist Republics (USSR) is being, or is 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 we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise that 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 187.03 percent of the ex-factory value of the merchandise. If this investigation

proceeds normally, we will make a final determination by November 20, 1984.

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Frank Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitition Avenue, NW., Washington, D.C. 20230; Telephone: (202) 377–4087.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that potash from the USSR is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 187.03 percent.

If this investigation proceeds normally, we will make a final determination by November 20, 1984.

Case History

On March 30, 1984, we received a petition from counsel for AMAX Chemical, Incorporated and Kerr-McGee Chemical Corporation filed on behalf of the domestic producers of potash. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioner alleged that imports of potash from the USSR are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure or threaten material injury to a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on April 18, 1984 (49 FR 18004). On May 14, 1984, the ITC determined that there is a reasonable indication that imports of potash are materially injuring a U.S. industry.

On April 27, 1984, a questionnaire was presented to the government of the USSR. On July 13, 1984, we received a response from V/O Sojuzpromexport, the state owned producer of potash in the USSR. As discussed under the "Foreign Market Value" section of this notice, we have preliminarily determined that the USSR is a state-controlled-economy country for the purpose of this investigation.

Scope of Investigation

The merchandise covered by this investigation is potassium chloride, otherwise known as muriate of potash, as currently provided for in item 480.50 of the *Tariff Schedules of the United States*.

Because V/O Sojuzpromexport, accounted for all exports of this merchandise to the United States, we limited our investigation to that firm. We investigated all sales of potash for the period October 1, 1983, through March 31, 1984.

Fair Value Comparisons

To determine whether sales in the United States of the subject merchandise 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 the purchase price of the subject merchandise to represent the United States price for sales by V/O Sojuzpromexport because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the f.o.b. price to unrelated purchasers. We made deductions for foreign inland freight, brokerage, and loading charges.

In accordance with the policy set forth in our recent final determination in the investigation of carbon steel wire rod from Poland (49 FR 29434, July 20, 1984) we based these deductions on charges in a non-state-controlled-economy country. We based the brokerage and loading deductions upon costs in the Federal Republic of Germany (FRG). We used costs in the FRG for the reasons stated below in the "Foreign Market Value" section. However, because inland freight costs were not available in the FRG for distances comparable to those related to shipments from the USSR, we based the deduction for inland freight on freight rates within Canada, the next most appropriate surrogate country with rates for comparable distances.

Foreign Market Value

In accordance with section 773(c) of the Act, we used prices of potash sold the home market of the FRG to determine foreign market value. This is because petitioners alleged that the USSR is a state-controlled-economy country and that sales of the subject merchandise from the country do not permit a determination of foreign market value under section 773(a). After an analysis of the USSR's economy, and consideration of the briefs submitted by the parties, we have preliminarily concluded that the USSR is a state-controlled-economy country for purposes of this investigation. Basic to our decision on this issue is the fact that the central government of the USSR strictly controls the prices and levels of production of the fertilizer industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled-economy.

After an analysis of countries producing potash, we determined that the FRG would be the most appropriate surrogate. However, we have been unable to develop actual prices for potash in the FRG prior to the preliminary determination.

Therefore, pursuant to § 353.8(a)(1) of our regulations, we based foreign market value on average home market price list prices, during the period under investigation, for the only producer of potash in the FRG. We made deductions for inland freight, based upon the petitioner's estimate of the average distance to purchasers in the FRG, and for a discount for prompt payment established by the price list. We made an adjustment for differences in the potassium oxide (K20) content of the potash sold in the FRG, which contains 50 percent K20, and that exported from the USSR, which contains 60 percent K20. In making this adjustment, we used the relative percentages of K20 in the potash sold in both markets to determine the difference in market value of the merchandise as authorized by § 353.16 of our regulations.

In the absence of information concerning actual sales in the FRG, we made no circumstance of sale adjustments in reaching this preliminary determination. In addition, counsel on behalf of the respondent requested certain allowances for physical differences in the merchandise related to the importers' cost of processing non-standard particle sizes found in the potash from the USSR. However, we do not have an adequate basis on which to make such an adjustment for this determination. We will seek further information on sales in the FRG, including possible circumstance of sale adjustments, and information on

physical differences in the merchandise for the final determination.

Verification

We will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of potash from the USSR that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall 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 exceeded the United States price, which was 187.03 percent of the ex-factory value. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this invesitgation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to a U.S. industry before the later of 120 days after we make our preliminary affirmate determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on October 4, 1984, at the U.S. Department of Commerce, room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the isues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 27, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Dated: September 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24101 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Cotton, Wool and Man-Made Fiber Apparel Products Produced or Manufactured in Mauritius

September 7, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CICA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 13, 1984. For further information contact James Nader, International Trade Specialist (202) 377-4212.

Background

On October 3, 1983 a CITA directive was published in the Federal Register (48 FR 45143) which established a group limit of 115,500 dozen for cotton, wool and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, produced or manufactured in Mauitius and exported during the twelve-month period which began on October 1, 1983 and extends through September 30, 1984. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 2 and 5, 1981 between the Governments of the United States and Mauritius provides for the borrowing of yardage from the following year's limit (carryforward), with the amount used being deducted from the limit in the following year. Under the terms of the bilateral agreement and at the request of the Government of Mauritius, the Government of the United States is increasing the group limit for knitwear apparel from 115,000 dozen to 123,050 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 7, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel the directive of September 29, 1983, which established an import restraint limit for certain cotton, wool and man-made fiber textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on October 1, 1983.

Effective on September 13, 1984, paragraph one of the directive of September 29, 1983 is hereby amended to increase the group limit established for cotton, wool and man-made fiber textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, to 123,050 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-24109 Filed 9-11-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 30, 1984.

The USAF Scientific Advisory Board Weapons and Concepts Panel of the Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets will meet at Lawrence Livermore National Laboratory, Livermore, California, on October 9, 1984 from 8:30 a.m. to 5:00 p.m. The subpanel will meet to hold classified discussions on weapons and concepts for strategic relocatable

[1] The restraint limit has not been adjusted to reflect any imports exported after September 30, 1983.

targets. Since the discussions will be classified the meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84–24046 Filed 9–11–84; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Fund for the Improvement of Postsecondary Education Application; Comprehensive Program for Fiscal Year 1985

AGENCY: Department of Education.

ACTION: Application Notice for Comprehensive Program for Fiscal Year 1985.

Preapplications and applications are invited for new awards under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education.

Under the Comprehensive Program the Secretary awards grants to institutions of postsecondary education and other public and private educational institutions and agencies for the purpose of improving postsecondary educational opportunities.

Authority for this program is contained in Title X of the Higher Education Act, as amended. (20 U.S.C. 1135)

Closing Dates for Transmittal of Preapplications and Applications

Preapplications for awards must be mailed or hand-delivered by November 29, 1984. Applications must be mailed or hand-delivered by March 19, 1985.

Preapplications and Applications Delivered by Mail

A preapplication or application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.116A, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Preapplications and Applications Delivered by Hand

A preapplication or application that is hand-delivered must be taken to the Department of Education, Application Control Center, Attention: 84.116A, 7th and D Streets, SW., Room 5673, Regional Office Building 3, Washington, D.C. 20202.

The Secretary will accept hand-delivered preapplications, and applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Preapplications that are hand-delivered will not be accepted after 4:30 p.m. on November 29, 1984. Applications that are hand-delivered will not be accepted after 4:30 p.m. on March 19, 1985.

Program Information

Type of Competition

The Secretary supports a broad range of projects that respond to immediate problems or issues in a variety of categories that seek to improve post secondary educational opportunities.

Program Priorities

The following program priorities apply to the Comprehensive Program for Fiscal Year 1985.

(1) Learning important and difficult subjects and skills, including math, science, writing, foreign languages, reasoning, analysis, and problems-solving.

(2) Ensuring access to post secondary education by improving course and program completion rates and by increasing and improving the articulation between high school and college and between two- and four-year colleges.

(3) Providing education for a changing economy by providing educational programs and services for workers, unemployed individuals, businesses, and communities.

(4) Understanding educational uses and implications of the new technologies, such as computers, television, and other electronic communication media.

(5) Improving graduate and professional education by increasing access to postsecondary educational institutions at the graduate level and by reforming post-baccalaureate programs.

(6) Enhancing teacher education and cooperation with the schools by developing teacher education programs, teacher in-service programs and cooperative programs between high schools and colleges.

(7) Strengthening organizational capacities to improve learning by enhancing institutional leadership and managememt, the abilities of faculty and other staff, and resources and incentives for improvement.

Under the Comprehensive Program competition, projects that do not address one of these priorities are also eligible for support if they address other significant problems in postsecondary education.

Preapplications

Preapplications are required for this competition. They are reviewed in the same manner as applications, including review by independent field readers, and are evaluated on the basis of the selection criteria announced below.

Selection Criteria

The Secretary evaluates preapplications and applications on the basis of the following selection criteria:

(a) Significance for Postsecondary Education

The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would:

(1) Address an important problem or need;

(2) Represent an improvement upon, or important departure from existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) Feasibility

The Secretary reviews each proposed project for its feasibility by determining the extent to which:

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidenced by—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the proposed project design, including objectives, approaches and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the proposed project; and

(v) The applicant's relevant prior experience.

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) Potential for continuation of the proposed project beyond the period of the Fund's support (unless the project would be self-terminating).

(c) Appropriateness of the Fund's Support

The Secretary reviews each application to determine whether support of the proposed project by the Fund is appropriate in terms of the availability of other funding sources for the proposed activities.

For purposes of reviewing *preapplications,* the selection criteria grouped under "significance" ((a) above) are more important than those grouped under "feasibility" ((b) above) and "appropriateness" ((c) above). The group of criteria under "feasibility" ((b) above) is equal in importance to the "appropriateness" criterion ((c) above).

In reviewing *applications,* the selection criteria (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (b)(1), (b)(2), (b)(3), and (c) are of equal importance.

In applying the criteria, the Secretary first analyzes preapplications and applications in terms of the individual criteria. The Secretary then bases the final judgment of a preapplication or application on an overall assessment of the extent to which the application satisfactorily addresses the selection criteria.

Other Information to be Requested from Applicants

In the final stage of the selection process, applicants whose applications are being considered for funding will be contacted by telephone to verify or clarify information relevant to their applications.

Available Funds

The President has requested a funding level of $11,710,000 for this program for Fiscal Year 1985. Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year should funds become available. It is estimated that 75 new awards ranging from $5,000 to $200,000 per year will be made.

Since a bill for fiscal year 1985 has not been passed, these are only estimates and do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Preapplication and Application Forms

Preapplication and application forms are included in the program information package. These materials will be sent directly to everyone on the mailing list for the Fund for the Improvement of Postsecondary Education. Institutions and persons not on this list can obtain these materials from the Comprehensive Program, Attention: 84.116A, Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue SW. (Room 3100, Regional Office Building 3), Washington, D.C. 20202.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition. (Approved by the Office of Management and Budget under Control Number 1840–0514.)

Applicable Regulations

The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78, with the exception noted in 34 CFR Part 630.4(b).

(2) The regulations in 34 CFR Part 630.

Further Information

For further information contact the Fund for the Improvement of Postsecondary Education, regarding the Comprehensive Program (84.116A); Telephone: (202) 245–8091/8100.

(20 U.S.C. 1135)

(Catalog of Federal Domestic Assistance No. 84.116A, Fund for the Improvement of Postsecondary Education)

Dated: September 4, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-24076 Filed 9-11-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Revised Proposed Nonfirm Energy Policy for Consumer Alternate Fuel Loads

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Revised Proposed Nonfirm Energy Policy for Consumer Alternate Fuel Loads and Request for Comments. *BPA File No:* NF–Ind-2.

Responsible Official: Thomas M. Noguchi, Director, Division of Customer Service, is the Responsible Official for the development of this policy.

SUMMARY: BPA issued its Proposed Nonfirm Energy Sales for Utilities' Industrial Loads on July 12, 1983 to utilize nonfirm energy in a new marketing effort aimed at displacing alternate fuel loads of industrial Consumers of BPA utility customers. As a result of comments received on the proposed policy, BPA is now proposing to expand the scope of the policy beyond alternate fuel industrial Consumers to any end-user alternate fuel installation. However, this policy does not incude displacement of cogeneration.

This revised proposed policy is being issued after consideration of the record to date. BPA is issuing an Environmental Assessment concurrently with this revised proposed policy. Upon completion of the process required by the National Environmental Policy Act, and after consideration of comments received in response to this notice, BPA will issue its final policy.

ADDRESS: Additional copies of this notice, and the new proposed contract, and the Staff Evaluation of the Record on this policy may be obtained from The Public Involvement Manager, Bonneville Power Administration, P.O Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: BPA Involvement office, at the address listed above, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may

use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 Seventh Avenue, Eugene, OR 97401, 503–687–6592.

Mr. Arthur Harlow, Acting Upper Columbia Area Manager, Room 561, East West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Definitions
II. Policy Development to Date
A. Interim Principles for Sales of Nonfirm Energy for Interruptible Loads
1. Sales Under Interim Principles
2. Request for Comments on Interim Principles
B. Proposed Policy for Nonfirm Energy Sales for Utilities' Industrial Loads
C. Renewal of Interim Nonfirm Energy Sales Contracts
III. Procedure For Policy Completion
IV. Issues
A. Marketing
B. Staff Evaluation of the Record
V. Policy for Nonfirm Energy Sales for Consumer Alternate Fuel Loads

I. Definitions.

A. "Alternate fuel capability" means the electrical energy and demand levels required to serve the nonfirm load at a level equivalent to the capability of the load's alternate fuel facilities.

B. "Consumer" refers to a qualifying direct service industrial customer or an account served by a utility.

C. "Contracted for or committed to determination" means a determination made pursuant to section 3(13)(A) of the Regional Act as may be stated in Exhibit K, Table 2 of the purchaser's Regional Act power sales contract, as applicable.

D. "Council" means the Pacific Northwest Electric Power and Conservation Planning Council, as defined in 3(6) of the Regional Act.

E. "Critical period" means that portion of the historical streamflow record which defines the maximum amount of energy which the sytem is able to produce without failure; the period of record which would have produced the smallest amount of energy in the same monthly distribution as the system's firm loads.

F. "Demand" means the number of kilowatts of power served during the peak hour in a period.

G. "Energy" means the total number of kilowatthours of power served during a period.

H. "Energy meter" is a device which measures the total kilowatthours of energy flowing through a given point.

I. "Firm load" means the actual maximum integrated 1-hour monthly peak and average monthly energy loads of the purchaser's system in the Pacific Northwest, which Bonneville is obligated to supply with firm power. Firm load does not include any load that the purchaser has a unilateral right to restrict.

J. "Firm power" means power which is guaranteed by the supplier to be available at all times except for reason of certain uncontrollable forces or continuity of service provisions.

K. "Firm power service level" means that portion of a consumer's load, served through the meters at the nonfirm load, which data indicates has been served with firm power in part or that will be served with firm power. The firm power service level includes a "firm power demand level"—the number of kilowatts of firm power served during the peak hour in a period, and a "firm power energy level"—the total number of kilowatthours of firm power served in a period.

L. "Hourly recording demand meter" is a device which records the number of kilowatthours used for each consecutive one-hour period at a given point.

M. "Maximum nonfirm service level" means the maximum amount of nonfirm energy which BPA will seve to a purchaser for a consumer's nonfirm load; the electric service level which is equivalent to the capacity of the alternate fuel source, less the firm power service level. The maximum nonfirm service level includes a maximum nonfirm demand level and a maximum nonfirm energy level.

N. "Nonfirm contract" means a contract which would be offered as a result of this policy to provide nonfirm service to purchasers for service to their consumer's nonfirm loads.

O. "Nonfirm energy" means energy supplied or available under an arrangement which does not have the guaranteed continuous availability feature of firm power.

P. "Nonfirm load" means the portion of a consumer's load which is capable of being served by electricity and which has an alternate, nonelectric fuel source capable of serving and available to serve the load when electricity is not available. Nonfirm loads are served by both electrical facilities and alternate fuel facilities.

Q. "Nonfirm service" means the service of nonfirm energy to a purchaser by BPA. BPA has the unilateral right to restrict this service at the end of any hour in which BPA determines that nonfirm energy is no longer available.

R. "Nonscheduling purchaser" refers to a purchaser that does not operate automatic generation control equipment; i.e. a utility that does not have equipment which regulates power output of electric generators within a control area in order to maintain system frequency, or a direct service industrial customer. However, Cowlitz County Public Utility District the Eugene Water and Electric Board, and Snohomish County Public Utility District, are scheduling purchasers without automatic generation control equipment.

S. "Northwest" means that area described in section 3(14) of the Regional Act.

T. "Point of delivery" is the point where Bonneville delivers power to a purchaser.

U. "Point of metering" in regard to this policy refers to the point at the customer's nonfirm load where power is metered. To determine the amount of nonfirm energy delivered at a purchaser's point of delivery, a loss factor is applied to the amount of nonfirm energy received at the customer's point of metering at the nonfirm load.

V. "Purchaser" refers to a utility or a direct service industrial customer which enters into a nonfirm contract as a result of this policy.

W. "Regional Act" refers to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (16 U.S.C. sections 839 *et seq.*).

X. "Regional Act power sales contract" refers to the power sales contracts which were offered to the utilities and direct service industries of the Northwest pursuant to the Regional Act.

Y. "Scheduling purchaser" refers to a utility which operates automatic

generation control equipment; i.e. a utility which operates equipment that regulates power output of electric generators within a control area in order to maintain system frequency. However, Cowlitz County Public Utility District, the Eugene Water and Electric Board, and Snohomish County Public Utility District are scheduling purchasers without automatic generation control equipment.

Z. "Spill or forecast of imminent spill," for purposes of this policy, means the volume of nonfirm energy available exceeds or is about to exceed available markets; spill occurs when water is passed over the spillways of dams, rather than through generating turbines. BPA may also spill to aid fish passage.

AA. "Varhour meter" is a device which measures the reactive energy in a circuit.

II. Policy Development to Date

In late 1981, firm loads in the Northwest began to decline as the region entered a recession. Loads continued at reduced levels until 1983. Although loads have been reduced, BPA has experienced normal or better water years, resulting in the availability of more nonfirm energy than markets for such energy.

Furthermore, BPA has had a surplus of unsold firm resources, which has added to the availability of nonfirm energy.

In the summer of 1982, Umatilla Electric Cooperative, a BPA preference customer, was faced with the loss of over 20 percent of its firm load due to the prospect that increasing rates would cause three of its large food processor industrial Consumers to switch to gas from electricity for their boilers. Umatilla asked BPA to make energy available for these loads under the nonfirm rate schedule. BPA staff began working with Umatilla to develop an agreement to provide nonfirm energy for those electric boilers.

On November 30, 1982, BPA requested recommendations from the public on ways it could effectively market surplus firm energy (47 FR 53928). A number of the 58 respondents suggested BPA investigate ways to market nonfirm energy in the Northwest, as an alternative to firm energy sales outside the region. The Council recommended that BPA make surplus energy available to irrigators at reduced rates, and employees of BPA's direct-service industrial customers recommended BPA make blocks of power available to the region's aluminum industry at reduced rates.

A. Interim Principles for Sale of Nonfirm Energy for Interruptible Loads

In January 1983, BPA drafted principles for selling nonfirm energy to its Northwest utility customers for industrial loads with alternate fuel energy sources. BPA made sales of this type available to Northwest utilities on an interim basis, pending completion of this policy. BPA discussed the interim principle with representatives of publicly owned utilities, investor-owned utilities, the direct-service industries, and industrial customers of Northwest utilities.

1. During 1983, six utilities signed interim nonfirm energy sales contracts under the interim principles, which expired October 31, 1983.

a. *Umatilla Electric Cooperative* purchased up to 40 megawatts for two potato processing plants. Deliveries of about 17 MW began January 9, 1983. Both plants have natural gas-fired boilers as alternate fuel sources.

b. *The City of Port Angeles* purchased approximately 7 MW of nonfirm energy for an electric boiler at a Crown Zellerbach paper mill beginning February 1, 1983. The mill can use wood waste in lieu of electricity.

c. *Cowlitz County Public Utility District* purchased approximately 75 MW of nonfirm energy for electric boilers at the Longview Fibre and Weyerhaeuser mills beginning February 25, 1983. These mills can also use wood waste as fuel.

d. *Tillamook County People's Utility District* purchased approximately 3 MW of nonfirm energy beginning June 11, 1983, for service to a boiler at the Tillamook County Creamery Association. The creamery can use oil as an alternate fuel.

e. *Snohomish County Public Utility District* purchased approximately 45 megawatts of nonfirm energy for service to the electric boiler loads of the Weyerhaeuser Kraft and Lumber Manufacturing Facility and the Boeing Commercial Airplane Company beginning May 11, 1983. Weyerhaeuer can run alternate fuel boilers with natural gas, oil, or black liquor, a by-product of pulp production. Boeing can fire boilers with natural gas or oil in lieu of electricity.

f. *Lewis County Public Utility District* purchased approximately 3 megawatts of nonfirm energy beginning June 9, 1983, for service to the American Crossarm and Conduit Company. Lewis received nonfirm service under the curtailment provisions of the interim nonfirm principles, i.e. for the portion of their load that would not have otherwise operated due to economic conditions.

2. *Request for Comments on Interim Principles.* On March 15, 1983, BPA requested comments on the interim principles for sales of nonfirm energy for interruptible industrial and irrigation loads (48 FR 10903). In the same notice, BPA proposed to sell nonfirm energy to its direct-service industrial customers through October 31, 1983, in order to encourage restart of idle industrial capacity and increase BPA revenues.

BPA received 59 comments on both subjects. Those who commented on the principles as they applied to industrial loads generally supported the concept, and made specific comments on the contract restrictions contained within the interim principles. In light of these comments, BPA took the actions described below.

B. Proposed Policy for Nonfirm Energy Sales for Utilities' Industrial Loads

On July 12, 1983, BPA issued its proposed policy for sales of nonfirm energy to utilities for alternate fuel industrial loads. The proposed policy was published in the **Federal Register** on July 22, 1983, (48 FR 33518). The comment period expired August 31, 1983. BPA held a Public Information Forum on July 26, and Public Comment Forums in Spokane, Seattle and Portland on August 10, August 12, and August 8, respectively. BPA mailed a summary of comments to the policy mailing list on November 23, 1983.

The procedure for policy completion will be addressed below.

C. Renewal of Interim Nonfirm Energy Sales Contracts

Since October 31, 1983, BPA has renewed the interim contracts mentioned in part A.1., above, with Umatilla Electric Cooperative, the City of Port Angeles, Cowlitz County Public Utility District, Tillamook County Peoples' Utility District, and Snohomish County Public Utility District. BPA also entered into a new interim alternate fuel nonfirm energy contract with Kaiser Aluminum and Chemical Corporation, a direct service industrial customer, for a 7-megawatt electric boiler at Kaiser's Mead plant.

III. Procedure for Policy Completion

BPA is now issuing a Revised Proposed Nonfirm Energy Policy for Consumer Alternate Fuel Loads. This revised proposed policy considers comments received on the Proposed Policy for Nonfirm Energy Sales for Utilities' Industrial Loads, and BPA's experience under the interim alternate fuel nonfirm energy contracts. Copies of the Staff Evaluation of the Record and

new proposed contract may be requested from BPA's Public Involvement Manager. BPA is issuing a revised proposed policy at this time so that BPA may receive public comment on the latest revision while completing the environmental review process required by the National Environmental Policy Act.

BPA is issuing an Environmental Assessment of the revised proposed policy. Copies of that Environmental Assessment may also be requested from BPA's Public Involvement Manager. Upon completion of the public and governmental agency comment period for the Environmental Assessment, BPA will determine whether a Finding of No Significant Impact (FONSI) is appropriate or whether an Environmental Impact Statement is needed. If BPA determines that a FONSI is appropriate, BPA expects to issue its final policy upon issuance of the FONSI.

Comments on either the revised proposed policy, the new proposed contract, or the Environmental Assessment should be addressed to BPA's Public Involvement Manager at the address listed above and should not be postmarked later than October 26, 1984. When BPA issues its final policy, BPA will supplement the Staff Evaluation of the Record to consider any additional comments received.

Public Comment Forums on the initial proposed policy were held in several Northwest locations. BPA has not scheduled public meetings on the revised proposed policy. On request, BPA will meet with individuals or groups to discuss aspects of the revised proposal. If sufficient public interest is shown, BPA will schedule a general Public Comment Forum during the public comment period. To request an individual or group meeting, or a general public forum, please contact the Public Involvement office at the appropriate number above.

IV. Issues

A. Marketing

The Bonneville Project Act, 16 USC, Chapter 12B, and the Federal Columbia River Transmission System Act, Pub. L. 93–454, direct BPA to encourage the widest possible use of all electric energy that can be generated and marketed at the lowest possible rates consistent with sound business principles. BPA believes that this policy is consistent with that directive, and will continue to be so through the proposed initial term of the contracts to be issued under the policy, June 30, 1988. During that term, BPA expects to have nonfirm energy available in excess of higher priority markets, in conditions encountered in most water years. During that term, subject to BPA's Regional Act section 7(i) rate adjustment process, BPA will consider establishing nonfirm energy rates designed to be competitive with most alternate fuels during periods when BPA has nonfirm energy available in excess of higher priority markets. BPA will work with its purchasers and their consumers to fashion and administer agreements that are workable for consumers. BPA's utility and DSI purchasers, and BPA.

Prior to the end of the initial contract term, BPA will review its nonfirm energy power marketing program and this policy to determine whether changed conditions require a change in the policy upon expiration of the initial contracts.

B. Summary of Staff Evaluation of the Record

Discussion of the following major issues and other issues and their resolution in the revised proposed policy is found in BPA's Staff Evaluation of the Record, which is available on request from BPA's Public Involvement Manager.

Nature of Load

The proposed policy indicated that the minimum load to be served under this policy would be 2 average MW. In response to public comment, the minimum has been lowered to 1 average MW, which is a scheduling minimum for BPA.

Load type was restricted to"industrial" in the proposed policy. In response to public comment, this sector limitation was removed. A qualifying load from any sector will be eligible to receive nonfirm service under this policy.

These two changes broaden the policy, bringing it closer to meeting the Council's directive in Chapter 10 of the Northwest Conservation and Electric Power Plan to develop the "nonfirm market to the fullest extent possible."

BPA is maintaining the requirement for a load to have an alternate fuel source as a way of insuring that firm load is not lost to nonfirm service although this provision has been criticized as being too restrictive and overly burdensome.

Required Equipment

Several comments indicated that the equipment requirements, particularly those for remote metering on the nonfirm load and the hard-copy terminal for notification, were burdensome, unnecessary, and reduced the value of this policy to the Northwest. BPA has maintained these requirements. Although the hard-copy terminal may not be required for some period, it is a cost which a utility should factor into its decision to receive service under the policy. BPA is now phasing in remote reading equipment at utility points of delivery. Thus, utilities can plan with certainty when the remote reading equipment will be necessary at the nonfirm load.

Separate metering is essential to determine the amount of nonfirm energy delivered and its contribution to a utility's peak.

Firm Service

Purchasers receiving nonfirm service for qualifying loads under contracts executed pursuant to this policy shall not receive firm service for such loads during the terms of the contracts, unless otherwise agreed by BPA. In the event BPA agrees to an exception, firm service to a utility purchaser would be subject to sections 8 and 9 of the Purchaser's Regional Act power sales contract.

Purchasers receiving nonfirm service for qualifying loads under contracts executed pursuant to this policy shall receive firm service to such loads after expiration of the contracts in accordance with sections 8 and 9 of the Purchaser's Regional Act power sales contract, in the case must provide at least 2 years' notice of its desire to receive firm service, unless otherwise agreed by BPA. Contracts offered under this policy will initially run until June 30, 1988.

The effect of this policy on contracted for or committed to loads is neutral. Taking nonfirm energy will not endanger such a determination.

Restriction Notification

BPA proposed to maintain the right to restrict deliveries at the end of any hour. This provision came under criticism from several parties. These parties, mostly consumers, argued that they needed more than 1 hour's notice to switch to their alternate fuel source. They further argued that the unauthorized increase charge was too severe given the short notice period.

These provisions, although stringent, will insure that these loads are truly nonfirm. A consumer can avoid the adverse consequences of restriction by operating his load prudently in light of the requirement on BPA to give maximum amount of notice of a change as is practicable. Operating experience under the interim agreements indicates that as BPA, utilities, and consumers become more accustomed to alternate fuel nonfirm operations, and problems diminish.

These restriction provisions also make this nonfirm service consistent with other nonfirm service.

Generating Utilities

The policy proposed to make this offer of nonfirm energy available to all Northwest utilities. Idaho Power Company commented that this offer should be limited to nongenerating utilities. Although IOU's can buy nonfirm at the Displacement rate for an alternate fuel load, they would need to buy it under this policy. Therefore, BPA will issue this policy as available to all Northwest utilities.

Utility Markup

Although BPA did not propose to limit utilities' retail markup of nonfirm energy, it did solicit comment on this point. Comments received indicated that utilities were strongly opposed to BPA regulation of markup. Staff does not believe that a markup limitation is necessary because of market forces; a utility that marks up its nonfirm too much will lose nonfirm sales to the alternate fuel.

DSI Alternate Fuel Loads

In its letter in response to this policy, Kaiser proposed including qualifying DSI alternate fuel loads under this policy. Since Kaiser's alternate fuel load has been using gas due to the noncompetitive price of firm power, they argue that this and other similar DSI loads should qualify on the same grounds that a utility's alternate fuel nonfirm load qualifies. Currently, BPA is aware of only one such DSI alternate fuel load, that of Kaiser.

The revised proposed policy provides that BPA allow service to DSI alternate fuel loads on a case-by-case basis consistent with the parties future rights and obligations under the DSI Regional Act power sales contract and determining that the loads served with nonfirm energy would not otherwise operate on Industrial Firm Power. BPA could therefore require an Operating or Contract Demand limitation during the term of nonfirm service.

Indemnity and Hold Harmless

Snohomish County PUD commented that the requirement or inclusion of an indemnity section between the utility and the consumer would completely frustrate these arrangements.

BPA has not required indemnity provisions in its interim alternate fuel nonfirm contracts. Also, to BPA's knowledge, there have been no incidents of damage as a result of changes in nonfirm availability. The terms of service have been understood and adhered to by utilities and consumers. BPA does not normally include indemnity provisions in its power sales contracts, except for section 22 of BPA General Contract Provision Form PSC–1. Because of the complex nature of indemnity and hold harmless agreements, the extra expense they may entail, because Staff believes that operations pursuant to this policy are not likely to result in significant damage to a consumer, and because BPA is contractually entitled to discontinue nonfirm energy availability according to the terms of the contract without liability for such discontinuation due to consumer reliance on its continued availability, BPA should not require an indemnity provision from the consumer to BPA. However, BPA should include in contracts issued under this policy a covenant by the purchaser that the nonfirm energy will not be used to supply any load under such conditions that discontinuance of deliveries would cause hardship to the consumer, the purchaser or otherwise in the purchaser's service area, and that the purchaser acknowledges full responsibility for any hardship that does occur.

Availability

The proposed policy stated that nonfirm energy would be available to alternate fuel loads whenever BPA made nonfirm available, (i.e., at either Spill or Standard rate and whether or not the Federal Columbia River Power System was spilling). The DSI's submitted a letter in the public comment process which urged BPA to limit availability of nonfirm energy for alternate fuel loads to spill periods only. They argued that BPA was undercutting the highest and best use of nonfirm in the Region by allowing a potentially large preference customer demand to come before service to the DSI First Quartile with nonfirm.

Because of the Supreme Court decision in *Aluminum Company of America, et al.*, v. *Central Lincoln PUD, et al.*, No. 82–1071, 52 USLW 4716 (June 5, 1984), DSI First Quartile service with nonfirm will have priority over nonfirm loads, thus rendering the DSI comment moot.

Contract Term

Because of the delay between publication of the proposed policy and issuance of the revised proposed policy, BPA should extend the proposed term of the initial contracts to be offered under the policy to June 30, 1988, to allow consumers and purchasers the opportunity to plan on service under the policy for a sufficient period. Extending the term of the initial contracts the additional year would also reduce the administrative burden of issuing new contracts sooner.

Weyerhaeuser commented that there should be some flexibility regarding the duration of the contracts so they can be tailored to specific consumers' needs.

In response to the Weyerhaeuser comment, this policy is a new policy for BPA in a developing marketing effort. BPA should not extend the term of the initial contracts beyond June 30, 1988, because BPA should not be bound by contractual terms if at that time it wants to change the policy. Further, June 30, 1988, coincides with the end of the current critical period, during which BPA is likely to be in load/resource surplus. Neither should BPA allow a shorter contract term because of the need to maintain consistency between contract terms.

A purchaser is not required to take energy made available. The term then acts as a restriction on firm service to a load under a nonfirm contract. By restricting firm service for the duration of the contract, BPA further insures that firm loads will not switch to nonfirm service.

V. Policy for Nonfirm Energy Sales for Consumer Alternate Fuel Loads

A. Objectives

This policy for the sale of nonfirm energy to purchasers for the qualifying loads of their consumers is intended to accomplish the following objectives:

1. To avoid loss of firm load.

2. To utilize BPA nonfirm hydroelectric resources that would otherwise be wasted.

3. To allow BPA's Northwest utility purchasers and their consumers and BPA's direct service industrial purchasers to enjoy the benefits of nonfirm energy, and, by doing so, to improve the region's economy.

4. To improve BPA revenues.

B. Summary Policy Statement

BPA will make nonfirm energy available to:

1. BPA's direct service industrial customers on a case-by-case basis, and

2. Northwest utilities, for service to nonfirm loads over 1 average MW and which are in excess of base historical firm service levels to the extent that such loads are capable of being served with an alternate fuel source.

3. *Policy Action.* BPA will offer to negotiate contracts consistent with this policy with Northwest utilites and direct service industrial purchasers which have qualifying nonfirm loads.

4. *Nature of Load and Level of Nonfirm Energy Service.* Nonfirm load shall have the capability of being served with electricity and shall have an alternate, nonelectric fuel source capable of serving and available to serve the load when electricity is not available. Nonfirm electrical energy service shall be available for the nonfirm load above the historical firm power energy and demand levels to such load, but the energy and demand levels of such nonfirm service for each nonfirm load shall not exceed the energy and demand levels of the consumers' electrical facilities equivalent to the capability of the alternate fuel facilities. Historical firm power service levels and maximum energy and demand levels for nonfirm service shall be determined by agreement of BPA and the purchaser.

BPA will change the maximum nonfirm service level of a nonfirm load if:

a. The purchaser requests an increase in such level and BPA determines that the alternate fuel capability has increased,

b. BPA determines that the alternate fuel capability has decreased, or

c. The purchaser requests a decrease in such level and a corresponding increase in the firm power service level, and BPA agrees to such an increase in the firm power service level pursuant to section 12 of this policy.

In all cases, BPA will avoid loss of firm load to nonfirm energy in determining firm service levels and maximum nonfirm service levels.

The purchaser shall have the unilateral right to restrict electric service to each consumer's nonfirm load no later than the end of the last hour in which BPA notifies the purchaser that nonfirm energy is no longer available.

The purchaser shall allow the consumer to switch to an energy source other than electricity when nonfirm energy is not available.

5. *Contact Between BPA and the Purchaser.* In order to implement this policy, BPA and interested purchasers with a nonfirm load shall negotiate and enter into a nonfirm contract extending through June 30, 1988. All such nonfirm contracts shall be substantially in the form prescribed by BPA, although BPA and the purchaser may agree to different terms if such terms are consistent with this policy or address matters not dealt with by this policy.

The nonfirm energy contracts shall have the BPA General Contract Provisions Form PSC–1, as amended, attached as an exhibit. The appropriate BPA rate schedules and general rate schedule provisions shall also be attached as an exhibit to each nonfirm energy contract. Nonfirm contracts shall also have exhibits specifying firm power service levels, maximum nonfirm service levels points of delivery, points of metering, and losses. Each nonfirm contract shall provide that the utility shall obtain the right in its contract with the consumer to allow BPA to inspect the electrical and alternate fuel facilities of the consumer, and to obtain reasonable information regarding service to the nonfirm load by the alternate fuel facilities. The contract shall also provide that BPA and the purchaser shall consult at the end of the second and third contract years concerning their ability and desire to enter into a subsequent nonfirm contract.

Further, each nonfirm contract shall include a covenant by the purchaser stating that the nonfirm energy will not be used to supply any load under such conditions that discontinuance of deliveries would cause hardship to the consumer, the purchaser or otherwise in the purchaser's service area, and that the purchaser acknowledges full responsibility for any hardship that does occur.

6. *Availability of Nonfirm Energy.* BPA shall solely determine the amount of nonfirm energy that it has available for sale. BPA shall offer such energy for sale under BPA's nonfirm energy rate schedule, which may, from time to time, be revised in accordance with section 7(i) of the Regional Act. In the event that allocation of available nonfirm energy is necessary, BPA shall allocate such energy in accordance with applicable law and BPA policy.

7. *Notification*—a. *Required Facilities.* (1) Prior to installation by BPA of the facilities described in paragraph (2), the purchaser shall provide and maintain a 24-hour phone number or a day and a night phone number for the purpose of receiving nonfirm availability information from BPA.

(2) If BPA determines that it is necessary to install a computer-initiated dial-up system for transmitting notification to purchasers with contracts pursuant to this policy, the purchaser shall provide a hard copy terminal equipped with an auto-answer modem (300 baud, Bell 103 compatible) connected to a dedicated phone line when BPA has completed installation of the dial-up system. The consumer may provide similar facilities.

b. *Notification of Availability.* From time to time BPA shall notify purchasers of the projected availability of nonfirm energy, including projected price, projected amount, projected duration, and other relevant information. If a consumer has chosen to participate in the dial-up system described in paragraph (a)(2), BPA shall also provide notification to the consumer.

c. *Notification of Purchase.* During any period of nonfirm availability, each participating purchaser shall notify BPA of the level of nonfirm service it requests, in a manner consistent with the terms of its nonfirm contract. Scheduling purchasers shall follow scheduling procedures required by their Regional Act power sales contracts. BPA retains the right to require nonscheduling purchasers: (1) To contact BPA by 1200 hours of the workday preceding the day of desired delivery of nonfirm energy to provide its requested hourly nonfirm energy service levels, and (2) to provide information each workday concerning the purchaser's nonfirm energy use for the previous day or days. Normally, however, BPA will require daily communication from nonscheduling purchasers only in the event of a significant change in the requested nonfirm service level.

d. *Notification of Change in Availability.* BPA shall give maximum practicable notice of any change in price, amount, or duration of availability of nonfirm energy, but reserves the right to change the price, amount, or duration of availability, at the end of any hour.

It shall be the responsibility of each purchaser and consumer to respond to notification of any change in availability.

8. *Metering.* Each purchaser and/or consumer shall provide separate metering at the nonfirm load. Such meters shall include an energy meter, an hourly recording demand meter, and a varhour meter. Such meters and meter installations must be approved by BPA for billing accuracy and compatibility with BPA remote reading equipment. When BPA installs remote reading equipment at a point of delivery which serves a nonfirm contract load, each purchaser and/or consumer shall provide for installation of remote reading equipment at each nonfirm consumer's point of metering. BPA and the purchaser shall agree on appropriate demand and energy loss factors between each nonfirm consumer's point of metering and the corresponding point of delivery. Until installation of remote reading equipment, the purchaser shall read meters at each nonfirm consumer's point of metering when meters are read at the corresponding point of delivery and shall immediately furnish BPA with the readings.

9. *Billing.* BPA shall bill purchasers for nonfirm energy delivered at each point of delivery. This amount shall be

determined by applying an appropriate loss factor to the amount of energy metered at the consumer's nonfirm load.

In order to back demand associated with the nonfirm energy deliveries out of a point of delivery's peak or coincidental peak, the data from the hourly recording demand meter will be used with appropriate loss factors applied.

10. *Rates.* BPA shall sell nonfirm energy to a purchaser at the applicable rate specified in BPA's nonfirm energy rate schedule. BPA's unauthorized increase charge shall apply to any energy taken by the purchaser for the nonfirm load which is in excess of nonfirm energy made available by BPA. BPA may provide guaranteed deliveries in accordance with applicable terms of the nonfirm energy rate schedule.

11. *Customer Service Facilities.* The provisions of BPA's Customer Service Policy shall apply to determine responsibility for furnishing transmission, transformation, distribution, metering, or communication equipment to service a nonfirm load.

12. *Firm Service.* Purchasers receiving nonfirm service for qualifying loads under contracts executed pursuant to this policy shall not receive firm service for such loads during the terms of the contracts, unless, otherwise agreed by BPA. In the event BPA agrees to an exception, firm service to a utility purchaser would be subject to sections 8 and 9 of the Purchaser's Regional Act power sales contract.

Purchasers receiving nonfirm service for qualifying loads under contracts executed pursuant to this policy shall receive firm service to such loads after expiration of the contracts in accordance with sections 8 and 9 of the purchaser's Regional Act power sales contract, in the case of a utility purchaser; *provided, however,* that any purchaser must provide at least 2 years' notice of its desire to receive firm service, unless otherwise agreed by BPA.

Issued in Portland, Oregon, on August 31, 1984.

James J. Jura,

Acting Administrator.

[FR Doc. 84-24184 Filed 9-11-84 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP83-1-003]

ANR Pipeline Co.; Petition for Declaratory Order or, in the Alternative, a Waiver

September 5, 1984.

Take notice that on August 30, 1984, ANR Pipeline Company (ANR) tendered for filing a "Petition For Declaratory Order Or In The Alternative A Waiver" concurrently with its filing of Substitute Sixth Revised Sheet No. 667 to Rate Schedule X-64, First Revised Volume No. 2 of its FERC Gas Tariff in compliance with the Federal Energy Regulatory Commission's (Commission) April 18, 1984, letter order in the above-captioned docket. ANR states that the purpose of filing Substitute Sixth Revised Sheet No. 667 is to reflect the annual redeterminatio of the rate ANR charges to High Island Offshore System (HIOS) for certain gas measurement and related services it provides HIOS. An effective date of November 1, 1982 is proposed.

ANR asserts that this filing does not constitute a new filing but is only an amended version of the filing originally made on October 1, 1982. ANR contends that because no fee was required on October 1, 1982 and because Commission Order No. 361 was not in effect until April 25, 1984, it should not have to pay a filing fee. Therefore, ANR requests the Commission issue an order declaring that a filing fee is not applicable to the instant action.

ANR also states that it has sent copies of this filing to HIOS and all parties to the proceeding in Docket No. RP83-1-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 13, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24014 Filed 9-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-140-002]

ANR Pipeline Co.; Petition for Declaratory Order or, in the Alternative, a Waiver

September 5, 1984.

Take notice that on August 30, 1984, ANR Pipeline Company (ANR) tendered for filing a "Petition For Declaratory Order Or In The Alternative A Waiver" concurrently with its filing of First Revised Sheet No. 667A to Rate Schedule X-64, First Revised Volume No. 2 of its FERC Gas Tariff in compliance with the Federal Energy Regulatory Commission's (Commission) June 20, 1984, letter order in the above-captioned docket. ANR states that the purpose of filing Revised Sheet No. 667A is to reflect the annual redetermination of the rate ANR charges to High Island Offshore System (HIOS) for certain gas measurement and related services it provides HIOS. An effective date of November 1, 1983 is proposed.

ANR asserts that this filing does not consititute a new filing but is only an amended version of the filing originally made on September 30, 1983. ANR contends that because no fee was required on September 30, 1983 and because Commission Order No. 361 was not in effect until April 25, 1984, it should not have to pay a filing fee. Therefore, ANR requests the Commission issue an order declaring that a filing fee is not applicable to the instant action.

ANR also states that it has sent copies of this filing to HIOS and all parties to the proceeding in Docket No. RP83-140-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 13, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24015 Filed 9-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-423-001]

Lone Star Gas Co.; Tariff Filing

September 5, 1984.

Take notice that on August 8, 1984, Lone Star Gas Company (Lone Star) tendered for filing its Rate Schedule T-2 to its FERC Gas Tariff, Original Volume No. 2. This tariff is an initial filing and will permit Lone Star to offer transportation service on its interstate facilities under the blanket certificate issued in CP83-423-001, which provides for transportation under Subpart G of Part 284 of the Commission's Rules. Lone Star states that all transportation preformed under this tariff will comply with the requirements of the certificate issued.

Lone Star requests an effective date of August 10, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordanace with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 11, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24016 Filed 9-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. CP75-23-022 and CP75-120-015]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition to Amend

September 4, 1984.

Take notice that on August 6, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP75-23-022 and CP75-120-015, a petition to amend further the order issued March 7, 1977, in Docket Nos. CP75-23 and CP75-120 pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Tenneco Oil Company (TOC) from additional receipt points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP75-23 it was authorized to transport natural gas for TOC from specified receipt points to a point of interconnection with Creole Gas Pipeline Corporation (Creole) at Yscloskey, Louisiana, for delivery to Air Products and Chemicals, Inc. (Air Products). Petitioner further states that in Docket No. CP75-120 it was authorized to transport natural gas for TOC from specified receipt points at Yscloskey, Louisiana, for delivery to Creole for transportation by Creole to TOC's Chalmette refinery.

Petitioner requests further amendment of the subject order so as to authorize the addition of receipt points for deliveries from TOC's uncommitted interest in Viosca Knoll Blocks 899 and 900, offshore Louisiana. Petitioner states that TOC proposes to deliver the gas from Block 899 to Petitioner at the existing point of interconnection between their facilities on Gulf Oil Company's B platform in Viosca Knoll Block 899. Petitioner further states that TOC proposes to deliver the gas from Block 900 to Petitioner at the existing point of interconnection between their facilities on Gulf Oil Company's A platform in Viosca Knoll Block 900. Petitioner proposed to transport the gas from these new receipt points to Southern Natural Gas Company (Southern) for TOC's account, at the existing point of interconnection of Petitioner's and Southern's facilities on Shell Oil Company's B platform in Block 62, South Pass Area, offshore Louisiana. Petitioner states that TOC has arranged for Southern to transport and deliver, thermally equivalent volumes of gas to Petitioner for TOC's account at the existing point of interconnection between the onshore terminus of the Project South Pass 77 facilities and Petitioner's pipeline at Valve No. 527A-601 in Plaquemines Parish, Louisiana, for transportation by Petitioner for the account of TOC to Yscloskey, Louisiana. Petitioner states that its obligation to execute this service for TOC is contingent upon TOC's ability to persuade Southern to execute the above described transportation service.

Petitioner proposes to charge TOC 15.45 cents and 9.24 cents per Mcf under Petitioner's Rate Schedules T-43 and T-44, respectively, for gas it transports from the proposes receipt points.

Petitioner proposed to transport gas from the new receipt points on a thermally equivalent basis.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-24017 Filed 9-11-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 3G2842/T463; OPP-FRL-2666-1]

American Cyanamid Co.; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the pesticide (±)Cyano(3-phenoxyphenyl)methyl(±)-4-(difluoro-methoxy)-alpha-(l-methylethyl) benzeneacetate in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire January 15, 1985.

FOR FURTHER INFORMATION CONTACT:

Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmetal 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: EPA issued a notice, which was published in the **Federal Register** of August 17, 1983 (48 FR 37277), announcing the

establishment of temporary tolerances for residues of the pesticide (±)Cyano(3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodities corn grain (except popcorn), fresh corn, and sweet corn (kernels and cob with husk removed) at 0.05 part per million (ppm). These tolerances were issued in response to pesticide petition PP 3G2842, submitted by American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, NJ 08540.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 241–EUP–103, 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 these temporary tolerances will protect the public health. Therefore, the temporary tolerances have 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 Cyanamid Co. 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 January 15, 1985. Residues not in excess of this amount 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 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(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: August 24, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–23707 Filed 9–11–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50610; FRL–2666–2]

Issuance of Experimental Use Permits, BFC Chemicals, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit:

1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

45639–EUP–16. Issuance. BFC Chemicals, Inc., 4311 Lancaster Pike, Wilmington, DE 19805. This experimental use permit allows the use of 960 pounds of the herbicide diethatyl ethyl on Bermuda grass grown for seed to evaluate the control of weeds. A total of 240 acres are involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from November 23, 1983 to January 31, 1985. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703–557–1830))

10182–EUP–17. Issuance. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of 1,680 pounds of the insecticide pirimiphos-methyl on stored grains to evaluate the control of various pests. A total of 133,629 tons are involved; the program in authorized only in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina South Dakota, Tennessee, Texas, Virginia, Wisconsin, and Washington. The experimental use permit is effective from October 25, 1983 to October 25, 1984. Temporary toleances for residues of the active ingredient in or on corn, grain sorghum, rice, and wheat have been established. A feed additive regulation for residues of the active ingredient in or on rice hulls and the mill fractions of rice and wheat have been established (21 CFR 561.432). (Jay Ellenberger, PM 12, Rm. 205, CM#2, (701–557–2836))

20954–EUP–26. Issuance. Zoecon Corporation, 975 California Ave., P.O. Box 10975, Palo Alto, CA 94304. This experimental use permit allows the use of 250 pounds of the insect growth regulator methoprene in poultry houses to evaluate the control of the darkling beetle. A total of 307,321 square feet are involved; the program is authorized only in the States of Arkansas, Florida, Georgia, North Carolina, Tennessee, and South Carolina. The experimental use permit is effective from November 10, 1983 to November 10, 1984. This permit is issued with the limitation that none of the residues will enter the food-chain. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95–396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: August 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-23708 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G2976/T464; OPP-FRL-2665-8]

Mobay Chemical Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on certain raw agricultural commodities. These temporary tolerances were requested by Mobay Chemical Corporation.

DATE: These temporary tolerances expire April 20, 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: Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120 has requested, in pesticide petition PP 4G2976, the establishment of temporary tolerances for residues of the insecticide cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodities cottonseed at 1.0 part per million (ppm); peanuts at 0.02 ppm; peanut hulls at 0.2 ppm; peanut hay at 20.0 ppm; soybeans at 0.05 ppm; soybean forage at 10.0 ppm; soybean straw at 0.7 ppm; soybean hay at 40.0 ppm; milk at 0.1 ppm; eggs at 0.01 ppm; meat, fat, and meat byproducts of poultry at 0.1 ppm; meat, fat and meat byproducts of cattle, goats, hogs, horses, and sheep at 1.0 ppm; soybean oil at 0.1 ppm; cottonseed hulls at 2.0 ppm; and soybean hulls at 0.1 ppm. A related food/feed additive regulation FAP 4H5416 has established tolerances for the food commodity soybean oil at 0.1 part per million (ppm); and for the feed commodities cottonseed hulls at 2.0 ppm; peanut hay at 20.0 ppm; peanut hulls at 0.2 ppm; soybean forage at 10.0 ppm; soybean hay at 40.0 ppm; soybean hulls at 0.1 ppm; and soybean straw at 0.7 ppm.

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 3125-EUP-188 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. Mobay Chemical 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.

These tolerances expire April 20, 1985. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date 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 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. 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: August 24, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-23710 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2668-4]

Management Advisory Group to the EPA Construction Grants Program; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two day meeting of the Management Advisory Group to the EPA Construction Grants Program (MAG) will be held on September 29-30, 1984, at the Hyatt Regency Hotel, Poydras Plaza and Loyola Avenue, New Orleans, Louisiana. The meeting will begin at 9:00 a.m. on both days and will adjourn at 5:00 p.m. on September 29 and 3:00 p.m. on September 30.

The principal agenda items will be to discuss and prepare the basis for a report on compliance, enforcement and operations and maintenance of municipal wastewater treatment facilities. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any member of the public wishing to make comments is invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. Any member of the public wishing additional information should contact Ms. Georgette Brown at (202) 382-5859.

Dated: September 5, 1984.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 84-24062 Filed 9-11-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 84-391]

SMRS Applications in the New York City, Philadelphia, Washington, D.C., and Baltimore Areas

AGENCY: Federal Communications Commission.

ACTION: Order establishing lottery.

SUMMARY: The Commission has adopted a Memorandum Opinion and Order establishing a random selection lottery procedure to select from among competing applications for 800 MHz

Specalized Mobile Radio Systems in the New York City, Philadelphia, Washington, D.C. and Baltimore areas. This action was taken to expedite the applications process because there are no substantial, material differences among the competing applications.

FOR MORE INFORMATION CONTACT: Jerold Feldman, Private Radio Bureau, (202) 632-7125.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

In the matter of SMRS applications in the New York City, Philadelphia, Washington, D.C. and Baltimore Areas.

Adopted: August 8, 1984.

Released: August 30, 1984.

By the Commission: Commissioner Quello concurring and issuing a statement; Commissioner Rivera absent.

1. On February 22, 1984, the Commission, in accordance with procedures set forth in the *Second Report and Order* in General Docket No. 81-768, 48 FR 27182 (June 13, 1983), initiated by Public Notice (No. 2465) an expedited paper hearing proceeding to select licensees from among competing applicants for Specialized Mobile Radio (SMR) 800 MHz channels in the New York City, Philadelphia, Washington, D.C. and Baltimore areas. These areas have been consolidated in one proceeding because spacing rules preclude co-channel grants at proposed transmitter sites which are within 70 miles of each other. Only those applications which met the filing requirements as set forth in our *Second Report and Order* in PR Docket No. 79-191, *et al.*, 90 FCC 2d 1981 (1982), are being considered.[1]

2. The Public Notice, citing the comparative criteria established in our *Memorandum Opinion and Order* terminating PR Docket No. 79-191, *et al.*, 48 FR 51917 (November 15, 1983), noted that applicants will be awarded comparative points based upon the following:

(1) Applications proposing to expand an existing loaded trunked system will be awarded two comparative points.

(2) Applicants proposing to operate a new trunked system will be awarded one comparative point.

(3) Applicants proposing to operate a conventional system will be awarded no comparative points.

3. In accordance with Rule 1.221, applicants were required to file a Notice of Appearance and Statement and serve copies on all other applicants within 30 days. The purpose of the information furnished in the statement was to determine each applicant's comparative points. The Public Notice, sent to each applicant by certified mail, stated that an untimely filing of appearance or failure to respond could result in dismissal for failure to prosecute pursuant to Rules 1.221(c) and 1.961(b). Applicants were given 20 days to submit rebuttals or informal complaints concerning the qualifications or statements of competing applicants.

4. The Public Notice indicated that we would review the information submitted and make a final decision concerning the proper comparative points for each applicant. After the paper proceedings, those applications with the highest number of comparative points would be granted. If sufficient channels were not available to grant all applications with the same number of comparative points, grants in that group would be made in accordance with the Commission's lottery procedures.

5. The Public Notice initiating this proceeding listed 132 applications for SMR stations in the New York City, Philadelphia, Washington, D.C. and Baltimore areas.[2] Of these applications the following were dismissed for the reasons shown:

Applicant	File No.	Dismissed	Reason for dismissal
Clear Channel Communications Company.	506605 506639 506607	Mar. 29, 1984	At its request.
Metropolitan Communications	506845	Mar. 28, 1984	Do.
Southwide Mobile Telephone Company	506888	do	Do.
Tower Site Communications	506641	Apr. 25, 1984	Application for system within 40 miles of existintg station in Frederick, Maryland prohibited by Rule 90.627 (b).
	508649	Mar. 29, 1984	At its request.
	508272	do	Do.
High Tower Co	508719	Apr. 11, 1984	Application for system within 40 miles of existing station in Wheaton, Maryland prohibited by Rule 90.627(b).
Raymond E. Johns, T/A Johns Communications Co.	508389 508390	May 1, 1984	At its request.
Tactel Systems, Inc	506214	Apr. 12, 1984	Do.
Do	506210	June 15, 1984	Application for system within 40 miles of existing station in Bailey's Crossroads, Virginia prohibited by Rule 90.627(b).

6. The following applications are also dismissed by this order, for the reasons shown:

Applicant	File No.	Reason for dismissal
The Ad Shop Ltd	508312	Correspondence returned.
Phyllis R. Biondi	508305	Do.
Barbara Shade/Ross Shade.	507138	Do.
Skippy's Trucking, Inc	509076	Failure to respond.
Crest Utilities	506744	Do.
Graham & Newton	508242	Do.
Jery M. Kelso	508309	Do.
Mobile Comm., Inc	507517	Do.
Richard A. Boulais, d.b.a. Private Line Communications Co.	507746	Do.
Sound-Tronics, Inc	508348	Do.

7. Based on the Notices of Appearance and Statements and clarifying information furnished by several applicants pursuant to our request we have determined that, of the remaining applications, one application is assigned two comparative points for proposing to expand an existing loaded trunked system, 104 applications are each assigned one comparative point for proposing to operate a new trunked system and one application is assigned no comparative points for proposing to operate a conventional system.

8. Consistent with the February 22 Public Notice and the policies and procedures in our *Second Report and Orders* in General Docket No. 81-768, *supra*, and PR Docket No. 79-191, *et al.*, *supra*, applications assigned two comparative points will be granted without a lottery if there are sufficient channels available to accommodate such applicants. Therefore, the application of Henry Brothers Electronics, Inc. (File no. 506679), to add 5 channels to its existing loaded 5 channel SMR system WZN-578 located in Verona, New Jersey will be granted.

[1] The applications to add to existing trunked systems filed by Carrier Communications Corp. (File no. 508744), Comtran Associates, Inc. (File no. 508021) and Leascom (File no. 508972) were dismissed because they did not meet the required 90% loading standard by the close of the December, 1982 filing period for applications for new 800 MHz frequencies. 90 FCC 2d at 1314-1315. These applications were included in this proceeding pending the outcome of the appeal of their dismissals. On July 10, 1984 the Commission denied the Applications for Review of these dismissal actions. Consequently these applications will receive no further consideration.

[2] The February 22 Public Notice listed 131 applications. On June 7, 1984 the Commission released a Public Notice (No. 4709) adding an applicant who was omitted from the initial list of participants.

9. When spectrum remains available but is insufficient to grant applications which are without substantial, material differences [3] and which are assigned one comparative point, those applications will be designated for random selection. Since sufficient channels are not available to grant all 104 applications proposing to operate a new trunked system, grants of these applications, which are listed in the attachment, will be made in accordance with the Commission's lottery procedures.[4]

10. Since there are insufficient channels to grant all applications for new trunked systems, the remaining application (File no. 508652) for a conventional system filed by Electronic Specialty Services, Inc. is dismissed by this order.

11. Accordingly, it is ordered, pursuant to section 309(i) of the Communications Act of 1934, as amended, (47 U.S.C. 309(i)) and § 1.972 of the Commission's Rules (47 CFR 1.972), that a lottery will be conducted to select from among the 104 competing applications for new trunked SMR systems in the New York City, Philadelphia, Washington, D.C. and Baltimore areas. A Lottery Notice will be issued shortly providing the date and procedures for this random selection process.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Competing Applications To Be Selected by Lottery for SMR Systems in New York City, Philadelphia, Washington, D.C. and Baltimore

1. Adv. Radio Comm. Services of Florida, Inc., P.O. Box 10, 1700 S. Dixie Highway, Boca Raton, FL 33432–0019; New York, NY 509231
2. American Mobile Systems, Inc., 4 West 58th Street, New York, NY 10019; Arlington, VA 505188
3. AMP/American Mobile Phone Corp., 663 5th Avenue, New York, NY 10022; New York, NY 508751
4. Henry Lutz & Anna Lutz d/b as Belford Enterprises, 368 E. Road, Belford, NJ 07718; Clarksville, NJ 508694
5. Frank N. Bovino T/A, Bovino Communications Co., 521 Cypress Street, Westwood, NJ 07675; Central Islip LI, NY 508823
6. Frank N. Bovino, Bovino Communications Co., 521 Cypress Street, Westwood, NJ 07675; Verona, NJ 508801
7. Richard Rosander & Klaus Hoffman, Commercial Communications Co., 500 Swenson Dr., Kenilworth, NJ 07033; Verona, NJ 506238
8. Communications Contracting Corp., 77 Money Street, Lodi, NJ 07644; W. Paterson, NJ 506623
9. Comtran Associates, Inc., 980 E. 35th Street, Brooklyn, NY 11210; Clarksville, NJ 507697
10. Comtran Associates, Inc., 980 E. 35th Street, Brooklyn, NY 11210; Easton, CT 507702
11. Marcel Boulais d/b as Confidential Communications Co., 5346 N. 91st Avenue, Tolleson, AZ 85353; New York, NY 507734
12. LaVonne H. Cordon, 22 Esworthy Terr., Gaithersburg, MD 20760; Independent Hill, VA 506649
13. Crescent Cardboard Co., c/o Crescent Communications, 112 E. 1st N., Logan, UT 84321; Philadelphia, PA 508848
14. Crescent Cardboard Co., c/o Crescent Communications, 112 E. 1st N., Logan, UT 84321; New York, NY 508853
15. Crescent Cardboard Co., c/o Crescent Communications, Co., 112 E. 1st N., Logan, UT 84321; Washington, D.C. 508866
16. Leo Denslow, 340 Cognewaugh Road, Cos Cob, CT 06807; New York, NY 508828
17. Elizabeth Michaels d/b as EM Communications, 3619 S. 7th Street, Arlington, VA 22204; Washington, D.C. 509549
18. Elizabeth Michaels d/b as EM Communications, 3619 S. 7th Street, Arlington, VA 22204; Towson, MD 509548
19. William W. Erdman, 1730 Pennsyvlania Ave. NW., Washington, D.C. 2006; New York, NY 507857
20. Events, Inc., 5702 F General Washington Dr., Alexandria, VA 22314; Manassas, VA 508746
21. Five States Tower Co., P.O. Box 416, Poughkeepsie, NY 12608; New York, NY 508696
22. Frederick R. Head Agency, Inc., 1801 Burnet Avenue, Syracuse, NY 13206; West New York, NJ 508388
23. John J. Gottsman d/b as G & S Enterprises, 1021 Stone Canyon Rd., Los Angeles, CA 90024; Philadelphia, PA 509065
24. John J. Gottsman d/b as G & S Enterprises, 1021 Stone Canyon Rd., Los Angeles, CA 90024; New York, NY 509079
25. John J. Gottsman d/b as G & S Enterprises, 1021 Stone Canyon Rd., Los Angeles, CA 90024; Washington, D.C. 509092
26. General Comms. & Electronics Co., P.O. Box 670, 59 Bloomfield Avenue, Pine Brook, NJ 07058; New York, NY 506237
27. General Electric Radio Ser. Corp., c/o General Electric Co. MRD, 6501 Loisdale Ct., Ste. 1100, Springfield, VA 22150; New York, NY 506856
28. General Electric Radio Services Corp., c/o General Electric Co. MCD, 6501 Loisdale Ct., Ste. 1100, Springfield, VA 22150; Philadelphia, PA 506854
29. General Electric Radio Services Corp., c/o General Electric Co. MRD, 6501 Loisdale Ct., Ste. 1100, Springfield, VA 22150; Washington, D.C. 506859
30. Handle Artists Management Ltd., 307 Candlewood Ct., Millersville, MD 21108; Washington, D.C. 508655
31. Handle Artists Management Ltd., 307 Candlewood Ct., Millersville, MD 21108; Towson, MD 508656
32. Michael E. Handley d/b as The Handley Co., 6260 Paddington Ln., Centreville, VA 22020; McLean, VA 508265
33. Hill's Capitol Security, Inc., 818 Roeder Rd., Ste. 500, Silver Spring, MD 20901; Washington, D.C. 509074
34. Howard Hollander, 185 Beach 136th St., Belle Harbor, NY 11694; Half Hollow Hills, NY 508295
35. J & H Radio, 1 Madison Street, E. Rutherford, NJ 07073; West Orange, NJ 506228
36. John B. Sydnor d/b as JB Sydnor Towing Service, 7128 Idylwood Road, Falls Church, VA 22043; McLean, VA 508313
37. Johnny Matthews Fuel & Trucking, 630 14th St., NE., Washington, D.C. 20002; Washington, D.C. 508752
38. Joel Kornreich, 33 Murray Hill Drive, Spring Valley, NY 10977; New York NY 507169
39. Leader Communications, Inc., 3003 W. Madison, Bellwood, IL 60104; Philadelphia, PA 508255
40. Leader Communications, Inc., 3003 W. Madison, Bellwood, IL 60104; New York NY 508799
41. Leader Communications, Inc., 3003 W. Madison, Bellwood, IL 60104; Washington, D.C. 509228
42. David J. Lesser, 14 Buckingham Drive, Dix Hills, NY 11746; New York, NY 507471
43. Loomis Radio Communications, Inc., P.O. Box 2383, Houston, TX 77001; New York, NY 508697

[3] 48 FR 27182, 27195 (June 13, 1983).

[4] There are no substantial, material differences among these applicants since they all propose to operate a new 5 channel trunked SMR system and there are no financial qualifications required for applying for an SMR license. We deem there to be no substantial, material differences among applications which are assigned the same number of comparative points. See *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945, 960 (1975).

44. Maryland Communications Co., Inc., 8641 Loch Raven Boulevard, Towson, MD 21204; Montclair, NJ 506608
45. MEB International Industries Inc., c/o M.E. Birkins, 185 E. Palisade Avenue, Englewood, NJ 07631; West New York, NJ 508266
46. MEB International Industries, c/o M.E. Birkins, 185 E. Palisade Ave., Englewood, NJ 07631; Arlington, VA 508267
47. Guy P. McSweeney, 3340 Peachtree Rd., NE, Suite 1690, Atlanta, GA 30326; Philadelphia, PA 509220
48. Guy P. McSweeney, 3340 Peachtree Rd., NE, Suite 1690, Atlanta, GA 30326; Washington, D.C. 509222
49. Microwave Carphones, Inc., P.O. Box 430016, Houston, TX 77243; Washington, D.C. 508218
50. Mobile/Comm of DC, Inc., P.O. Drawer 2367, Jackson, MS 39205; Vienna, VA 507515
51. Mobile Comms. Service Co., Inc., 147 Wheeler Avenue, Bridgeport, CT 06606; Easton, CT 508693
52. Mobile Radio Dispatch Service, Inc., P.O. Box 249, E. Bruswick, NJ 08816; Marlboro, NJ 508292
53. Motorola, Inc., 1270 Fairfield Rd., Suite 5, Gettysburg, PA 17325; Towson, MD 507477
54. Motorola, Inc., 1270 Fairfield Rd., Gettysburg, PA 17325; Bull Run, VA 507511
55. Motorola, Inc., 1270 Fairfield Rd., Suite 5, Gettysburg, PA 17325; Huntington, NY 508046
56. Motorola, Inc., 1270 Fairfield Rd., Suite 5, Gettysburg, PA 17325; W. Orange, NJ 508124
57. Motorola, Inc., 1270 Fairfield Rd., Suite 5, Gettysburg, PA 17325; Hamilton, NJ 508813
58. Mountain Communications, Inc.,[1] 239 Main Street, West Orange, NJ 07052; Verona, NJ 506622
59. Stewart Nattboy, 3411 Avenue H, Brooklyn, NY 11210; New York, NY 507396
60. Norcom Communications Corp., P.O. Box 2208, N. Babylon, NY 11703; Clarksville, NJ 506750
61. Norcom Communications Corp., P.O. Box 2208, N. Babylon, NY 11703; Plainview, NY 506702
62. NUR Corporation, P.O. Box 6010, Los Osos, CA 93402; Atlantic City, NJ 506659
63. NUR Corporation, P.O. Box 6010, Los Osos, CA 93402; Philadelphia, PA 506669
64. NUR Corporation, P.O. Box 6010, Los Osos, CA 93402; Baltimore, MD 506676
65. NUR Corporation, 2141 10th Street, P.O. Box 6010, Los Osos, CA 93402; New York, NY 509139
66. Nysmac Corporation, 30 W. 25th Street, New York, NY 10010; New Haven, CT 507860
67. Nysmac Corporation, 30 W. 25th Street, New York, NY 10010; New York, NY 508296
68. R.G.I. Communications, Inc., P.O. Box 1068, Maywood, NJ 07606 Fort Lee, NJ 508065
69. Rilor Services, 628 Medford Road, Route 112, Patchoque, NY 11772; New York, NY 508146
70. Charles Sanfillipo, 280 Giffords Lane, Staten Island, NY 10308, New York, NY 507399
71. Scorpion Systems, Inc., Jeremiah Courtney Law Offices, 2120 L St, NW, Ste. 335, Washington, D.C. 20037; Bethesda, MD 509085
72. Scorpion Systems, Inc., Jeremiah Courtney Law Offices, 2120 L St, NW, Ste. 335, Washington, D.C. 20037; New York, NY 509089
73. Scorpion Systems, Inc., Jeremiah Courtney Law Offices, 2120 L St, NW, Ste. 335, Washington, D.C. 20037; Philadelphia, PA 509134
74. SMR Systems Corp., 1318 Round Oak Ct., McLean, VA 22101; Bull Run, VA 509545
75. SMR Systems Corp., 1318 Round Oak Ct., McLean, VA 22101; Catonsville, MD 509546
76. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Leonardtown, MD 508893
77. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Hagerstown, MD 508894
78. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Dover, DE 508907
79. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Front Royal, VA 508901
80. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Fredericksburg, VA 508950
81. Southwide Mobile Telephone Co., 200 Park Offices, Ste. 200, P.O. Box 13219, Research Triangle Park, NC 27709; Baileys Cross Rds., VA 509189
82. Specialized Mobile Radio Services, Inc., 53 Broken Arrow Bend, Medford, NJ 08055; Williamstown, NJ 509099
83. Fred Steinberg, 29 Northwood Cir., Huntington, NY 11743; Half Hollows, NY 508275
84. William L. Swartzbaugh, 8 River Road Drive, Essex, CT 06426; W. New York, NJ 508310
85. Tactel Systems, Inc., 8325 Old Marlboro Pike, A–13, Upper Marlboro, MD 20772; Baltimore, MD 506192
86. Texas Mobile Communications, Inc., 1008 Wirt Rd., Ste 120, Houston, TX 77055; Washington, D.C. 508073
87. Texas Mobile Communications, Inc., 1008 Wirt Rd., Ste. 120, Houston, TX 77055; New York, NY 508112
88. Suzanne Tfister & Samuel T. Tornatore, d/b as Tornatore & Co., The University Building, 120 E. Washington Street, Syracuse, NY 13202; W. New York, NJ 506314
89. Tower Site Communications, Inc., 1115 Valewood Road, Towson, MD 21204; Fairfax, VA 506606
90. Tower Site Communications, Inc., 1115 Valewood Road, Towson, MD 21204; Central Islip LI, NY 508629
91. Trans-Ocean Comms, Inc., 82–16 Elliott Avenue, Middle Village, NY 11379; Forest Hills, NY 506993
92. Tri-State Paging Co., Inc., 35C Corbin Avenue, Bayshore, NY 11706; Huntington, NY 509174
93. Tu-Way Mobile Comm. Co., 2350 Schoenersville Rd., Allentown, PA 18103; Philadelphia, PA 508654
94. Two Way Communications Inc., 35C Corbin Avenue, Bayshore, NY 11706; Huntington, NY 506232
95. United States Sugar Corp., P.O. Box Drawer 1207, Clewiston, FL 33440; New York, NY 509164
96. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Atlantic City, NJ 508234
97. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Philadelphia, PA 508358
98. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Frederick, MD 508383
99. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Washington D.C. 508767
100. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Allentown PA 508783
101. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Elkton, MD 508841
102. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; Bridgeport, CT 508882
103. Western Union Telegraph Co., 1 Lake Street, Upper Saddle River, NJ 07458; New York, NY 508884
104. Xentel Corporation, P.O. Box 2066, Burbank, CA 91507; New York, NY 507530

August 8, 1984.

Concurring Statement of Commissioner James H. Quello

In re: Random selection proceeding for 800 MHz Specialized Mobile Radio (SMR) licenses in the New York City, Philadelphia, Washington, D.C. and Baltimore areas.

[1] Mountain Communications, Inc.'s former address of record in this proceeding was 1728 Springfield Ave., Maplewood, NJ 07040.

I object to the manner in which the Commission approached the use of the lottery to decide among SMR applicants in this proceeding. Purporting to adopt a comparative process, the Commission found one-hundred and four applicants equally qualified to operate new SMR systems. In fact, there was no comparison of qualifications. The only "comparative" merits awarded were on the basis of the nature of the proposed service; i.e., expanded, new or conventional. Each applicant's ability to carry out its proposal was simply assumed.

I continue to have concerns that the Commission is unnecessarily weakening its comparative process as it perpetuates a trend toward deciding among applicants by lot.

[FR Doc. 84-23943 Filed 9-11-84; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Board of Vistors for the Emergency Management Institute; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972)), General Services Administration Regulations 41 CFR Part 101-6, and Federal Emergency Management Agency (FEMA) Regulation 44 CFR Part 12, and after consultation with the General Services Administration, the Director of FEMA has determined that the establishment of the FEMA Board of Visitors for the Emergency Management Institute (EMI) is in the public interest in connection with the performance of duties imposed on the Agency by law.

The objectives and the duties of the Board are to review the programs of EMI and make comments and recommendations to the Associate Director for Training and Fire Programs regarding the operation of the institute and any improvements therein which the Board deems appropriate.

1. In carrying out its responsibilities, the Board may include in its review:

(a) A discussion of the institute's programs to determine whether these programs further the basic mission of the EMI; and

(b) Other appropriate subject areas that are related to the effectiveness of the delivery of the institute's programs.

2. The Board shall draw on the expertise of its members and with the concurrence of the Associate Director for Training and Fire Programs, such other experts as may be considered appropriate in order to provide advice and make recommendations to the Associate Director.

3. The Board shall submit annually a written report to the Associate Director for Training and Fire Programs no later than April each year. This report shall provide detailed comments and recommendations regarding the operation of the institute.

4. The Board shall function solely as an advisory board and comply fully with the provisions of the Federal Advisory Committee Act.

Members and Chairman

The Board of Visitors will be composed of 12 members, including a chairman. The Associate Director shall appoint the individuals to the Board, including the member to be designated as chairman. The members of the Board, including the chairman, shall be selected from among professional in the fields of emergency management, education, public administration and industry and from such professional organizations as will ensure a balanced representation of interest.

Term of Office

Members shall be appointed for 1 year, an on January 1 each year may be reappointed for an additional year at the discretion of the Associate Director with the concurrence of the member. In the event a vacancy occurs, the Associate Director may appoint a replacement to fill the unexpired term.

Interested persons are invited to submit comments regarding the establishment of the Board of Visitors. Such comments, as well as any inquiries, may be addressed to the Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, D.C. 20472.

Dated: September 5, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-24036 Filed 9-11-84; 8:45 am]
BILLING CODE 6710-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0505]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Fee Schedules for Wire Transfer of Funds and Net Settlement Services.

SUMMARY: The Board has approved a reduction in the basic fee for originating or receiving a wire transfer of funds from $0.65 to $0.60.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231) of Florence M. Young, Program Manager (202/452-3955) Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

On January 18, 1984, the Board issued for public comment a proposal to assess fixed monthly fees to all depository institutions having an electronic connection to the Federal Reserve for one or more priced services. (49 FR 2828). In conjunction with implementing the fixed monthly fees, it was also proposed that the fee for originating or receiving a basic wire transfer of funds be reduced from $0.65 to $0.60 per transfer.

Forty-eight comments were received from the public on the proposal. While the commenters generally discussed the reduction in the basic transaction fee in connection with the overall proposed fee structure, those who specifically discussed it overwhelmingly supported it.

The financial results of the Federal Reserve priced services operations indicate that during the period January through July 1984, the Reserve Banks have reported a net revenue surplus of $4.4 million. This surplus is attributable to costs lower than originally projected and volume of basic, on-line funds transfers higher than anticipated.

As a result, total cost, including the private sector adjustment factor (PSAF), is now projected to amount to $57.0 million and revenues should amount to $62.5 million, if the fee of $0.65 for a basic transfer is retained. In light of this, the Board has reduced the fee for originating or receiving a basic funds transfer from $0.65 to $0.60, effective September 27, 1984. With this reduction, it is estimated that 1984 revenues for the wire transfer of funds and net settlement service will amount to $61.5 million.

The Board also approved a modified schedule of fixed monthly fees to be assessed to all depository institutions having an electronic connection with the Federal Reserve for one or more priced services, effective January 2, 1985. A detailed notice on this action will be published shortly.

By order of the Board of Governors of the Federal Reserve System, September 6, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-24009 Filed 9-11-84; 8:45 am]
BILLING CODE 6210-01-M

The Chase Manhattan Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicted or the offices of the Board of Governors not later than October 2, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York; to engage *de novo* through its subsidiary, The Chase Manhattan Trust Company of California, N.A., in performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency or custodial nature), in the manner authorized by federal or state law; and including the making of loans and investments and the taking of deposits which are limited to those loans, investments and deposits.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage *de novo* through its subsidiary, BA Futures, Incorporated, San Francisco, California, in acting as a futures commission merchant for non-affiliated persons. Such activities will include the execution and clearance on major commodities exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its own account. These activities would be conduted worldwide from a *de novo* office in Hong Kong. Comments on this application must be received not later than September 26, 1984.

2. *United Security Bancorporation*, Chewelah, Washington; to engage *de novo* through its subsidiary, USB Leasing, Inc., Chewelah, Washington, in leasing personal and real property and acting as agent, broker, or adviser in leasing such property.

3. *Wells Fargo & Company*, San Francisco, California; to engage *de novo* through its subsidiary, Central Western Insurance Company, Phoenix, Arizona, in the activity of underwriting, as reinsurer, credit-related life insurance which is directly related to extensions of credit by the credit extending affiliates of Wells Fargo & Company. These activities would be conducted in the States of Idaho and Utah, and the District of Columbia. Comments on this application must be received not later than September 27, 1984.

Board of Governors of the Federal Reserve System, September 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24064 Filed 9-11-84; 8:45 am]

BILLING CODE 6210-01-M

First Financial Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dsipute 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 October 4, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Financial Bancorporation, Inc.*, Lakeland, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Lakeland, Lakeland, Florida.

2. *Hibernia Corporation*, New Orleans, Louisiana; to merge with Metro Shares, Inc., Metairie, Louisiana, thereby indirectly acquiring First Metropolitan Bank, Metairie, Louisiana.

3. *SouthTrust Corporation*, Birmingham, Alabama; to acquire 80 percent of the voting shares of The First National Bancorp of The South, Opp, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 320 South LaSalle Street, Chicago, Illinois 60690:

1. *River Valley Bancorporation, Inc.*, Rothschild, Wisconsin; to acquire 80 percent or more of the voting shares of Farmers State Bank, Pound, Wisconsin.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Ralston Bancshares, Inc.*, Kansas City, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Ralston Bank, Ralston, Nebraska.

Board of Governors of the Federal Reserve System, September 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24063 Filed 9-11-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunication Standards

AGENCY: Office of Information Resources Management, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunications Standard (FED–STD) proposed for adoption: FED–STD 1029, "Telecommunications: Interoperability and Security Requirements for Encryption of Narrowband Digitized Voice Using the Data Encryption Standard".

DATE: Comments are due within 90 days of the date of this notice.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the July 6, 1984 draft of FED–STD 1029 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Dated: September 3, 1984.

Francis A. McDonough,

Acting Assistant Administrator, Office of Information, Resources Management.

[FR Doc. 84–23965 Filed 9–11–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83N–0172; DESI 11114]

Wyanoids HC Rectal Suppositories; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of new drug application (NDA) 11–114 for Wyanoids HC Rectal Suppositories. FDA is withdrawing approval because the combination drug product lacks substantial evidence of effectiveness. The product has been used to treat proctitis secondary to ulcerative colitis.

EFFECTIVE DATE: October 12, 1984.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11114 and directed to the Division of Drug Labeling Compliance (HFN–310), Center for Drugs and Biologics, Food and Drug Administration, 5640 Nicholson Lane, Rockville MD 20852.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Center for Drugs and Biologics (HFN–366), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 3, 1974 (39 FR 841) (formerly Docket No. FDC–D–623), FDA offered an opportunity for a hearing on a proposal to withdraw approval of the following NDA:

NDA 11–114; Wyanoids HC Rectal Suppositories containing hydrocortisone acetate 10 milligrams(mg), belladonna extract 15 mg, ephedrine sulfate 3 mg, zinc oxide 176 mg, boric acid 543 mg, bismuth iodide oxide 30 mg, bismuth subcarbonate 146 mg, balsam peru 30 mg, and cocoa butter; Wyeth Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017.

The basis of the proposal was that the product lacked substantial evidence of effectiveness. In response to the notice, Wyeth Laboratories requested a hearing. Wyeth has since withdrawn its hearing request. Accordingly FDA is now withdrawing approval of the NDA.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address above).

The Director of the Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the combination product Wyanoids HC Rectal Suppositories will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 11–114 and all its amendments and supplements is withdrawn effective October 12, 1984. Shipment in interstate commerce of the product above or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 5, 1984.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 84–24024 Filed 9–11–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 79N–0001; DESI 6902]

Roniacol Tablets, Elixir, and Timespan Tablets; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug applications of Roniacol Tablets, Elixir, and Timespan Tablets. FDA is withdrawing approval because the drug products lack substantial evidence of effectiveness. The drug products have been used to treat peripheral vascular disease.

EFFECTIVE DATE: October 12, 1984.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 6902 and directed to the Division of Drug Labeling Compliance (HFN–310), Center for Drugs and Biologics, Food and Drug

Administration, 5640 Nicholson Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Center for Drugs and Biologics (HFN–366) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of May 25, 1979 (44 FR 30443), FDA offered an opportunity for a hearing on a proposal to withdraw approval of the following new drug applications (NDA's):.

1. NDA 6–902; Roniacol Tablets containing nicotinyl tartrate 50 milligrams (mg) an Roniacol Elixir containing nicotinyl tartrate 50 mg/milliliter; Roche Laboratories, Division of Hoffmann-La Roche, Inc., 340 Kingsland Rd., Nutley, NJ 07110, and

2. NDA 11–813; Roniacol Timespan (sustained release) Tablets containing nicotinyl tartrate 150 mg; Hoffmann-La Roche, Inc.

The proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and 21 CFR 314.111(a)(5). In response to the notice, Roche Laboratories requested a hearing, but subsequently withdraw its hearing request. Accordingly, FDA is now withdrawing aproval of the NDA's.

Any drug product that is identical, related, or similar to a drug product named above and is not the suject of an approved new drug application is covered by the new drug appliations reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address above).

The director of the Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that Roniacol Tablets, Elixir, an Timespan Tablets will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of NDA's 6–902 and 11–813 and all their amendments and supplements is withdrawn effective October 12, 1984.

Shipment in interstate commerce of the products above or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 5, 1984.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 84–24023 Filed 9–11–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–09006]

Colorado; Proposed Continuation of Withdrawal; Air Force Academy, Colorado

Correction

In FR Doc. 84–14698 beginning on page 22894 in the issue of Friday, June 1, 1984, make the following corrections.

On page 22894, Column 3, in the heading "Cintinuation" should read "Continuation",

On page 22895, Column 1, line 5, "1076" should read "1976".

On the same page column 1, in the second complete paragraph, line 7, "purposes" should read "purpose".

BILLING CODE 1505–01–M

Prineville District Advisory Council; Meeting

Notice is herby given in accordance with Pub.L. 92–463 of a meeting of the Prineville District Advisory Council to be held October 5, 1984. The meeting will be in the form of a field orientation tour of portions of the Two Rivers Planning Area in preparation for future involvement in the Two Rivers Resource Management Plan/Environmental Impact Statement process.

The tour will begin at the Prineville District BLM Office at 8:00 AM, located at 185 East Fourth Street, Prineville, Oregon.

The tour is open to the public, however, transportation for the public will not be provided. Anyone wishing to attend and/or make written or oral statements to the board is requested to contact the District Manager at the above address prior to September 28, 1984.

Dated: August 31, 1984.

Gerald E. Magnuson,

District Manager.

[FR Doc. 84–24075 Filed 9–11–84 8:45 am]

BILLING CODE 4310–33–M

Change of Hearing Date for Use of Helicopters for Gathering of Wild Horses in the Sheepshead Herd Management Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Change of Hearing Date for Use of Helicopters for Gathering of Wild Horses in the Vale District of Oregon.

SUMMARY: In order to accommodate an emergency fire rehabilitation project in the Vale District, Oregon, notice is hereby given that the hearing date for use of helicopters for gathering wild horses in the Sheepshead Mountain Wild Horse Herd has been changed from September 21, to September 17, 1984.

DATE: The hearing on use of helicopters for gathering wild horses in the Vale District, Oregon, will be held September 17, 1984, beginning at 9:00 a.m.

ADDRESS: The meeting will be held at the Vale District Office, 100 East Oregon Street, Vale, Oregon 97918.

FOR FURTHER INFORMATION CONTACT: Fearl Parker, (503) 473–3144, Bureau of Land Management, Vale District, P.O. Box 700, 100 Oregon Street, Vale, Oregon 97918.

SUPPLEMENTARY INFORMATION: This notice amends a Notice published in the Federal Register on August 24, 1984 (49 FR 33730), which announced a hearing on the use of helicopters in the gathering of wild horses in the Heath Creek-Sheepshead Herd Management Area during fiscal year 1985. The original hearing date was set for September 21, 1984. This notice changes the hearing date to September 17, 1984. This change is necessitated by the need to take immediate steps to rehabilitate lands in Southeastern Oregon.

The Bureau of Land Management has approved an emergency fire rehabilitation plan (M–335/EA No. OR–030–4–37) to deal with the effects of the Folly Farm Fire which burned some 12,470 acres in Southeastern Oregon between August 4 and August 8, 1984. The purpose of the project is to protect the soil of the watersheds and to allow native vegetation regeneration by reducing grazing influences, including those of wild horses. The plan requires the gathering of approximately 350 wild

horses from the Heath Creek-Sheepshead Herd Management Area of the Burns and Vale Districts, Oregon. The Bureau will also reduce livestock use in the Sheepshead Allotment by 190 cattle for the 1985 and 1986 grazing seasons, and use herding to insure that all livestock stay off the burn area.

An inventory on August 14, 1984, counted 780 wild horses on the Heath Creek-Sheepshead Herd Management Area. The Herd Management Area has been allocated forage to sustain a maximum of 300 head of wild horses. Competition is great among the horse bands for space and feed. The herd is also highly mobile and is known to use the lavas along the southeast perimeter of the burn area as a foaling ground and wintering area. For the reasons set out above, and given the size and fingered configuration of the burn, it is estimated that at least one-half of the herd will migrate to feed on the burn area during fall and spring greenup. Thus, the herd needs to be reduced by approximately 50 percent this fall to lessen expected intense grazing on the weakened perennial grasses in the burn area. In addition, the soil crust would be maintained if wild horse and livestock use can be prevented.

The Bureau of Land Management has allocated to the Vale District additional wild horse and burro program funds on an emergency basis from this fiscal year's appropriation to accomplish this gathering of wild horse prior to, or during appropriation to accomplish this gathering of wild horse prior to, or during the early stages of, fall greenup. Authority to use the allocated funds will expire September 30, 1984. Weather conditions become increasingly adverse in the roundup area during late September and early October, possibly to the point that gathering operations would be impossible. Thus, given the inability to gather during the spring foaling season, the entire burned area could be subject to overgrazing throughout the fall and spring greenups, providing serious, adverse impacts to the vegetation and soil resources, if the roundup is not completed immediately.

Dated: September 10, 1984.

Henry Noldan,

Acting Assistant Director.

[FR Doc. 84-24153 Filed 9-11-84; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Establishment; Fire Island National Seashore

AGENCY: National Park Service—Fire Island National Seashore, Interior.

ACTION: Notice of Establishment.

NOTICE: The Act of September 11, 1964 (Pub. L. 88-587) authorized the establishment of Fire Island National Seashore for the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York. The National Seashore possesses high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population.

Section 2(e) of the Act provides that when the Secretary of the Interior determines that lands and waters or interests therein have been acquired by the United States in sufficient quantity to provide an administrative unit, he shall declare the establishment of the Fire Island National Seashore by publication of notice in the **Federal Register.** I have determined that lands and waters or interests therein have been acquired by the United States in sufficient quantity to provide an administrative unit. Accordingly, and by virtue of the authority contained in the Act of September 11, 1964, I hereby declare that Fire Island National Seashore is established.

Dated: September 7, 1984.

William Clark,

Secretary of the Interior.

[FR Doc. 84-24065 Filed 9-11-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-199 (Preliminary)]

Certain Dried Salted Codfish From Canada; Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that 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 (TSUS), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On July 19, 1984, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by Codfish Corporation alleging that an industry in the United States is materially injured by reason of imports from Canada of the subject merchandise which is allegedly being sold at LTFV. Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930, 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 of such merchandise.

Notice of the institution of the Commission's investigation and of the public conference 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 August 1, 1984 (49 FR 30810). The conference was held in Washington, D.C. on August 10, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on September 4, 1984. A public version of the Commission's report, Certain Dried Salted Codfish from Canada, (investigation No. 731-TA-199 (Preliminary), USITC Publication 1571, September 1984) contains the views of the Commission and information developed during the investigation.

Issued: September 4, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR. Doc. 84-24113 Filed 9-11-84; 8:45 am]

BILLING CODE 7020-02-M

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[Investigation No. 731-TA-159 (Final)]

Carbon Steel Wire Rod From Poland; Determination

On the basis of the record [1] developed in investigation No. 731-TA-159 (Final),

[1] The "record" is defined in § 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 U.S.C. 207.2(i)).

the Commission determines,[2] pursuant to section 735(b)(i) of the Tariff Act of 1930 (19 U.S.C. 1673(d)(b)(1)), that an industry in the United States is not materially injured, nor threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports of carbon steel wire rod from Poland, provided for in item 607.17 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this final investigation following a preliminary determination by the Department of Commerce that carbon steel wire rod from Poland was being sold in the United States at LTFV. Commerce's preliminary LTFV determination was published in the **Federal Register** on May 8, 1984 (49 FR 19545).

Notice of the institution of the Commission's final investigation and scheduling of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, and by publishing the notice in the **Federal Register** on May 31, 1984 (49 FR 22722). On July 20, 1984, Commerce published in the **Federal Register** (49 FR 29434) its affirmative final LTFV determination with respect to carbon steel wire rod from Poland. The Commission's hearing was held in Washington, D.C. on July 31, 1984, and all persons who requested the opportunity were permitted to appear in person or through counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on September 4, 1984. A public version of the Commission's report, Carbon Steel Wire Rod from Poland (investigation No. 731–TA–159 (Final), USITC Publication 1574, 1984) contains the views of the Commission and information developed during the investigation.

Issued: September 5, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24116, Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[2] Chairwoman Stern dissenting.

[Investigations Nos. 701–TA–220 (Preliminary) and 731–TA–197 and 198 (Preliminary)]

Certain Welded Carbon Steel Pipes and Tubes From Brazil and Spain; Determinations

On the basis of the record [1] developed in investigation No. 701–TA–220 (Preliminary), the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of small diameter circular welded carbon steel pipes and tubes [2] which are alleged to be subsidized by the Government of Spain.[3] The Commission also determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of light-walled rectangular (including square) welded carbon steel pipes and tubes [4] which are alleged to be subsidized by the Government of Spain.[5] [6]

In addition, on the basis of the record developed in investigation No. 731–TA–197 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of small diameter circular welded carbon steel pipes and tubes which are alleged to be sold in the United States at less than fair value (LTFV).[7]

The Commission further determines, on the basis of the record developed in investigation No. 731–TA–198 (Preliminary), pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of small diameter circular welded carbon steel pipes and tubes which are alleged to be sold at LTFV.[8] The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of light-walled rectangular (including square) welded carbon steel pipes and tubes which are alleged to be sold in the United States at LTFV.[9] [10]

Background

On July 17, 1984, counsel for the Committee on Pipe & Tube Imports (CPTI)[11] filed petitions with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Spain of certain wleded carbon steel pipes and tubes which are allegedly being subsidized by the Government of Spain, and of imports from Brazil and Spain of certain welded carbon steel pipes and tubes which are allegedly sold at LTFV. Accordingly, effective July 17, 1984, the Commission instituted preliminary investigations under the provisions of the Tariff Act of 1930. Notice of the institution of the

[1] The "record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The term "small diameter circular welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243 of the Tariff Schedules of the United States Annotated (1984) (TSUSA). Prior to April 1, 1984, the circular pipes and tubes were provided for in TSUSA items 610.3231, 610.3232, 610.3241, and 610.3244.

[3] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

[4] The term "light-walled rectangular (including square) welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of rectangular (including square) cross section, having a wall thickness of less than 0.156 inch, provided for in TSUSA item 610.4928. Prior to April 1, 1984, the rectangular pipes and tubes were provided for in TSUSA item 610.4975.

[5] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[6] Vice Chairman Liebeler dissenting.

[7] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[8] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[9] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[10] Vice Chairman Liebeler dissenting.

[11] The 11 member producers of the CPTI at the time the petitions were filed were Allied Tube & Conduit Corp., American Tube Co., Inc., Bull Moose Tube Co., Century Tube Corp., Copperweld Tubing Group, Kaiser Steel Corp., Merchants Metals, Inc., Pittsburgh-International, Southwestern Pipe, Inc., Western Tube & Conduit, and Wheatland Tube Co. Since the petitions were filed the following 11 firms became members of the CPTI, Central Steel Tube Co., Geneva Tube, LaClede Steel Co., Lone Star Steel Corp., Maverick Tube Corp., Newport Steel Corp., Phoenix Steel Corp., Sawhill division of Cyclops Corp., Sharon Tube Co., UNR-Leavitt, and Woodson Products.

Commission's investigations and of a public conference 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 July 30, 1984 (49 FR 30375). A public conference was held in Washington, D.C. on August 8, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on August 31, 1984. A public version of the Commission's report, *Certain Welded Carbon Steel Pipes and Tubes from Brazil, and Spain* (investigations Nos. 701–TA–220 (Preliminary) and 731–TA–197 and 198 (Preliminary), USITC Publication 1569, 1984), contains the views of the Commission and information developed during the investigations.

Issued September 4, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24115 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 732–TA–164 (Final)]

Stainless Steel Sheet From Spain

AGENCY: United States International Trade Commission.

ACTION: Amendment of the scope of the Commisisn's antidumping investigation on stainless steel sheet from Spain (Inv. No. 731–TA–164 (Final)) to include stainless steel strip.

SUMMARY: The Commission hereby gives notice of the amendment of the scope of its final antidumping investigation No. 731–TA–164 (Final) to include stainless steel strip, provided for in items 608.43 and 608.57 of the Tariff Schedules of the United States.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202–523–0369), U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: The Commission's final investigation on stainless steel sheet from Spain was instituted, effective June 26, 1984, following a preliminary determination by the Department of Commerce that there was a reasonable basis to believe or suspect that imports of such merchandise from Spain were being, or were 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 Commission did not include stainless steel strip within the scope of its final investigation, although it was included in the Commission's preliminary investigation, because the Department of Commerce preliminarily determined that such strip was not being, and was not likely to be, sold in the United States at LTFV. On September 4, 1984, however, the Department of Commerce made a final affirmative determination with respect to both stainless steel sheet and strip from Spain. Accordingly, the Commission is amending the scope of its investigation to conform with the final determination by the Department of Commerce.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: September 7, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24123 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–170]

Certain Bag Closure Clips; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure, 47 FR 25134 (June 10, 1982), as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983); to be codified at 19 CFR 210.53–.56.

SUPPLEMENTARY INFORMATION: On August 9, 1984, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain bag closure clips, which have the effect or tendency to substantially injure a domestic industry. No petitions for review or agency comments were filed. Having examined the record in this investigation, including the initial determination of the presiding officer, the Commission has determined not to review the initial determination. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

The Commission notes its disagreement with the presiding officer wherein he considered imports by settled respondents in assessing the existence of an effect or tendency of imports to substantially injure an efficiently and economically operated domestic industry. The Commission believes that there must be a finding of an unfair act with respect to the articles imported by the settled respondents before those articles may be considered relevant to a determinatiion of injury. No such finding was made in this investigation. However, even without considering the imports of settled respondents, the record contains sufficient evidence of an effect or tendency to substantially injure the domestic industry to support the initial determination.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States and/or (2) a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of relief, if any, that should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors that the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those that are the subject of the investigation and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's

action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, that should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day that is fourteen (14) days after publication of this notice in the **Federal Register.**

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's office.

Notice of this investigation was published in the **Federal Register** on November 9, 1983 (48 FR 51551).

Copies of the nonconfidential version of the presiding officer's initial determination of August 9, 1984, 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: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: September 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24121 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–185]

Certain Rotary Wheel Printing Systems; Commission Determination Not To Review Initial Determination Designating Investigation More Complicated and Extending the Deadline for Completion of the Investigation by Sixty-one Days

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) designating the above-captioned investigation "more complicated" and extending the deadline for completion of the investigation by 61 days, i.e., until May 7, 1985.

SUPPLEMENTARY INFORMATION: On August 9, 1984, respondents Primages, Inc. (U.S.) and Primages, Inc. (Republic of China) filed a motion to designate the investigation "more complicated." On August 21, 1984, the presiding officer issued an ID granting the motion to designate the investigation "more complicated" and extending the deadline for completion of the investigation by 61 days. No petitions for review of the ID were received from the parties nor were comments received from any Government agency.

In light of the recent joinder of the Primages firms and Towa Sankiden Corp. as respondents, the cut-off of discovery, and the imminence of the evidentiary hearing absent an extension of the procedural schedule for completing the investigation, the Commission determined that difficulty in obtaining information with respect to the newly joined respondents required that the investigation be designated "more complicated."

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, telephone 202–523–0311.

Authority: 19 U.S.C. 1337; 19 CFR 210.15 and 210.53.

Issued: September 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24112 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–172]

Certain Shearing Machines; Commission Decision Not To Review Initial Determination Terminating Investigation

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (ID) (Order No. 23) terminating the above-captioned investigation.

SUPPLEMENTARY INFORMATION: On July 13, 1984, complainant Bendix Automation Company (Bendix), respondents Amada Japan and U.S. Amada, and the Commission investigative attorney filed a joint motion to terminate the investigation on the basis of a settlement agreement concluded between the Warner and Swasey Company, as successor to the business of complainant Bendix, and respondent U.S. Amada. The presiding officer issued an ID granting the motion for termination on July 27, 1984. The Commission has received neither a petition for review of the ID nor comments from Government agencies or the public.

Copies of the presiding officer's ID 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: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0311.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51 and 210.53.

Issued: September 6, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24111 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 338-TA-174]

Certain Woodworking Machines; Commission Decision Not To Review Initial Determinations Terminating Respondents on the Basis of Consent Order Agreements

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's Initial Determinations (IDs) (Order Nos. 28–31 and 33) terminating respondents Conover Woodcraft Specialties, Inc.; Wilton Corporation; Wilke Machinery Company; Sid Tool Company; Industrial Industries International; Barrett and Tool Guys in the above-referenced investigation on the basis of consent order agreements.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation in response to a complaint filed by Rockwell International Corp. of Pittsburgh, Pennsylvania to determine whether there is a violation of section 337 in the importation of certain woodworking machines into the United States, or in their distribution and sale. The notice named Conover Woodcraft Specialties, Inc.; Wilton Corporation; Wilke Machinery Company; Sid Tool Company; Industrial Industries International; Barrett and Tool Guys as among the twenty-two respondents. (48 FR 55786, December 15, 1983.)

On July 25, 1984 the presiding officer issued five initial determinations (IDs) terminating Conover Woodcraft Specialties, Inc., and Wilton Corporation (Order No. 28); Wilke Machinery Company (Order No. 29); Sid Tool Company (Order No. 30); Industrial Industries International (Order No. 31); and Barrett and Tool Guys (Order No. 33) as respondents on the basis of consent order agreements.

The Commission has received neither petitions for review of the IDs nor comments from Government agencies or the public.

Copies of the presiding officer's initial determination and all other non-confidential 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: Hannelore V.M. Hasl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

Issued: September 4, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24122 Filed 9-11-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-186]

Certain Tennis Rackets; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Trak, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 6, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies for all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: September 6, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24119 Filed 9-11-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-186]

Certain Tennis Rackets; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Snauwaert and Depla, N.V., and Snauwaert and Depla Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 7, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in

the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: September 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24117 Filed 9–11–84; 8:45 am]

Billing Code 7020–02–M

[332–162]

Cancellation of Hearing on Foreign Industrial Targeting

AGENCY: United States International Trade Commission.

ACTION: Cancellation of hearing.

Background

The Commission instituted the present investigation on its own motion under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) on April 19, 1983, at the request of the Subcommittee on Trade of the House Committee on Ways and Means. The original notice of investigation, published in the **Federal Register** of May 11, 1983 (48 FR 21210), announced that the investigation would be divided into three phases: the first to consider Japanese industrial targeting, the second to consider the European Community's industrial targeting, and the third to consider industrial targeting of other major U.S. trading partners. The first and second phases of the study have been completed and reports published (USITC Publications 1437 in October 1983 and 1517 in April 1984). The third phase of the study was initiated on June 1, 1984, and a notice was published in the **Federal Register** of June 6, 1984 (49 FR 23463).

Public Hearing

A public hearing was scheduled to be held in the Commission Hearing Room in Washington, D.C., beginning at 10 a.m. on September 11, 1984. Because there were only three witnesses requesting an opportunity to testify, the Commission has canceled the hearing.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons were invited to submit written statements concerning the investigation no later than October 10, 1984. Because of the cancellation of the hearing, written submissions concerning the investigation will be received until October 31, 1984.

Issued: September 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24120 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–183]

Certain Indomethacin; Hearing

Notice is hereby given that a prehearing conference in this matter will be held at 9:00 a.m. on September 17, 1984, in Hearing Room F at the Interstate Commerce Commission Building, 12th & Constitution Avenue, NW., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: September 6, 1984.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 84–24118 Filed 9–11–84; 8:45 am]

BILLING CODE 7020–02–M

[332–192]

Conditions of Competition Between the U.S. and Major Foreign Filbert Industries

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1322(g)) for the purpose of assessing the competitive position of filberts in the U.S. and major foreign markets.

EFFECTIVE DATE: September 4, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Z. Macomber, principal analyst (telephone 202–724–1765) or Mr. David L. Ingersoll, Chief, Agriculture, Fisheries, and Forest Products Division (telephone 202–724–0068), U.S. International Trade Commission, Washington, D.C. 20436.

Background and Scope of Investigation

At the request of the United States Senate Committee on Finance, the Commission has instituted investigation No. 332–192 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of gathering and presenting information on the competitive and economic factors affecting the U.S. filbert nut industry in U.S. and major foreign markets and the competitive position of the major foreign suppliers in these markets. In some markets, filberts are also referred to as hazelnuts. Specifically, the Commission has been asked to:

(A) Profile the U.S. filbert industry,

(B) Compare U.S. and foreign tariff and nontariff barriers, such as grading standards and sanitary regulations,

(C) Describe international trade agreements bearing on trade in filberts,

(D) Discuss factors of competition between U.S. and major foreign suppliers in the U.S. market,

(E) Compare prices of U.S. and imported filberts,

(F) Identify the levels and trends in employment of U.S. growers and processors of filberts,

(G) Compare transportation costs for domestic and imported filberts to major U.S. market areas, and

(H) Compare marketing practices of U.S. and foreign suppliers.

The Committee specified that the products to be investigated should include in-shell filberts, and shelled, blanced, or otherwise prepared or preserved filberts. The Commission expects to complete its study by April 16, 1985.

Written Submissions

Interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be received by the Commission at the earliest practicable date, but not later than December 31, 1984. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: September 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24124 Filed 9-11-84; 8:45 am]

BILLING CODE 7020-02-M

[332-193]

The Impact of Rules of Origin on United States Imports and Exports

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the impact of rules of origin on the competitive position of U.S. imports and exports, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: September 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Forest (202) 523-0363—O/TA & TA.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-192, following receipt on August 20, 1984, of a request therefor by the President transmitted through the U.S. Trade Representative (USTR). The advice requested will be used as part of the United States' contribution to the General Agreement on Tariffs and Trade Ministerial meetings concerning rules of origin.

The economic consequences and potential trade distortions resulting from the application of rules of origin have been a matter of increasing concern in recent years. Efforts have been underway in various international fora to explore the possibility of making differing national rules of origin more uniform and consistent.

This study will focus on assessing the effects on trade of rules of origin applied by the United States and its major trading partners. In view of the fact that the structure and operation of the differing rules may significantly affect the competitive position of imports and exports in a market, the investigation will include an analysis of those aspects of the various rules. The major portion of the study, however, will be devoted to the examination of comments and complaints received from importers and exporters regarding the impact felt by them as a result of the application of rules of origin.

A copy of the request letter received from USTR is available for public inspection in the Office of the Secretary. The Commission's scheduled completion date for the report is April 19, 1985.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., on January 29, 1985. All persons shall have the right to appear by council or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, January 22, 1985.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on January 22, 1985. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: September 6, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24114 Filed 9-11-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-No. 166)]

Rail Carriers; Chicago and North Western Transportation Co.—Abandonment—In Le Sueur and Waseca Counties, MN; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 23.0-mile rail line between Montgomery, MN, milepost 63.0, and Waseca, MN, milepost 86.0 in Le Sueur and Waseca Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.57.

James H. Bayne,

Secretary.

[FR Doc. 84-24051 Filed 9-11-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 159)]

Rail Carriers; Chicago and North Western Transportation Co.; Abandonment in Polk, Warren, Madison, Union, Ringgold, and Taylor Counties, IA, and in Worth, Nodaway, Andrew, and Buchanan Counties, MO; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 150.5-mile line of railroad between Des Moines, IA (milepost 214.5) and St. Joseph, MO (milepost 64.0) in Polk, Warren, Madison, Union, Ringgold, and Taylor Counties, IA and in Worth, Nodaway, Andrew, and Buchanan Counties, MO. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA."

Information and procedures regarding financial assistance for continued rail

service are set forth at 49 U.S.C. 10905 and 49 CFR 1152.57.

James H. Bayne,

Secretary.

[FR Doc. 84-24052 Filed 9-11-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 107)]

Rail Carriers; Seaboard System Railroad, Inc.; Abandonment in Horry County, SC; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc., to abandon its rail line between milepost ACH-336.10 near Conway and milepost ACH-350.20 near Myrtle Beach, a distance of 14.10 miles in Horry County, SC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-24050 Filed 9-11-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30553]

Camp Lejeune Railroad Company—Lease Exemption; Exemption

Camp Lejeune Railroad Company (CLRR) filed a notice of exemption concerning acquisition of a Seaboard System Railroad, Inc. line of railroad from MP ACB-294.6 at Marine Junction, near Jacksonville, NC, to MP ACB-300.0 at Kellum, NC, a distance of approximately 5.4 miles. That line had been approved for abandonment by the Commission in Docket No. AB-55 (Sub-No. 79), *Seaboard System Railroad, Inc.—Abandonment and Discontinuance of Operations—In New Hanover, Pender, Onslow, Jones and Craven Counties, NC* (not printed), served March 5, 1984, and its acquisition by CLRR will not constitute a major market extension. Lease of the above rail line between Marine Junction and Kellum and lease from the United States of America, Department of the Navy, of the line between Kellum and Havelock, NC, will be considered in a separate decision.

Accordingly, this transaction comes within that class of transactions specifically exempted from the necessity of prior Commission review and approval under 49 CFR Part 1180 (2)(d)(1).

As a condition to use of this exemption, any employee affected by the purchase shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: September 7, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-24196 Filed 9-11-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Arenol Chemical Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 15, 1984, Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 12, 1984.

Dated: September 5, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-24048 Filed 9-11-84; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

Registration of F-1 and M-1 Students

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of registration of certain F-1 and M-1 students for the Service's new automated student schools system.

FOR FURTHER INFORMATION CONTACT: Alice N. Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: In October 1984, the first computer-generated student status forms, required by 8 CFR 214.3(g)(2), will begin to be sent to schools approved by the Service for attendance of nonimmigrant F-1 and M-1 students. Not all schools will receive forms in October. The process will continue until June 1985.

A one-time registration of F-1 and M-1 students is also being done to capture data on those students who are not yet on record in the Service's new automated student schools system (STSC). The registration is being combined with a school's response to the first student status form it receives during Fiscal Year 1985 to facilitate processing for both the public and the Service. Accordingly, the schools will be given ninety days from the date generated to respond to the first student status forms they receive during Fiscal Year 1985, instead of the normal sixty stated in 8 CFR 214.3(g)(2). The procedures being used were set up in close coordination with the National Association for Foreign Student Affairs (NAFSA).

Under 8 CFR 214.1(f), a condition of a nonimmigrant's admission and continued stay in the United States is the full and truthful disclosure of all information requested by the Service. In accordance with that regulation, any student who is not listed by the Service on the first student status form sent during Fiscal Year 1985 to the school the student was last authorized to attend

must sign any necessary Forms I–20A–B or I–20M–N, and must make his or her Forms I–94 and/or I–20 ID copy and any information necessary for this registration available to the Service. The designated school official must collect the necessary forms and information and furnish them to the Service upon request. If any student fails or refuses to give a designated school official any necessary forms or information, the Service will then request it directly from the student.

(Secs. 101(a)(15)(F) and 101(a)1(5)(M) and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(F), 1101(a)(15)(M) and 1184)

Dated: September 7, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84–24093 Filed 9–11–84; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

State of California Employment Development Department; State of Idaho Department of Employment; State of Montana Department of Labor and Industry; Commonwealth of Puerto Rico Department of Labor; Hearing

This notice annouces an opportunity for a hearing for the unemployment compensation agencies of the States of California, Idaho, and Montana, and the Commonwealth of Puerto Rico (the "four States"), pursuant to the last sentence of section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), and 20 CFR 601.5, to be held at 9:30 o'clock on the morning of October 2, 1984, in a Courtroom in the Vanguard Building, 1111 20th Street, NW., Washington, D.C. Each State agency will have an opportunity to make a record.

The hearing will be on the following issues:

Issues: Whether, with respect to the certification of the four States on October 31 1984, under section 3304(c) of the Internal Revenue Code of 1954 (the Code), 26 U.S.C. 3304(c), the unemployment compensation laws of the four States have failed to have been amended, with respect to weeks of unemployment beginning on or after April 1, 1984, so that—

(1) With respect to the State of California and the State of Idaho, their unemployment compensation laws include the provisions of clause (iv) of section 3304(a)(6)(A) of the Code (relating to employees of educational service agencies who perform services in professional and nonprofessional capacities in educational institutions), as amended by section 521(a)(2) of the Social Security Amendments of 1983 (Pub. L. 98–21);

(2) With respect to the State of Montana, its unemployment compensation law includes the provisions of clauses (ii), (iii), and (iv) of section 3304(a)(6)(A) of the Code (relating to employees of educational institutions and educational service agencies who perform professional and nonprofessional services in educational institutions), as amended by section 521(a)(2) of the Social Security Amendments of 1983 (Pub. L. 98–21); and

(3) with respect to the Commonwealth of Puerto Rico, its unemployment compensation law includes the provisions of clauses (iii) and (iv) of section 3304(a)(6)(A) of the Code (relating to employees of educational institutions and educational service agencies performing professional and nonprofessional services in educational institutions), as amended by section 521(a)(2) of the Social Security Amendments of 1983 (Pub. L. 98–21).

Basis of Issues: Section 3304(a)(6)(A) of the Code provides that unemployment compensation shall be payable under a State law on the basis of service to which section 3309(a)(1) applies, that is service in the employ of a governmental entity or nonprofit organization described in paragraphs (7) and (8) of section 3306(c) of the Code, 26 U.S.C. 3306(c), in the same amount, on the same terms, and subject to the same conditions as unemployment is payable on the basis of other service subject to the State law. Clauses (ii), (iii), and (iv) of section 3304(a)(6)(A), exceptions to this "equal treatment" requirement, authorized the States, at their option, to deny benefits under certain conditions to nonprofessional employees of educational institutions between successive academic years or terms (clause (ii)), to deny benefits under certain conditions during certain vacation and holiday periods to professional and nonprofessional employees of educational institutions (clause (iii)), and to deny benefits under the conditions specified in clauses (i), (ii), and (iii) to employees of educational service agencies who perform professional or nonprofessional services in an educational institution (clause (iv)). Section 521(a)(2) of Pub. L. 98–21 amended clauses (ii), (iii), and (iv) of section 3304(a)(6)(A), effective for weeks of unemployment beginning on or after April 1, 1984, to make those provisions mandatory rather than optional with the States. As amended the clauses read as follows:

(ii) With respect to services in any other capacity [*i.e.*, nonprofessional] for an educational institution to which section 3309(a)(1) applies—

(I) Compensation payable on the basis of such services shall be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

(II) If compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I),

(iii) With respect to any services described in clause (i) or (ii) [*i.e.*, professional or nonprofessional], compensation payable on the basis of such services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess, and

(iv) With respect to any services described in clause (i) or (ii) [*i.e.*, professional or nonprofessional], compensation payable on the basis of such services in any such capacity shall be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

Section 521(b)(1) of Pub. L. 98–21 provides that the amendments made in section 521(a)(2) are applicable to weeks of unemployment beginning on or after

April 1, 1984. Section 521(b)(2) provides a "grace period" for the enactment of needed changes in State laws, which has expired for each of the four States.

The State unemployment compensation laws of the four States appear not to be in conformity with the provisions of section 3304(a)(6)(A) of the Code, as amended by section 521(a)(2) of Pub. L. 98–21. The last sentence of section 3304(c) of the Code is therefore applicable to conformity proceedings on this issue.

Following the hearing a decision will be made as to each State. Such decision will have a bearing on whether each State is certifiable on October 31, 1984, with respect to normal and additional tax credits allowable to the State's employers pursuant to subsections (a) and (b) of 26 U.S.C. 3302 for the taxable year 1984, and will also have a bearing on other benefits to the State under the Federal-State unemployment compensation program.

The proceedings in this matter shall be in accordance with the attached Rules of Procedure.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above-referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, who will be designated in accordance with the Rules of Procedure.

Counsel for each State unemployment compensation agency shall enter an appearance with the presiding Administrative Law Judge no later than September 13, 1984; a copy shall be provided to William H. DuRoss, III, Associate Solicitor for Employment and Training, 200 Constitution Avenue, NW., Washington, D.C. 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearance with the presiding Administrative Law Judge no later than September 13, 1984; a copy shall be provided to each State agency as expeditiously as possible.

Signed at Washington, D.C., on September 6, 1984.

Raymond J. Donovan,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agency (or agencies) (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or member of the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to the hearing or at the beginning of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, and designation of evidence to be offered at the hearing.

5. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings, and may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

6. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter(s) in issue. The State agency shall then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) The State agency will proceed next to present any evidence it may wish to offer which is relevant to the issue(s) referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue(s) referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each opposing party of record, prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal on any issue, and the trial record shall thereafter be closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter, and may provide for the later receipt of such evidence or any other evidence for the record.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

11. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each opposing party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; argument for the State agency, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

13. The parties of record and any amicus curiae authorized to participate in the proceedings shall be permitted to file briefs. The parties of record may also file reply briefs and proposed findings of fact and conclusions of law on the matters in issue. All such briefs

and other papers shall be filed with the presiding Administrative Law Judge, with proof of service, within such time periods as are established by the presiding Administrative Law Judge.

14. As soon as possible, but in no event later than October 12, 1984, the presiding Administrative Law Judge shall: (1) Prepare a recommended decision on the basis of the record containing recommended findings of fact and conclusions of law on all issues raised by the parties; (2) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (3) forward a copy of the recommended decision to each party of record and amicus curiae. No conclusions of law regarding either the constitutionality of any Federal or State statute or the constitutionality of interpretation thereof shall be made.

15. The parties of record may file with the presiding Administrative Law Judge a Statement of Exceptions, with proof of service, setting forth any exceptions they may have to the recommended decision, within seven (7) days after service by mail of the recommended decision. Upon receipt of any Statement of Exceptions, the presiding Administrative Law Judge shall promptly forward such Statement of Exceptions and proof of service to the Secretary of Labor, noting whether the statement was timely filed.

16. (a) Any briefs or other papers intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the office of the presiding Administrative Law Judge. Unless otherwise ordered, such documents shall be deemed to be filed on the date they are postmarked if transmitted by the United States Postal Service, and shall be deemed to be filed on the date received in the Office of Administrative Law Judges if transmitted by any other means.

(b) An original and one copy of any brief or other paper shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with proof of sufficient service upon the opposing parties.

(c) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

17. Following the certification in accordance with Rule 14 above, and consideration of any Statement of exceptions filed and served in accordance with Rules 15 and 16, the Secretary of Labor shall render a decision in the matter, in writing, and shall forward the decision together with the record to the Chief Administrative Law Judge, and shall forward copies of his decision to the Governor of the State, to each party of record, and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 84-24039 Filed 9-11-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

Office for Partnership Advisory Panel (Locals Test Program Section); Meeting

The meeting of the Office for Partnership Advisory Panel (Locals Test Program Section) which is scheduled to meet on September 12, 1984, from 10:00 a.m.–5:00 p.m.; on September 13, 1984, from 9:00 a.m.–5:00 p.m.; and on September 14, 1984 from 9:00 a.m.–1:00 p.m. is hereby amended to meet on September 12, 1984, from 10:00 a.m.–5:00 p.m.; on September 13, 1984, from 9:30 a.m.–5:00 p.m.; and on September 14, 1984, from 9:30 a.m.–1:00 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC.

The portions of this meeting which are scheduled to be open to the public on September 12, from 10:00 a.m.–11:00 a.m.; on September 13, from 2:30 p.m.–5:00 p.m.; and on September 14, from 9:00 a.m.–1:00 p.m. are hereby amended to be open on September 12, from 10:00 a.m.–2:15 p.m.; on September 13, from 3:45–5:00 p.m.; and on September 14, from 9:30 a.m.–1:00 p.m. to discuss policy, guidelines, and report on Locals Advocacy Project.

The remaining sessions of this meeting scheduled to meet on September 12, from 11:15 a.m.–5:00 p.m. and on September 13, from 9:30 a.m.–2:30 p.m. are now changed to meet September 12, from 2:15–5:00 p.m. and on September 13, from 9:30 a.m.–3:45 p.m. which are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Futher information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-24025 Filed 9-11-84; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Investigation; Hearing

The National Transportation Safety Board will hold an Accident Investigation Hearing in the matter of the head-on collision of National Railroad Passenger Corporation (Amtrak) trains Nos. 168 and 151 at Astoria, Queens, New York, New York, on July 23, 1984, beginning at 9 a.m. on Tuesday, October 2, 1984, in the Georgian Room of the New York Penta Hotel, Seventh Avenue and 33rd Street, New York, New York 10001.

Dated: September 7, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-24053 Filed 9-11-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Gessar II; Meeting Postponed

The ACRS Subcommittee on GESSAR II scheduled for September 20 and 21, 1984, at the Bayview Plaza Holiday Inn (213/399–9344), 530 Pico Blvd., Santa Monica, CA has been postponed. Notice of this meeting was published Wednesday, September 5, 1984 (49 FR 35062).

Dated: September 7, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-24087 Filed 9-11-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on Thursday, September 27 and Friday, September 28, 1984, Room 1046, 1717 H

Street, NW, Washington, DC. The entire meeting will be open to public attendance. Sessions of the subject meeting will be held from 8:30 a.m. until the conclusion of business each day.

On Thursday, the Subcommittee will (1) continue its discussion of NRC Staff proposed amendments to 10 CFR Part 20 to specify residual radioactive contamination limits, and (2) be briefed by and hold discussions with the NRC Staff on the status of the following Generic Safety Issues:

1. (Worker) Radiation Protection Plans,
2. Reactor Coolant Activity Limits for Operating Reactors,
3. Control Room Habitability,
4. Iodine Spiking, and
5. Radiation Source Control.

On Friday, the Subcommittee will be briefed by and hold discussions with (1) the NRC Staff on their evaluation of TMI-2 cleanup endpoint alternatives, and (2) DOE on their systematic approach regarding reactor safety and radiation protection research.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of DOE, the NRC Staff, Subcommittee consultants, and other interested persons regarding the previously named topics.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one to two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated September 7, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-24088 Filed 9-11-84; 8:45 am]

BILLING CODE 7590-01-M

Revised Inspection and Enforcement Manual Chapter Proprietary Review of Inspection Reports; Availability

The Office of Inspection and Enforcement has revised its manual chapter concerning the procedures for conducting proprietary review of inspection reports.

The revision of this manual chapter includes guidance that terminates the practice of routinely sending inspection reports to licensees for review for proprietary information prior to placing them in the Public Document Room (PDR). This revision places responsibility upon the licensee to inform inspectors that material provided in the course of an inspection is proprietary and upon the NRC staff to conduct proprietary reviews. In cases of significant doubt, on a case-by-case basis, the manual chapter calls for the licensee to be requested to conduct a proprietary review of final inspection reports prior to their placement in the Public Document Room.

For further information contact: Mr. Edwin F. Fox, Jr., Program Support and Analysis Staff, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 (telephone (301) 492-4905).

A copy of this notice and the manual chapter is being sent to all NRC licensees. A copy of the manual chapter is being placed in NRC's Public Document Room, 1717 H Street, NW, Washington, DC and in each Local Public Document Room (LPDR) throughout the United States for review by interested persons. Photo copies of the manual chapter may be obtained from the Public Document Room, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, at 7 cents a page by calling (202) 634-3273.

Dated at Bethesda, MD, this 4th day of September 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-24086 Filed 9-11-84; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Power Planning Council

Northwest Conservation and Electric Power Plan; Proposed Amendments, Hearings, and Public Comment Period

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of proposed amendments, hearings, and opportunity to comment.

SUMMARY: On April 27, 1983, the Council adopted a final Northwest Conservation and Electric Power Plan (Power Plan). The Council is now proposing to amend two portions of that plan. This notice describes the proposed amendments, provides information on how to obtain additional information, and outlines the process for submitting written comments and participating in the hearings.

DATES AND ADDRESSES: The public comment period regarding the proposed amendments closes at 5 p.m. October 12, 1984. Public hearings on the proposed amendments will be held in:

- Portland, Oregon at 9:00 a.m., October 4, 1984 in the Portland Building, 1120 SW., 5th Avenue, Meeting Room C on Second Floor.
- Seattle, Washington at 9:00 a.m., October 3, 1984 in Seattle Center, Mercer Forum VI (below Opera House).
- Boise, Idaho at 9:00 a.m., October 5, 1984 at the Owyhee Plaza, Encore Room, 11th and Main.
- Missoula, Montana at 9 a.m., October 1, 1984 at the Village Red Lion Motor Inn, 100 Madison.

Copies of the proposed amendments can be obtained by contacting Michele Sterling at the address and phone numbers given below.

Instructions for Oral Comment at Hearings

1. Requests for time slots must be made at least three days prior to the hearings to Ruth Curtis, Information Coordinator, at the Council's central office, 700 SW., Taylor, Suite 200, Portland, Oregon 97205 or (503) 222-5161 (toll free 1-800-222-3355 out of state or 1-800-452-2324 in Oregon).

2. Those who do not sign up for time slots will be permitted to testify as time permits.

3. Hearings should be used to summarize written comments. Comments should not be read.

4. Five copies of written testimony should be submitted to the Council.

5. Commenters will have 15 minutes to summarize written testimony.

Instructions for Written Comment

1. Comments must be received in the Council's central office, 700 SW., Taylor Street, Suite 200, Portland, Oregon 97205 by 5 p.m. on October 12, 1984. Comments received after that date will not be considered.

2. Written comments should be marked "Power Plan Amendments Comment."

3. Provide five copies of all comments.

FOR FURTHER INFORMATION CONTACT: Tom Foley, Manager, Conservation and Resource Assessment (regarding Appendix D), or Mark Cherniack, Conservation Analyst (regarding Action Item 12.13), 700 SW., Taylor, Suite 200, Portland, Oregon 97205) Toll-free 1–800–222–3355 in Montana, Idaho, and Washington; toll-free 1–800–452–2324 in Oregon; or 503–222–5161).

SUPPLEMENTARY INFORMATION: The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 94 Stat. 2697, 16 U.S.C. 839 *et seq.* (the Act), allows the Council to amend its Plan from time to time. At its meeting in Portland, Oregon on August 30, 1984 the Council voted to formally propose amending two portions of the Plan's Appendix D, "Method of Surcharge."

Appendix D, "Method of Surcharge."

The Act authorizes the Council to recommend that Bonneville Power Administration (Bonneville) impose rate surcharges upon utilities in jurisdictions in the region that fail to adopt the Council's model conservation standards or to implement measures which achieve comparable savings of electricity. 16 U.S.C. 839(f)(2). The Act also requires that the Council's Power Plan include a method for calculating such surcharges. 16 U.S.C. 839b(e)(3)(G). That method is included in the Plan's Appendix D. Bonneville recently informed the Council that it has encountered difficulties in developing a surcharge policy using the Council's Appendix D. In response, the Council developed an issue paper examining all aspects of the surcharge method. On July 23, 1984, after incorporating ideas raised by the Council in a discussion of the issue at the July 18–19, 1984 Council meeting in Spokane, the issue paper was sent to interested parties for public comments. Oral public comment was taken at the August 8–9, 1984 Council meeting in Kalispell, Montana and written comments were also received. As a result, at its August 30, 1984 meeting in Portland, Oregon, the Council voted to propose amending Appendix D of the Power Plan.

The anticipated effect of the proposed amendment is that the method of surcharging will be improved in at least the following ways:

- State and local jurisdictions and Bonneville customers will be able to see clearly how the surcharge might affect them;
- Bonneville's administrative duties will be lessened as it will not have to maintain voluminous records on consumers in its customers' service territories;
- The surcharge will be imposed only during the period that standards are not adopted or equivalent energy savings realized;
- Potentially time consuming and data intensive calculations will be eliminated.

The proposed text of the amended Appendix D is as follows:

Section 4(f)(2) of the Act provides for Council recommendation for surcharges on customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to the model conservation standards. The Council is responsible for drafting a "methodology" for the calculation of surcharges. The Council, in Action 25 of Chapter 10 of this Plan, has recommended to the Administrator that he impose a surcharge on customers serving jurisdictions which do not adopt the model conservation standards or achieve comparable savings. The purpose of the surcharge is twofold: (1) To recover costs imposed on the region's electric system by failure to adopt the model conservation standards or achieve comparable savings, and (2) to provide a strong incentive to utilities and state and local jurisdictions to adopt and/or enforce the standards or comparable alternatives. The following is the "methodolgy" for calculating surcharges:

1. The following model conservation standards must be adopted or comparable savings must be achieved in order to avoid surcharges:
   - Model Standards for new residential buildings, Action 2;
   - Model Standards for new commercial building, Action 6;
   - Model Standards for conversion to electric space heat in residential buildings Action 3; and
   - Model Standards for conversion to electric space conditioning in commercial buildings, Action 7.

2. The Administrator shall identify those customers, states, or political subdivisions which have not:

   a. Implemented each of the model standards listed in paragraph 1; or

   b. Achieved comparable savings of electricity through other conservation methods, such as utility electric service requirements or rate designs.

3. The surcharge shall then be calculated by the Bonneville Administrator as follows:

   a. If the customer is purchasing firm power from Bonneville under a Power Sales Contract and is not exchanging under a Residential Purchase and Sales Agreement, the surcharge is calculated to be 10% of the cost to the customer of all firm power purchased from Bonneville under the Power Sales Contract.

   b. If the customer is not purchasing firm power from Bonneville under a Power Sales Contract, but is exchanging under a Residential Purchase and Sales Agreement, the surcharge is calculated to be 10% of the cost to the customer of the power purchased from Bonneville in the exchange.

   c. If the customer is purchasing firm power from Bonneville under a Power Sales Contract and also is exchanging under a Residential Purchase and Sales Agreement the surcharge is calculated to be (a) 10% of the cost to the customer of firm power purchased under the Power Sales Contract *plus*, (b) 10% of the cost to the customer of power purchased from Bonneville in the exchange multiplied by the fraction of the utility's exchange load that is served by the utility's own resources.

   This calculation of the surcharge is designed to eliminate the possibility of surcharging a utility twice on the same load. In the calculation, the portion of a utility's exchange resource that is purchased from Bonneville and already surcharged under the power sales contract is subtracted from the exchange resources before establishing a surcharge on the exchange load.

   d. If only a portion of a utility's service area has not adopted the model standards or achieved comparable savings, the surcharge calculated under a., b., or c. above is to be multiplied by the non-complying jurisdiction's share of the utility's total load.

   The surcharge shall be removed when model conservation standards have been adopted and enforced or alternative programs, estimated by the Administrator in consultation with the Council to save an equivalent amount of electricity, have been implemented.

4. A utility electric service requirement that results in construction of electrically space conditioned buildings which are the equivalent of buildings in compliance with the model conservation standards constitutes an alternative plan that achieves comparable electricity savings. The Council anticipates that very few state or local governments or utilities will present other types of alternative plans to save a comparable amount of electricity to that which can be saved through adoption of the model conservation standards. This is because, to comply with the Plan, an alternative program would have to rely on conservation activities not included in the Plan or currently offered by Bonneville. However, any entity that chooses not to adopt a particular model conservation standard within the alloted period for adoption and wishes to avoid a surcharge must declare, before that period expires, how it intends to achieve comparable savings. In addition, that entity must indicate how it

intends to demonstrate attainment of comparable savings.

To assist Bonneville in estimating comparable electricity savings from alternative plans, the entity should present its best estimate of new residential and commercial building construction in the non-complying jurisdictions within its service territory. Bonneville shall determine, in consultation with the Council, whether the alternative conservation plan of an entity will achieve comparable savings. When determining electricity savings that would have occurred had the standards been adopted, jurisdiction-specific weather data and construction estimates, where available, should be used along with the Council's residential and commercial heat loss models.

The Council recognizes that in many cases data will not be available. In these cases Bonneville should rely on average electricity savings estimated by building type and climate zone and included in the Plan. For residential buildings, Bonneville should assume the following regarding houses build to the model conservation standards: (1) Houses in climate zone 1 would save, on average, 5,130 kWh per year; (2) houses in climate zone 2 would save, on average, 8,508 kWh per year; and (3) houses in climate zone 3 would save, on average, 7,830 kWh per year. For commercial buildings and where good estimates are not available for the number of new houses, the savings should be determined by multiplying total expected regional average megawatt savings by sector from the standards, as shown in the Plan, by the utility's share of total regional load in the applicable sectors. Estimates of savings from conversion standards should be made on a case-by-case basis. The Council recognizes that these estimates will be difficult to make, but also that estimated savings from conversion standards probably will be small relative to savings from building standards. The Council will work with Bonneville on these estimates as requested.

If only a portion of a utility's service area has not adopted the standards, the lost electricity savings calculated in the above paragraph should be multiplied by the non-complying area's share of the utility's total applicable load.

If the Bonneville Administrator determines that the alternative plan will not achieve comparable savings, he shall notify the entity that its alternative plan has been judged to be not equivalent to the model conservation standards and that Bonneville will begin adding a surcharge to the entity's bill on a date certain. The surcharge will be calculated as described in Paragraph 3 of this method. If subsequent modifications to the entity's alternative plan bring it into compliance with the stated goals of the standards, then the surcharge shall be removed.

A general method of determining the electric energy savings of an alternative conservation plan shall be developed in consultation with the Council and included in Bonneville policy to implement the surcharge. Also, a method shall be included in the policy for terminating the surcharge once the model standards have been adopted and enforced or comparable savings have been achieved.

Action Item 12.13, Street and Area Lighting

On page 10–18 of the Two-Year Action Plan, Action Item 12.13 states that Bonneville Power Administration shall "Terminate financial assistance for street and area lighting improvements during the current period of surplus. Street and area lighting improvements have a short expected lifetime. These improvements would contribute unneeded savings during the surplus but would not last long enough to offset later deficits."

Bonneville supports continuation of the street and area lighting program at a low budget level through Fiscal Year 1988. Bonneville has presented the following information to the Council as reasons for this position:

(a) The program can be restarted if needed;

(b) The resource is the most expensive being undertaking in the commercial sector, with the exception of private outdoor lighting;

(c) Conversion of street lamps produces savings at night, when they are less valuable to BPA and to the region; and

(d) Commercial sector megawatt targets can be met without savings from this sector.

In addition, Bonneville has stated that continued operation of this program at a maintenance level is justifiable because:

(1) Inducing utilities to stock efficient fixtures encourages them to use the efficient fixtures on the new accounts.

(2) If utilities build up inventories of installed efficient fixtures, BPA hopes that they will eventually convert their entire inventory to efficient stock and use them for all replacements. At that point, BPA support could be completely terminated and the savings would still accrue.

The proposed amendment to Action Item 12.13 states that Bonneville shall "Continue financial assistance for the street and area lighting program at a minimum viable level."

The Council voted at the August 30, 1984 Council meeting to proceed with a public hearing process on this proposed amendment.

(Sec. 4, Pub. L. 96–501, 16 U.S.C. 839b)

Edward Sheets,

Executive Director.

[FR Doc. 84–24012 Filed 9–11–84; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–21294; File No. SR–NASD–84–21]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Revisions to NASD By-Laws Governing Authority To Organize and Operate Automated Systems

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend the Association's By-Laws to expand its authority to organize and operate automated systems and to adopt rules and fees applicable to such systems without further recourse to the membership.

II. Self-Regulatory Organization's Statement Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendment to the By-Laws is primarily designed to conform the By-Laws language to certain statutory changes, clarify the application of certain provisions and generally update and modernize the By-Laws, as it specifically relates to the operation and regulation of evolving automated systems operated or under the control of the Association.

The text of the proposed By-Law amendment is one segmentable provision of a comprehensive revision to the By-Laws developed by the Association and approved by its membership. The Association is requesting that this single provision, involving the powers and authority of the Board of Governors with respect to the organization and operation of automated systems, be separately approved on an accelerated basis to enable the timely implementation of the Small Order Execution System and adoption of the rules and procedures necessary to regulate the use of this system.

This proposed rule change is believed by the Association to be consistent with section 15–(A)(b)(6) of the Act which requires that rules of the Association are designed to provide for "facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and a national market system, and, in general, to protect investors and the public interest;".

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association believes this rule change does not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

Comments were solicited and received from the membership on the comprehensive revision of the By-Laws contained in SR–NASD–84–14, however, no comments were received with respect to the substance of the proposed rule change which is the subject of this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under section 19(b)(2) of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 3, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 6, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24044 Filed 9–11–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21285; File No. SR–NASD–78–14]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Daily Reporting of Nonmarket Maker Block-Size Transactions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that the National Association of Securities Dealers, Inc. filed on September 25, 1978, and revised on May 14, 1979 and August 7, 1984, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association proposes to amend Schedule D of the NASD By-Laws to require members to report to the Association each day block-size transactions in NASDAQ securities, other than convertible debentures and those securities designated as NASDAQ/NMS securities, which are executed with persons other than registered NASDAQ market makers in that security.

II. Self-Regulatory Organization's Statement Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments to Schedule D of the NASD By-Laws would improve the information available on NASDAQ securities by collecting volume in block-size transactions by non-market makers. The exclusion of NASDAQ/NMS securities is based upon the requirement already contained in Schedule D that all transactions in these securities be reported on a real-time basis. The exclusion of convertible debentures is in response to members' comments. The second amendment announced herein updates the filing by deletion of redundant and out-dated provisions and responds to comments by the Commission staff and others.

The proposed amendments to Schedule D are designed to fulfill the responsibility of the Association under 15A(b)(6) of the Securities Exchange Act of 1934, as amended, to facilitate transactions in securities, to perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose the same requirement on all NASD members and the number of transactions subject to the proposed rule is relatively small. As such, the Association does not foresee any impact on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

Comments were solicited in Notice to Members 78–6. Seven comments in total were received. Several comments were deemed meritorious by the NASD Board

of Governors and appropriate changes were made in the text of the proposed rule. Other comments focused on the burdens associated with transaction reporting. Notwithstanding the merits of these arguments at the time of their submission, the Association notes that since April 1, 1982 members have been obliged to have procedures in place to report trades in NASDAQ/NMS securities irrespective of their status as market makers in those securities. As such, it appears that any additional burden from this proposed rule change has been significantly reduced.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period as the Commission may designate up to 120 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all 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 principal office of the above-mentioned self-regulatory organization located at 1735 K Street, NW., Washington, D.C. 20006.

All submissions should refer to the file number in the caption above and should be submitted by October 3, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Dated: September 4, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24045 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 14130; 812-5840]

Biltmore Holdings, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

September 6, 1984.

Notice is hereby given that Biltmore Holdings, Inc. ("Applicant") (formerly Canterbury Funding, Inc.), c/o Joyce A. Dixon, Esq., Dixon Dixon & Minahan P.C., Suite 1900, One First National Center, Omaha, Nebraska 68102, a Delaware corporation, filed an application on May 4, 1984, and amendments thereto on August 8, 1984, and August 31, 1984, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the relevant provisions thereof.

Applicant states that it was organized on April 26, 1984 for the sole purpose of engaging in the business of issuing and selling its commercial paper and using the net proceeds of the sale thereof to purchase participations in certain loans made by Bank of America National Trust and Savings Association ("Bank of America"), a national banking association organized and existing under the laws of the United States.

Applicant represents that payment of principal of, and interest on, Applicant's commercial paper will be guaranteed by The Travelers Indemnity Company ("Travelers"), a Connecticut corporation, pursuant to commercial paper bonds of indemnity to be issued by Travelers with respect to such commercial paper. It is further stated that substantially all of Applicant's assets will consist of participations purchased from Bank of America in loans made or otherwise owned by Bank of America meeting certain eligibility criteria.

Applicant represents that none of its outstanding common stock is, or in the future is proposed to be, owned by Bank of America or by Travelers or by any of their respective affiliates. Applicant further states that it is expected that approximately 40% of Applicant's outstanding common stock will be held in a voting trust, the trustee of which will be a designee of Travelers, pursuant to which Travelers will have veto power over certain corporate matters which, as provided in Applicant's certificate of incorporation, require the affirmative vote of two-thirds of the holders of Applicant's common stock. Applicant represents that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security of Applicant.

Applicant states that it proposes to issue and sell in the United States short-term negotiable promissory notes generally referred to as commercial paper ("Notes"). It is stated that the Notes will be offered and sold without registration under Section 5 of the Securities Act of 1933, as amended ("Securities Act"), in reliance upon a no-action letter from the Commission regarding the belief of Applicant that the offering and sale of the Notes are entitled to the exemption from the registration requirements of the Securities Act afforded by section 3(a)(3) thereof. Applicant represents that the Notes will not be issued or sold until Applicant has received such a no-action letter.

Applicant states further that the Notes will be sold in denominations $100,000 or more, will mature not more than 95 days from the date of issuance and will not be payable on demand prior to maturity or include any provisions for extension, renewal or automatic "roll-over" at the option of either the holder or Applicant. Applicant further represents that the Notes, prior to issuance, will have received one of the three highest ratings from at least one of the nationally recognized statistical rating organizations.

Applicant further states that the net proceeds of the sale of the Notes will be used by Applicant to purchase participations ("Participations") from Bank of America in loans meeting eligibility criteria specified in the Loan Participation Agreement. Each Participation purchased by Applicant will be a participation in only one eligible loan. It is stated, in addition, that the maturity date of any eligible loan in which a Participation is sold will be the same as the maturity date of the related Participation, and the same as the maturity date of the related commercial paper Notes. The maturity date of any eligible loan cannot exceed 95 days. Furthermore, the principal amount of each Participation purchased by Applicant shall be identical to the principal amount of each issuance of

Notes, the proceeds of which are used to purchase such Participation. Each issuance of Notes shall, Applicant further states, be made on the same business day on which the Participation to which such issuance relates is purchased. It is further stated that it is intended that Applicant will not purchase any Participation unless the "participation rate" thereon will be sufficient to pay all related costs and expenses of Applicant.

As represented in the application, the principal debt amount of each Participation to be purchased by Applicant shall not exceed 50% of the principal debt amount of the eligible loan in which such Participation is granted and, in any event, Bank of America shall retain a principal debt amount of each eligible loan at least equal to the principal debt amount of the Applicant's Participation in such eligible loan. The minimum size of any Participation is $100,000. The total amount of Participations in loans to any one obligor or its affiliates cannot exceed $10,000,000. Any portion of an eligible loan that it not subject to a Participation and is not required to be owned by Bank of American is not restricted as to ownership by documents between the Applicant and Bank of America. However, according to the application, Bank of America has represented to Applicant that such portion of an eligible loan will not be beneficially owned by more than 100 persons.

Applicant represents that payment of the principal of, and interest on, the Notes will be unconditionally guaranteed by Travelers pursuant to its obligations under the commercial paper bonds of indemnity ("Bonds of Indemnity") to be issued with respect to the Notes. Applicant undertakes, moreover, not to issue any Notes other than Notes the full payment of which is guaranteed by Travelers pursuant to the Bonds of Indemnity. It is further stated that, in order to secure the performance of Applicant's covenants to pay Travelers the premiums on the Bonds of Indemnity when due and to indemnify Travelers for certain losses Travelers may incur as a consequence of the performance of its obligations under the Bonds of Indemnity, Applicant shall transfer, pledge and assign to a trustee ("Trustee") in trust for the benefit of Travelers, and at all times maintain in the trust estate, "eligible collateral" (consisting of the Participations, evidenced by a master participation certificate, and/or cash) in an amount at least equal to the amount of principal, plus interest to maturity (or the face amount, in the case of Notes sold on a discount basis) of all Notes then outstanding). Applicant represents that it shall also assign to the Trustee, with respect to any Participation included in the trust estate, all its rights under the Loan Participation Agreement, including the right to have certain Participations repurchased by the Bank of America.

Applicant further represents that the Notes will be offered publicly to the types of sophisticated investors who ordinarily participate in the commercial paper market and that, although an announcement of the establishment of the commercial paper facility may be made as a matter of record, the Notes will not be advertised or otherwise offered for sale to the general public. Applicant undertakes to ensure that each dealer in the Notes will furnish each offeree a memorandum decribing the Notes and the businesses of Travelers and Applicant. Applicant represents that such memorandum will be updated to reflect material adverse changes in the financial condition of Travelers or Applicant and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States.

Applicant asserts that the exemption requested should be granted as being appropriate in the public interest, and consistent with the protection of investors and with the purposes underlying the Act. In support of this assertion, it is stated that the sole business of Applicant is to purchase Participations from Bank of America, thereby making available to Bank of America an additional source of funding for high-quality, short-term loans to its creditworthy, domestic corporate customers. Therefore, it is further asserted that Applicant's purpose and operations would be virtually identical to the purpose and operations of domestic banks, which are specificially excepted by section 3(c)(3) from the definition of investment company contained in the Act, and to the operations of foreign banks and foreign subsidiaries of domestic banks which the Commission has heretofore exempted from all provisions of the Act pursuant to section 6(c) of the Act. The application states that Bank of America has represented to Applicant that the transaction described in the application complies with all applicable banking law, rules and regulations. Further, it is asserted that a major purpose of the transaction described in the application is to provide an alternate funding source for new loans to qualified Bank of American corporate customers. No extensions of credit to such obligors shall have been adversely classified by appropriate Bank of American lending or loan review officers or the United States Comptroller of the Currency.

Applicant's Notes, it is further stated, will be unconditionally guaranteed by Travelers, an insurance company subject to the supervision of the insurance commissioners of each of the 50 states in which it is licensed to conduct its surety and insurance business. Applicant also alleges that the type of operations in which it will engage do not give rise to the types of abuses, such as insider loans and other forms of self-dealing, which Applicant believes the Act was principally designed to remedy. Therefore, it is stated, exemption of Applicant pursuant to section 6(c) of the Act would not diminish investor protection against such abuses. Finally, Applicant contends that the limited purpose for which it has been created, the nature of its assets, and the dependence by investors upon entities other than Applicant for repayment of Applicant's commercial paper indicate that Applicant is a different type of entity from that to which Congress intended the Act to apply.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 1, 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,

Acting Secretary.

[FR Doc. 84-24041 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23412; 70-7017]

Middle South Utilities, Inc.; Proposal To Issue Common Stock to Employee Stock Ownership Plan; Exception From Competitive Bidding

September 5, 1984.

The Middle South Utilities, Inc. ("Middle South") 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has proposed a transaction subject to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

Middle South proposes to issue and sell to the Trustee of its Employee Stock Ownership Plan ("Plan") through December 31, 1987, a maximum of 2,000,000 shares of unissued common stock, $5 par value, along with 69,114 shares last authorized for such sale by prior Commission order (HCAR No. 23155, December 7, 1983). The purpose of the issuance is to provide additional common stock funding for the 1983 Plan year.

The exact number of shares to be issued by Middle South will be determined pursuant to the Plan, with respect to the Plan year. Middle South proposes to apply the proceeds to reduce its bank loans and for other corporate purposes.

The Plan will be amended effective January 1, 1983 to qualify contributions made to it for payroll-based tax credit treatment under the Economic Recovery Tax Act of 1981. Cash contributions to the Plan are limited to one-half of one percent of aggregate compensation paid or accrued in 1983, unless the subsidiaries of Middle South as contributors to the Plan, elect an investment-based tax credit of one and one-half percent of qualified investments. The purchase price per share of common stock acquired from Middle South by the trustee will be the fair market value as of the date of acquisition. Middle South's common stock had a market value of $13.12 at the close of 1983, with a market to book ratio of 1.26.

Under the Plan, the trustee is required to reinvest cash dividends paid on shares of Middle South's common stock allocated to a participant's account in additional shares of common stock. In reinvesting these cash dividends, the trustee may purchase common stock under the Plan, at the price provided for in such plan, on the open market or by private purchase, including purchases directly from Middle South at fair market value.

Middle South states that compliance with the requirements in paragraphs (b) and (c) of Rule 50 is not necessary or appropriate in the public interest or for the protection of investors or consumers to assure the maintenance of competitive conditions, the receipt of adequate consideration or the reasonableness of any fees or commissions to be paid.

The proposal and any amendment thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 1, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24042 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. 23413; 70-6906]

Middle South Utilities, Inc. and Middle South Energy, Inc.; Proposed Common Stock Sales to Parent Holding Co.

September 6, 1984.

Middle South Utilities, Inc. ("MSE"), a registered holding company, and Middle South Energy, Inc. ("MSU"), a wholly owned subsidiary of MSU, 225 Baronne Street, New Orleans, Louisiana 70112, have filed a further proposal in this proceeding with this Commission pursuant to sections 6(a), 7, 9(a), 10, and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 43 thereunder.

MSE is authorized by its articles of incorporation to issue up to one million shares of common stock, no par value. By order dated March 23, 1984 (HCAR No. 23259), the Commission authorized MSE to issue and sell up to 100,000 shares to MSU through December 31, 1984, at a price of $1,000 per share. As of August 9, 1984, 72,900 shares of the 1984 common stock had been issued, raising to 776,500 the total number of shares sold by MSE to MSU.

The companies now state that, based upon MSE's revised estimate of cash requirements, in addition to the 27,100 authorized shares yet to be sold, MSE may need to sell an additional 160,000 shares (at $1,000 per share) to MSU through July 31, 1985. The proceeds will be applied toward costs incurred by MSE in the construction of its Grand Gulf nuclear-fired generating facility in Mississippi. Sales will be timed to coincide with MSE's cash needs with respect to the Grand Gulf project.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 1, 1984 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal as filed or as it may be amended, may be authorized.

For the Commission, by the Office of the Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24043 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 15bl-3
No. 270-8

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15bl-3 (17 CFR 240.15bl-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires the filing of a Form BD upon succession of a broker or dealer to the business of a registered broker or dealer. The

potential affected persons are approximately 100 registered broker-dealers per year. Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 6, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24091 Filed 9–11–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth A. Fogash—(202) 272–2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Revised

Forms N–1A (270–283), N–2 (270–21), N–5 (270–172), N–8B–2 (270–181), and N–8B–4 (270–180)

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance amendments to the following forms: N–1A, registration statement for open-end investment companies; N–2, registration statement for closed-end investment companies; N–5 registration statement for small business investment companies; N–8B–2, registration statement for unit investment trusts which are currently issuing securities; and N–8B–4, registration statement for face-amount certificate companies. This action is being taken in connection with revision of rule 12–1 under the Investment Company Act of 1940, which is renumbered rule 12d3–1. This rule will permit registered investment companies to acquire securities of issuers that derive 15% or less of their gross revenues from securities related activities (that is, the business of a broker, dealer, investment adviser or underwriter) without restrictions and, for the first time under the Act, permit investment companies to acquire securities of issuers that derive more than 15% of their gross revenues from securities related activities, provided certain conditions are met. The amendments to the registration forms will require identification of any broker-dealer whose securities the investment company has acquired where the broker-dealer regularly sells the investment company's shares, engages in principal transactions with the company or executes its portfolio transactions, and disclosure of the extent of the investment company's holdings in any such broker-dealer.

Submit comments to OMB Desk Officer: Katie Lewin (202) 395–7231, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3235, Washington, D.C. 20503.

Dated: September 6, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24092 Filed 9–11–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14129; 812–5912]

American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust, et al.; Filing of Application for an Order for Exemption to the Extent Necessary To Implement the Proposed Reorganization

September 5, 1984.

Notice is hereby given that the American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust ("Mortgage Trust") and the American Federation of Labor and Congress of Industrial Organizations Housing Investment Trust ("Housing Trust," together, "Applicants"), 815 Sixteenth Street, NW., Washington, DC 20006, filed an application on August 2, 1984, and an amendment thereto on September 4, 1984, for an order of the Commission, pursuant to section 17(b) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from the provisions of section 17(a) of the Act to the extent necessary to implement the proposed merger of the two 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 rules thereunder for the text of the applicable provisions.

Applicants state that they are open-end, management investment companies, registered under the Act. In addition, Applicants state that "units of beneficial interest" of the Housing Trust (the "Housing Trust Units") are registered under the Securities Act of 1933 in indefinite number pursuant to Rule 24f–2(a)(1) under the Act. Applicants propose that the Housing Trust issue Housing Trust Units in exchange for assets of the Mortgage Trust on the basis of relative net asset values on September 30, 1984 (the "Exchange Date"), as provided in the Plan of Reorganization (the "Plan") between Applicants. It is also proposed that the Housing Trust will assume any known liabilities of the Mortgage Trust on the Exchange Date, as provided in the Plan, and that such liabilities will be taken into account in determining relative net asset values on that date as stated in the Plan. Each Applicant will bear the fees and expenses incurred by it in connection with the merger. Applicants represent that following the proposed exchange, the Mortgage Trust will distribute Housing Trust Units to participants in the Mortgage Trust pro rata to each participant's interest in the Mortgage Trust. Following the distribution of Housing Trust Units, the Mortgage Trust will dissolve and terminate its registration under the Act.

According to the application, the investment objective of both Applicants are identical: To secure income through investment in federally insured or guaranteed construction and long-term loans secured by mortgages or liens upon real estate and in certificates representing interests in one or more such loans. Pending investment in such loans and certificates, assets of each Applicant are held in short-term liquid securities which may or may not be secured by real estate or by federal guarantees or insurance. Mortgage investments of each Applicant are limited to union-built projects. Each Applicant only acquires mortgages with yields competitive with those then generally prevailing on mortgages having comparable terms and conditions taking into account differences in risk including those resulting from differences in properties, borrowers and loan terms.

The application states that both Applicants value their respective units on quarterly valuation dates; in both cases, the next regular valuation date occurs on the Exchange Date. The application further states that the valuation methods employed by each Applicant are identical. Although the fiscal year of the Mortgage Trust ends on June 30 whereas the fiscal year of the Mortgage Trust ends on September 30, the financial statements for each Applicant as of the Exchange Date will be audited by independent public accountants.

Applicants represent that they each reserve the right to claim tax-exempt status as labor organizations under section 501(c)(5) of the Internal Revenue Code. They further represent that neither expects to be taxable on income at the trust level. According to Applicants, because only labor organizations and eligible pension plans

hold certificates of participation in the Mortgage Trust and the Housing Trust, the participants will ordinarily be exempt from federal income taxation on distributions from each Applicant. Applicants state that, for the foregoing reasons, no adjustment will be made for potential tax benefits or burdens of unrealized appreciation or depreciation in calculating the relative net asset values of each Applicant on the Exchange Date.

According to the application, the proposed reorganization will benefit the participants of each Applicant because consolidation will simplify and economize the administration of the assets of both Applicants. Separate reports and tax returns of each Applicant will not have to be prepared and filed. The maintenance of separate books and records for each Applicant will be eliminated as will separate annual audits. Because the consolidated entity will be substantially larger than either Applicant individually, investment in larger and more important union-built housing projects will be facilitated.

According to the application, each Applicant is sponsored by and has personnel and service agreements with the American Federation of Labor and Congress of Industrial Organizations (the "AFL–CIO"). The application also states that certain AFL–CIO officials and employees and other labor organization officials are trustees or officers of both Applicants. Because Applicants may not qualify for exemption under Rule 17a–8 under the Act, Applicants request a Commission order of exemption pursuant to section 17(b) of the Act. Applicants submit that the requested order is appropriate because the terms of the proposed transaction, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each participating registered investment company as recited in its registration statement and reports filed under the Act; and the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 28, 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,

Acting Secretary.

[FR Doc. 84–24089 Filed 9–11–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14128; 812–5317]

Pacific Funding Corp.; Filing of Application for an Order Exempting Applicant From All Provisions of the Act

September 5, 1984.

Notice is hereby given that Pacific Funding Corp. ("Applicant"), 165 Broadway, New York, NY 10080, a Delaware corporation, filed an application on September 14, 1983, and an amendment thereto on July 13, 1984, for a restated order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant states that it was organized as a special purpose corporation, created solely to issue and sell commercial paper notes, the subject of Applicant's previous order (Investment Company Act Release No. 12917, December 21, 1982) and medium-term promissory notes (discussed below), and to use the net proceeds of those sales to make purchases ("Purchases") from Union Bank ("Bank"), a banking corporation organized under the laws of California, of promissory notes ("Loan Notes") issued to the Bank by its customers ("Borrowers") evidencing loans or credit ("Loans") made or advanced by the Bank to the Borrowers.

Applicant further states that Borrower's payment obligations under each loan will be supported by an irrevocable letter of credit ("Letter of Credit") issued in favor of Applicant by the Bank for the account of each Borrower. Each Letter of Credit will entitle Applicant to demand payment thereunder in the event of a failure of the Borrower for whose account the Letter of Credit was issued to pay upon maturity Loans made to the Borrower. Substantially all of Applicant's assets will consist of notes representing the Loans. Applicant represents that none of Applicant's outstanding stock is or will in the future be owned by the Bank, by any of the Borrowers, or by any affiliate of the Bank or the Borrowers, and that there has been and there will in the future be no public offering of Applicant's common stock. Applicant proposes to issue and sell (i) in public transactions, short-term negotiable promissory notes ("Commerical Paper Notes") and (ii) in non-public transactions medium-term promissory notes ("Medium-Term Notes").

The application indicates that the Commercial Paper Notes will be sold in minimum denominations of $100,000. Applicant undertakes not to market any Commercial Paper Notes prior to receiving an opinion of counsel that the proposed offering of commercial paper is exempt from the registration requirements of the Securities Act of 1933 ("Securities Act"). Applicant does not request Commission review or approval of counsel's opinion, and the Commission expresses no opinion concerning availability of any such exemption.

Applicant states that the Commerical Paper Notes will be offered publicly, through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market and that, while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to ensure that each dealer in the Commercial Paper Notes will furnish to each offeree a memorandum describing the businesses of the Bank and Applicant and providing the most recent annual and quarterly financial information for the Bank. Applicant represents that the memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of Applicant or the Bank and will be at least as comprehensive as memoranda customarily used in offering commerical paper in the United States. Applicant consents to having the granting of its requested order expressly conditioned upon its compliance with the undertakings in the prior two sentences. Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally

recognized statistical rating organization, and Applicant's counsel will have certified that the rating was received.

Applicant states that the Medium-Term Notes will be sold in minimum denominations of not less than $150,000, will have maturities of from one to seven years, and will be sold only in non-public transactions. Applicant undertakes not to issue and sell any Medium-Term Notes prior to receiving an opinion of counsel that the private placement exemption available under section 4(2) of the Securities Act or Regulation D thereunder is applicable to these Medium-Term Note transactions.

Applicant states that it may, from time to time, offer for sale other debt securities, the proceeds of which would be similarly used to purchase Loan Notes. Applicant undertakes that any future issue of Applicant's debt securities will have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant's counsel will have certified that the rating was received. However, Applicant understands that no such rating shall be required to be obtained with respect to an issue of Applicant's other debt securities if, in the opinion of counsel, an exemption is available for the issue, pursuant to section 4(2) of the Securities Act or Regulation D thereunder. Applicant further undertakes that, in respect of any further offerings of Applicant's debt securities, it will obtain an opinion of counsel or a "no-action" letter issued by the staff of the Commission to the effect that the proposed offering is in compliance with, or entitled to an exemption from, the registration requirements of the Securities Act.

Applicant will utilize all of the net proceeds from sales of the Commerical Paper Notes or the Medium-Term Notes to make Purchases from the Bank. Applicant represents that for each Borrower, the aggregate amount of Commercial Paper Notes issued to obtain funds to make Purchases of Loan Notes of that Borrower and disbursements under the Letter of Credit issued for its account will not be permitted to exceed a designated amount specified for that Borrower. It is expected that each Borrower will use the proceeds of the Loans in the ordinary course of its business for, among other things, the purchase of merchandise, insurance and services.

According to the application, Morgan Guaranty Trust Company of New York ("Depositary") will, through its corporate trust department, act as issuing and paying agent for the Commercial Paper Notes and the Medium-Term Notes. As trustee for the benefit of holders of the Commerical Paper Notes and the Medium-Term Notes, the Depositary will receive an assignment of Applicant's rights to payments of the Loans evidenced by the Loan Notes and of Applicant's rights under the Letters of Credit supporting payment of such loans.

The Depositary will receive proceeds from Applicant's sales of the Commercial Paper Notes and Medium-Term Notes and deposit them in separate operating accounts at the Depositary for receipt of (i) those respective proceeds and (ii) payments made in respect of the Loans evidenced by the Loan Notes purchased with the proceeds from the sales of the Commercial Paper Notes and the Meduim-Term Notes. The Bank, as agent for Applicant, will collect payments made in respect of Loans evidenced by the Loan Notes and will remit the payments to the Depositary for deposit in their respective operating accounts. The Depositary shall, when required to pay the maturing Commercial Paper Notes or Medium-Term Notes, transfer funds held in the respective operating accounts to one of two special purpose trust accounts established at the Depositary for the holders of either the Commerical Paper Notes or the Medium-Term Notes. Maturing Commercial Paper Notes or Medium-Term Notes will be paid by the Depositary with funds from the foregoing sources or from the proceeds of any support credit, described below.

Applicant states that it will utilize all of the net proceeds from sales of the Commerical Paper Notes or the Meduim-Term Notes to make Purchases from the Bank. Applicant further states that while it is anticipated that Loan Notes will have the same maturity date as that of the Commercial Paper Notes or Meduim-Term Notes, Applicant may acquire Loan Notes with differing maturity dates from those of the Commercial Paper Notes or Meduim-Term Notes. Applicant represents that in any instance in which Commercial Paper Notes or Medium-Term Notes are issued with maturities different than the maturities of the related Loan Notes, irrevocable lines of credit will be issued in favor of Applicant by the Bank or irrevocable lines of credit from the Bank will be available to Applicant ("Support Credit") in an amount equal to the amount due in respect of the Commerical Paper Notes or of the Meduim-Term Notes issued to obtain funds to purchase the Loan Notes. Applicant further represents that, in the event that a Loan Note matures prior to the maturity of the Commercial Paper Note or the Medium-Term Note issued to obtain funds to make these Purchases, the proceeds from repayment of the Loan Note shall either be used to make additional Purchases of Loan Notes of the same type as the matured loan Note, or shall be temporarily held, pending use of the proceeds to pay amounts due on the Commercial Paper Notes or Medium-Term Notes which were issued to purchase the matured Loan Note, in obligations issued by, or the principal of and interest on which is fully guaranteed by, the United States or agencies or instrumentalities thereof, or in obligations of the Bank ("Temporary Holdings"). Applicant represents that, during any of its fiscal years, the average daily aggregate principal amount of the Temporary Holdings will not exceed ten percent of the average daily balance of the aggregate principal or face amount of the Commercial Paper Note and Medium-Term Notes outstanding during that fiscal year.

Applicant avers that it will receive assurances from either the Bank or the Borrower that, both at the time of the Purchase and for the period during which any Loan Note of the Borrower is to be outstanding, the Borrower is not and will not be an investment company as defined in section 3 of the Act. Each Borrower would be a company that itself could issue and sell its commercial paper without compliance with the Act's registration requirements. Applicant states that significant economies and efficiencies may be obtained by financing Loans to the Borrowers in the manner proposed, enabling the Bank to finance Loans to the Borrowers based on the rates available in the Commercial Paper market or the Medium-Term Note market. Applicant further argues that holders of Applicant's Commercial Paper Notes or Medium-Term Notes do not require the protections accorded investors under the Act. Applicant maintains that the assignment to the Depositary, as trustee for holders of the Commerical Paper Notes, of Applicant's rights to receive payment under the Loan Notes purchased from the Bank with Funds from the sale of Commercial Paper Notes or Medium-Term Notes, Applicant's rights under the irrevocable Letters of Credit issued by the Bank to support payment of loans evidenced by Loan Notes and Applicant's rights under the Support Credit in the case of Loan Notes having maturities different from those of the Commercial Paper Notes on Mediu m-Term Notes sold to obtain funds for Purchases, adequately protects the holders. In addition, Applicant

contends that its operations do not lend themselves to the kinds of abuses the Act was intended to prevent.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 1, 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,

Acting Secretary.

[FR Doc. 84-24090 Filed 9-11-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 03/03-0175]

UV Capital; Issuance of License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), by UV Capital (Applicant), 9 South 12th Street, Third Floor, Richmond, Virginia 23219, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of section 107.4 of the Regulations. Section 107.4(b)(1) of the Regulations states: "Unless the applicant has a corporate general partner, it shall not have fewer than two individual general partners initially, and thereafter for not more than sixty days at any one time. Some or all of the general partners may be members of a separate partnership that serves as a general partner of such Licensee; but all general partners of such separate partnership shall be considered for all purposes to be general partners of the Unincorporated Licensee. A limited partnership may not serve as a general partner of an Unincorporated Licensee."

The initial investors and their percentage of ownership of the Applicant are as follows:

Hillcrest Group, 9 South 12th Street, Richmond, VA 23219; General Partner; 2 percent

United Virginia Bank, 919 East Main Street, Richmond, VA 23219; Limited Partner; 98 percent

The partners of Hillcrest Group, a Virginia general partnership, are:

A. Hugh Ewing III, 1811 Monument Avenue, Richmond, VA 23220

James B. Farinholt, Jr., 6117 St. Andrews Lane, Richmond, VA 23226

John P. Funkhouser, 25 Albemarle Avenue, Richmond, VA 23226

J. Roderick Heller III, 6410 Shadow Road, Chevy Chase, MD 20815

United Virginia Bankshares Incorporated, a publicly owned company is the sole shareholder of United Virginia Bank.

No person owns 10 percent or more of the shares of United Virginia Bankshares.

Other Associates of the Applicant include the Southeastern Group, Inc. and its subsidiaries (including Hillcrest Management, Inc.), James River Capital Associates (a licensed SBIC), and Hillcrest Fund. Hillcrest Management, Inc. will provide management and other services to the Applicant under contract with Hillcrest Group.

The Applicant will begin operations with Private Capital of $2,550,505, consisting of $50,505 from the general partner and $2,500,000 from the limited partner. The limited partner will contribute an additional $2,500,000 on or before March 1, 1988.

The Applicant intends to conduct its operations in Virginia and surrounding states, the District of Columbia, and other southeastern states.

Matters involved in SBA's consideration of the application include the general business reputation and character of investors and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Richmond, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 6, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24078 Filed 9-11-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Cancellation and Rescheduling of Meeting

This notice is given to advise of the cancellation of the Minority Business Resource Center Advisory Committee meeting originally scheduled to be held September 27, 1984. Notice of meeting was published in the **Federal Register** issue of September 5, 1984 (49 FR 35067).

Notice is hereby given of the rescheduling of said meeting for September 26, 1984, at 9:30 a.m. until 1:00 p.m. in Room 4234 at the Department of Transportation, 400 7th Street, SW, Washington, D.C. 20590. The agenda for the meeting remains the same as published in the issue of September 5, 1984.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on September 6, 1984.

Gregory L. Wright,

Deputy Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 84-24071 Filed 9-11-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147—Traffic Alert and Collision Avoidance System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance System to be held on October 2–4, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fourteenth Meeting Held July 12–13, 1984; (3) Consider Responses from Industry on the Need for TCAS-I Minimum Operational Performance Standard; (4) Report of the Aircraft Pilot Group on Considerations for Enhanced TCAS-II; (5) Review Draft Sections to Committee Report on Enhanced TACAS-II as a Result of Task Assignments from Previous Meeting; (6) Report of Working Group Preparing Proposed Changes to Section 2.3 of RTCA Document DO–185 "Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment"; (7) Consideration of Additional Changes Needed to DO–185 and Scope the Total Work Plan; (8) Consideration of Proposed Revisions to the Committee Terms of Reference; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 5, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84–24013 Filed 9–11–84; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 178
Wednesday, September 12, 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).

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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 4:18 p.m. on Thursday, September 6, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in David City Bank, David City, Nebraska, which was closed by the Director of Banking and Finance for the State of Nebraska on Thursday, September 6, 1984; (2) accept the bid for the transaction submitted by The First National Bank of Omaha, Omaha, Nebraska; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 7, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-24190 Filed 9-10-84; 12:47 pm]

BILLING CODE 6714-01-M

2

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m., September 19, 1984.

PLACE: RFE/RL, Inc. New York Programming Center, 1775 Broadway, New York, New York 10019.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, D.C. 20036, 202–254–8040.

Dated: September 10, 1984.

Arthur D. Levin,

Budget and Administrative Officer.

[FR Doc. 84-24206 Filed 9-10-84; 2:51 pm]

BILLING CODE 6155-01-M

3

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Wednesday, September 19, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: .

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–154 [Final] (Cold-Rolled Carbon Steel Sheet from Brazil)—briefing and vote.
6. Investigations 731–TA–202 and –203 [Preliminary] (Tubular Metal Framed Stacking Chairs from Italy and Taiwan)—briefing and vote.
7. Investigation 104–TAA–23 (Tomato Products from Greece)—briefing and vote.
8. Any items left over from previous agneda.

CONTRACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[FR Doc. 84-24125 Filed 9-10-84; 9:08 am]

BILLING CODE 7020-02-M

4

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., October 1, 1984.

PLACE: On board MV MISSISSIPPI at foot of Eighth Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 84-24227 Filed 9-10-84; 4:04 pm]

BILLING CODE 3710-GX-M

5

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., October 2, 1984.

PLACE: On board MV MISSISSIPPI at City Front, Vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project, and major accomplishments since the last meeting; and (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,
Executive Assistant, Mississippi River Commission.

[FR Doc. 84–24228 Filed 9–10–84; 4:04 pm]
BILLING CODE 3710–GX–M

6

MISSISSIPPI RIVER COMMISSION

TIME AND DATES: 9:00 a.m., October 3, 1984.

PLACE: On board MV MISSISSIPPI at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,
Executive Assistant, Mississippi River Commission.

[FR Doc. 84–24229 Filed 9–10–84; 4:04 am]
BILLING CODE 3710–GX–M

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MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., October 5, 1984.

PLACE: On board MV MISSISSIPPI at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,
Executive Assistant, Mississippi River Commission.

[FR Doc. 84–24230 Filed 9–10–84; 4:04 p.m.]
BILLING CODE 3710–GX–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL
(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. There will be an Executive Session to discuss pending litigation and personnel matters.

TIME AND DATE: September 19–20, 1984, 9:00 a.m.

PLACE: Towne Plaza Motor Inn, North 7th Street & E. Yakima Avenue, Yakima, Washington.

MATTERS TO BE CONSIDERED:

1. Council Decisions on Amendments to the Columbia River Basin Fish and Wildlife Program*
   - Yakima Hatchery
   - Offsite Enhancement–704(d)
   - Painted Rocks Reservoir
   - Resident Fish
   - Harvest Controls—Program Section 500
   - Propagation (various)—Program Section 700
   - Mainstem Passage
   - John Day Acclimation Facilities
   - Discussion of Five—Year Action Plan
   - New Hydro Development—Section 1200
   - Coordination of River Operations—Section 1300
   - General and Legal Responses to Comments
2. Council Decision on Cumulative Assessment Study
3. Council Decision on Low—Income Definition—Power Plan Amendment, Action Item 1E
4. Council Business
5. Public Comment will follow items 2–4

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,
Executive Director.

[FR Doc. 84–24174 Filed 9–10–84; 12:06 pm]
BILLING CODE 0000–00–M

federal register

Wednesday
September 12, 1984

Part II

Federal Emergency Management Agency

Federal Radiological Emergency Response Plan (FRERP); Publication as an Interim Plan; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Emergency Response Plan (FRERP); Publication as an Interim Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: The Federal Radiological Emergency Response Plan (FRERP), referred to interchangeably as the Federal Plan, is published for implementation by Federal agencies to discharge statutory and regulatory responsibilities in response to a wide range of peacetime radiological emergencies. The FRERP will also serve as a resource document for States and private organizations to describe how the Federal Government will respond to State requests for assistance during a major radiological emergency and how Federal agencies will fulfill specific statutory or regulatory requirements to protect people and property from the consequences of such an event. FEMA will update the the FRERP from time to time, as required in Executive Order 12241.

This publication consists of Part I of the FRERP. It outlines authorities and responsibilities of each of the 12 agencies that have resources and capabilities applicable to a Federal response to a radiological emergency. It describes how these 12 agencies will work together to provide an efficient, coordinated Federal response and how the Federal Government will work with State governments and private organizations during an emergency response.

Part II of the FRERP is composed of individual agency response plans that are developed and maintained by each individual agency. These individual agency plans provide for each agency's response in accordance with the concept of operations specified in Part I. A summary of each agency's plan is contained in Part I.

THE FRERP has been developed as a cooperative effort of the 12 agencies represented on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee. This Subcommittee coordinated Federal interagency emergency planning activities for peacetime radiological emergencies.

The Subcommittee's efforts span a two-year period that witnessed: (1) HIEX–82, a headquarters tabletop drill in October 1982 which tested Federal agencies' response to a simulated radiological emergency involving a nuclear power plant; (2) the publication in April 1983, of the Planning Guidance for the Preparation of the Federal Radiological Emergency Response Plan (FRERP) for use by Federal agencies in developing and coordinating their agencies' response plans; (3) NUWAX–83, a May 1983 field test of Federal nuclear weapons accident response capabilities; (4) the publication in the **Federal Register** in January 1984, of a draft Federal Plan, 49 FR 3578; and (5) a large scale field exercise in Florida in March 1984 to evaluate the effectiveness of the FRERP in coordinating Federal agencies' response to this simulated emergency. Lessons learned from this exercise, as contained in the FRERP Field Exercise Evaluation Report of June 1984, and comments received following the January 1984 publication of the draft Federal Plan were considered in revising this Plan.

The FRERP supersedes the "National Radiological Emergency Preparedness/ Response Plan for Commercial Nuclear Power Plant Accidents", i.e., the Master Plan. The Master Plan was published by the Federal Emergency Management Agency (FEMA) in December 23, 1980, 45 FR 84910, to discharge a requirement under Pub. L. 96–295 to publish a coordinated, effective plan for Federal agencies to respond to a commercial nuclear power plant accident. This authority, delegated to FEMA in Executive Order 12241 and reflected in the publication of the Master Plan, is further fulfilled by this publication.

The FRERP represents an expansion in scope of the Master Plan to include a wide range of peacetime radiological emergencies including nuclear weapons accidents and transportation accidents involving radiological materials. As such, it reflects insights gained since the Master Plan was published in 1980 on how the Federal Government may more effectively respond to a wide range of peacetime radiological emergencies. This Plan was tested by the Federal agencies and proven viable in a field exercise conducted in March 1984.

Copies

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Adler, Chief, Federal Response Planning and Exercise Branch, Disaster Assistance Programs, State and Local Programs and Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, telephone 202–287–0508.

SUPPLEMENTARY INFORMATION: Under the provisions of Executive Order 12148 (July 20, 1979), the Director, FEMA, is responsible for establishing Federal policies for, and coordinating, all civil emergency planning, management, mitigation, and assistance functions of executive agencies. Under this mandate, FEMA has assumed the responsibility for coordinating the development of the Federal Radiological Emergency Response Plan.

Public Law 96–295, section 304 (June 30, 1980) requires that the President prepare and publish a National Contingency Plan which provides for an expeditious, efficient, and coordinated Federal response to an accident at a commercial nuclear power plant. Executive Order 12241 (September 29, 1980) delegated this responsibility to the Director, FEMA.

While the FRERP is a FEMA publication consistent with the charge under Executive Orders 12148 and 12241, this document also represents the collective approval of the Subcommittee on Federal Response. It is published in interim, but operational form, pending formal agency concurrences.

Dated: August 31, 1984.

Samuel W. Speck,

Associate Director, State and Local Programs and Support Directorate.

Federal Radiological Emergency Response Plan

Part I

August 1984.

Prepared by the Federal Emergency Management Agency and the other Agencies on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee.

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I. Introduction and Background

A. Purpose

The Federal Radiological Emergency Response Plan (FRERP) is to be used by Federal agencies in peacetime radiological emergencies. It primarily concerns the offsite Federal response in support of State and local governments with jurisdiction for the emergency. The FRERP: (1) Provides the Federal government's concept of operations based on specific authorities for responding to radiological emergencies; (2) outlines Federal policies and planning assumptions that underlie this concept of operations and on which Federal agency response plans (in addition to their agency-specific policies) were based; and (3) specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies.[1] The FRERP includes the Federal Radiological Monitoring and Assessment Plan (FRMAP) for use by Federal agencies with radiological monitoring and assessment capabilities.

Part I of the FRERP also includes summaries of Federal agency response plans. Part II consists of individual agencies' response plans, which are maintained by the respective agencies. These response plans provide specific guidance to Federal agencies for implementing Part I of the FRERP.

Part I of the FRERP will be revised by FEMA, as necessary, in coordination with the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee (FRPCC). DoE will have primary responsibility for proposing changes to the FRMAP section of the FRERP to the Subcommittee. Agencies should provide updates of their offsite plans and procedures to the Director, FEMA.

FEMA will periodically exercise the FRERP in coordination with the Subcommittee on Federal Response and the Subcommittee on Training and Exercises of the FRPCC. The results of such exercises will be used to update the FRERP and individual agency offsite response plans and procedures as necessary. The FRERP will be published from time to time in the **Federal Register.**

B. Scope

The FRERP covers any peacetime radiological emergency occurring within the United States, its territories, possessions, and territorial waters that could require a significant response by several Federal agencies. Specifically, emergencies occurring at fixed nuclear facilities or during the transportation of radioactive materials, including nuclear weapons, may fall within the scope of the plan regardless of whether the facility or radioactive materials are publicly or privately owned, Federally regulated, or regulated by an Agreement State.[2] The time period during which the FRERP is in effect encompasses the Federal response from initial notification of the Federal agencies through providing assistance to the State and local governments in recovering from the emergency and deactivation of the Federal response.

This plan applies to peacetime emergencies resulting from the following types of incidents:

- Fixed Nuclear Facility Incidents;
- Transportation Incidents; and
- Other Incidents, e.g., nuclear-powered satellite re-entry.

Each type of incident presents different types of response problems. Fixed nuclear facilities, including nuclear power reactors, have the advantages of known locations and existing site-specific emergency plans. Classifications of incident severity have been developed for many of these facilities, and the level of the Federal response may be guided by these classifications. The Nuclear Regulatory Commission (NRC) instituted a classification scheme for licensed nuclear power plants which has been in use for several years. This scheme is being expanded to include other NRC licensed facilities, and DoD and DoE are developing classification and reporting systems for their facilities which are similar to the NRC classification scheme.

Response to transportation accidents is more difficult to plan, as such accidents may occur anywhere, may involve a variety of radioactive materials, and may represent much less of a radiological hazard or serious threat to the public. In most cases, State resources or a limited Federal response will suffice.

Nuclear weapons accidents, weapon-significant incidents, and spent fuel incidents are not significantly different from accidents at fixed facilities or accidents during transportation of radioactive materials, and consequently are covered by these latter types of incidents.

The category of "other incidents" contains events that do not fit into the other two types of incidents. These incidents are more closely related to transportation incidents than to fixed nuclear facility incidents with regard to the nature of the Federal response that can be expected.

Sabotage and terrorism are not treated as separate types of incidents; rather, they are considered a complicating dimension of the incident types listed above. In general, responses to radiological emergencies do not depend on the initiating event. Thus, for example, a coordinated response to contain and mitigate a threatened or actual release of radioactive material from a power reactor would be essentially the same whether it resulted from an accidental or deliberate act. As a practical matter, the cause of the problem may not be known until post-accident investigations are completed.

The Atomic Energy Act directs the Federal Bureau of Investigation (FBI) to investigate all alleged or suspected criminal violations of the Act. The Attorney General, operating through the FBI and other appropriate personnel in the Department of Justice or in other Executive Departments, has the authority to investigate any alleged or suspected violations. The FBI is also legally responsible for locating any nuclear weapon, device, or material and for restoring nuclear facilities to their rightful custodians.

In view of the FBI's unique responsibilities under The Atomic Energy Act, as amended by the Energy Reorganization Act, it is realistic to expect that the DoD, DoE, or NRC will assist the FBI in locating and subsequently neutralizing any nuclear weapon or device of unauthorized origin. The FBI also will interface with these agencies as needed in responding to such acts.

Another aspect of the scope of the FRERP concerns the location of the response to the emergency. The FRERP is concerned primarily with Federal support to State and local governments beyond the immediate site of the emergency, i.e., "off site". For emergencies occurred at fixed nuclear facilities, "off site" generally refers to

[1] The terms "Federal agency" and "Federal department" are used interchangeably throughout this document.

[2] Under the *Atomic Energy Act of 1954* (subsection 274.b.), the NRC has relinquished to certain States its regulatory authority for licensing the use of source, byproduct, and small quantities of special nuclear material.

the area beyond the facility boundary. For a fixed nuclear facility owned, authorized, or regulated by a Federal agency, the onsite Federal support is the responsibility of that Federal agency, i.e., the CFA. For emergencies that do not occur at fixed nuclear facilities and for which no physical boundary exists, the offsite area is not defined. For example, in most transportation accidents not involving nuclear weapons the State or local government will define an area "on site" at the time of the accident and manage all actions within that area. In such accidents Federal agencies have no independent authority for defining the onsite area. For a transportation accident involving materials shipped by or for DoD, DoE, those agencies, as CFAs, will define and control the onsite area and take action on site depending on which of these agencies has custody of the material at the time of the accident. For certain spent fuel accidents DoE would be the CFA under Pub. L. 97–425 and have authority over the spent fuel material, but the State or local government would define and control the onsite area. In Agreement States, the State agency with regulatory authority will fulfill the onsite response role normally provided by the CFR for all activities that the State regulates.

The plan is designed to accomodate all types of peacetime radiological emergencies. However, the Federal response to different types of radiological emergencies under the FRERP will differ based on the type or amount of radioactive material involved, the potential for public impact, the size of the affected area, and the time available to respond.

C. Authorities

The following are the authorities for the response of the major Federal agencies participating in this plan:

- *The Atomic Energy Act of 1954, as amended, Pub. L. 83–703.* This Act declares that the use of nuclear materials must be regulated in the national interest in order to provide for the common defense and security, and to protect the health and safety of the public.
- *Executive Order 12148, July 20, 1979.* This Executive Order assigns the Director, FEMA, the responsibility for establishing Federal policies for, and coordinating, all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies.
- *Nuclear Regulatory Commission Appropriation Authorization, Pub. L. 96–295, June 30, 1980, section 304.* This authorization requires the President to prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in case of accidents at commercial nuclear power plants.
- *Executive Order 12241, September 29, 1980.* This Executive Order delegates to the Director, FEMA, the responsibility for publishing the National Contingency Plan for accidents at nuclear power facilities and requires that it be published from time to time in the Federal Register.
- *44 CFR Part 351, March 11, 1982.* This regulation establishes the Federal Radiological Preparedness Coordinating Committee, the parent of the Subcommittee on Federal Response that has developed this plan. It also assigns responsibility to the Department of Energy for the development of the Federal Radiological Monitoring and Assessment Plan.

Additional authorities for other Federal agencies are presented in Section IV.

D. Planning Assumptions

The following broad assumptions and policies have been used to prepare Part I of this plan and to develop the individual agency response plans and procedures contained in Part II.

1. Public and Private Sector Response

The owner or operator of an affected nuclear facility has primary responsibility for actions within the boundaries of that facility for minimizing the radiological hazard to the public. State or local governments have primary responsibility for determining and implementing any measures to protect life, property, and the environment in any areas not within the boundaries of a fixed nuclear facility or otherwise not within the control of a Federal agency. For example, in a transportation accident (other than one involving nuclear weapons) the State or local government has the responsibility for taking emergency actions both on site and off site. During an emergency, appropriate Federal resources may be used to support State and local governments' response measures, if requested. Federal agency response plans recognize the primacy of the response roles of owners or operators and State and local governments.

If the owner or operator of a radiological activity is licensed or regulated by a State agency in an "Agreement State", that State agency would provide onsite monitoring, evaluation, and advice. However, the Federal government will provide any appropriate support requested by that State agency or other State or local agencies with jurisdiction.

Certain Federal agencies have onsite response roles in a radiological emergency when a Federal agency owns, authorizes, or regulates a facility or radiological activity and has the authority to take action on site. That Federal agency is primarily responsible for monitoring the owner or operator's activities and for providing needed assistance. For example, in the case of an emergency at a licensed commercial nuclear power plant, the Nuclear Regulatory Commission monitors the situation, evaluates licensee actions, and advises the licensee, as appropriate, on the licensee's efforts to bring the reactor into a stable condition and minimize the offsite radiological consequences.

2. Federal Agency Authorities

Notwithstanding the primacy of the State for protecting public health and safety off site, some Federal agencies have statutory or other authorities for responding to certain situations affecting public health and safety without a State request. Section IV of this plan cites those relevant legislative and executive authorities. This plan provides a framework for coordinating Federal actions within those authorities; it does not create any new authorities.

3. Basis for a Federal Response

The Federal government will respond when: (1) A state, other governmental entity with jurisdiction, or regulated entity requests Federal support; or, (2) Federal agencies must respond to meet their statutory responsibilities, e.g., when an emergency significantly affects Federal missions, property, or resources. Any Federal response will be closely coordinated with the State or local governments concerned.

Responses to incidents on or affecting Federal lands are to be coordinated with Federal land management agencies to ensure that response activities are consistent with Federal statutes governing the use and occupancy of these lands. In addition, Federally recognized Indian tribes have a special relationship with the United States of America, and State and local governments may have limited or no authority on their reservations. The Bureau of Indian Affairs of the Department of the Interior (DoI) is available to assist other agencies in consulting with these tribes about radiological emergency preparedness and responses to incidents.

4. Federal Agency Resource Commitments

The resources of the Federal agencies will be made available during radiological assistance operations, subject to prior commitments to fulfill other operational requirements considered essential based on statutory responsibilities. Agencies committing resources under this plan do so with the understanding that the duration of the commitment of those resources will depend on the nature and extent of the emergency. It is further understood that subsequent emergencies that are more serious or of higher priority (such as those that may jeopardize national security) may require Federal agencies to reassess resources previously committed under this plan.

5. Protool for Federal Assistance Requests by Owners or Operators

The owner or operator of a facility or radiological activity, either private or authorized or regulated by the Federal government, can ask for assistance directly from the appropriate Federal agency. The State or local governments, as well as the CFA and FEMA, should be informed by the Federal agency first contacted when such assistance is requested.

6. Coordination of State and Local Assistance Requests

After notification of a radiological emergency that could signficantly impact the public health and safety, and after discussions with the CFA, or upon a direct State request for assistance, FEMA will designate and deploy a Senior FEMA Official (SFO) to provide a single point of contact, as required, for State and local assistance requests. Where possible, the SFO will co-locate with the State representative at an offsite location. State and local government requests for assistance can also be made directly to individual Federal agencies. Federal agencies contacted directly will inform the SFO. When State and local authorities are unable to obtain the required assistance, they should direct requests for offsite Federal assistance to the SFO, or, in the absence of such a designated official, to the appropriate FEMA regional office.

The Governor of the affected State will be advised of the designation of the SFO and will be asked to designate a State representative as the State Coordinating Officer (SCO) to provide a principal point of State contact. The SFO will promote effective operating relationships among Federal, State, local, volunteer, and private agencies.

7. Federal and State Communications

Emergency response requires a continuous flow of information among Federal and State agencies thoughout an emergency. This plan does not restrict this flow. However, for the SFO to coordinate response actions and maintain the most current information, Federal agencies need to keep the SFO informed of their major response efforts and activities that might impinge on the actions of other agencies.

8. Federal Referrals of State and Local Assistance Requests

State and local authorities will be encouraged to coordinate their actions with their SCO. Nevertheless, some State and local authorities may contact Federal agencies directly. Accordingly, to facilitate such contact, Federal agency response plans and procedure have:

a. Described the individual agencies' responsibilities in support of the State. This will help States to determine the most appropriate Federal agency to contact for the required assistance. Particular emphasis has been given to describing responsibilities that are closely related to those of other agencies.

b. Provided for referral for inquiries falling within another agency's area of responsibility to the appropriate agency as promptly as possible. Whenever a question exists as to the appropriate agency for referral, agencies should direct the referral to the SFO.

9. Coordination Among Federal Agencies

Federal agencies should coordinate their actions with the SFO. In addition, Federal agencies will communicate freely and interact directly with other Federal agencies as required during emergencies.

10. Public Information Coordination

Public information on the consequences of an emergency must be accurate, timely, and easily understood. Public information must be closely coordinated with State and local officials and disseminated to the public from official government sources. State officials are responsible for keeping their populace adequately informed. Since the Federal government's role is to help the State, the public information officers of the responding Federal agenices will, if requested, help State information officials prepare news releases and hold press conferences concerning the health and safety of the public.

When a multi-agency Federal response to an emergency occurs, all Federal public information releases will be coordinated through the interagency public information organizations described in Section II.

Close working relationships among the public information officials of Federal agencies, their State and local counterparts, and the owner or operator are essential. To foster close working relationships efforts will be made to co-locate Federal, State, local, and owner or operator public information officials at a Joint Information Center. The Federal government will coordinate with, and obtain concurrence as necessary from, the appropriate State or local officials on any statements to the public that bear on the responsibility of the State.

II. Concept of Operations

A. Response Overview and Summary

The CFA, FEMA, and DoE or EPA each has a specific coordination function in relation to the State and the owner or operator of the radiological activity as summarized in Table II-1. Other Federal officials may arrive on the scene prior to the arrival of the CFA, FEMA, and DoE/EPA and act under their own authorities to fulfill their responsibilities. During that brief period, those agencies will coordinate their activities among themselves and with the CFA, FRMA, and DoE as soon as they arrive concerning the status of ongoing response efforts. The CFA, FEMA, and DoE or EPA personnel on the scene will provide their regional or headquarters offices with all relevant information available.

TABLE II-1.—RESPONSE OVERVIEW

Response action	Lead Federal agency
(1) Conduct and manage Federal onsite actions to support the owner or operator. —Monitor; Evaluate; Advise—Assistance, if required	CFA.
(2) Coordinate Federal offsite radiological monitoring and assessment	
—Initial Response	DoE.
—Intermediate and Long-Term Response	EPA.
(3) Develop or evaluate recommendations for public protective action measures off site.	CFA.
(4) Present recommendations for offsite protective action measures to the appropriate State and/or local officials.	CFA, in coordination with FEMA whenever possible.
(5) Promote coordination of Federal assistance. This includes assistance to State and local governments and logistic support to Federal agencies.	FEMA.
(6) Coordinate release of information to the public and to Congress.	CFA initially; FEMA after mutual agreement.

TABLE II-1.—RESPONSE OVERVIEW—Continued

Response action	Lead Federal agency
(7) Coordinate release of information to the White House.	CFA initially; FEMA thereafter.

The Department of Energy, during the initial phases of the emergency, and the EPA thereafter, will work with the appropriate State and local agencies to coordinate offsite radiological monitoring and assessment activities. DoE or EPA will assess monitoring data and present them to the CFA and appropriate State agencies. The CFA will use this information, together with its assessment of the current condition and prognosis of the emergency on site, to develop or evaluate public protective action recommendations.

Federal departments and agencies that have day-to-day contacts with State counterparts will continue to use these contacts during an emergency. FEMA will be informed of contacts that may impinge on the actions of other Federal agencies. The Department of Health and Human Services (HHS), EPA, DoE, and the U.S. Department of Agriculture (USDA), in coordination with the appropriate State agencies, will provide advice to the CFA, if requested, concerning possible public health impacts and associated protective measures for mitigating them. The CFA will use this advice, as required, to develop a coordinated Federal position on recommendations for public protective action.

FEMA will remain informed of onsite conditions that could have an offsite impact, through the CFA. FEMA's overall coordination function is not intended to replace or supplant existing liaison and communication between Federal agencies and their State counterparts. If Federal agencies need assistance in exchanging information, or in acquiring or releasing public information, FEMA will help the agencies accomplish these tasks.

A CFA role will be assumed by a Federal agency in accordance with the scheme presented in Table II-2 when a significant Federal response is appropriate. Lesser events which do not warrant such a response are not covered by the FRERP. Specifically, a CFA role will be assumed for major radiological emergencies at fixed nuclear facilities which are owned, authorized, or regulated by a Federal agency, and for major transportation accidents involving shipments by or for DoD or DoE. For major transportation accidents involving nuclear materials other than DoD or DoE material, no Federal agency has the authority to become the CFA. In these instances, and in all other emergencies not cited above which require implementation of the FRERP, FEMA will consult with other appropriate Federal agencies regarding the CFA role. The result of such consultation will be either that a Federal agency assumes the CFA role, or that a decision is made that the CFA role is not appropriate. Whenever it is determined that a CFA is not appropriate, FEMA will coordinate the Federal response, relying on agencies with the technical expertise to evaluate the situation and develop advice for State and local governments.

TABLE II-2.—IDENTIFICATION OF COGNIZANT FEDERAL AGENCIES FOR RADIOLOGICAL EMERGENCIES

Type of emergency	Owner or operator	Cognizant Federal agency
Fixed nuclear facility.	NRC-licensed	NRC.
Do	Dod or DoE-owned or authorized.	DoD or DoE, respectively.
Do	Not federally owned, authorized, or licensed.	None.
Transportation (shipments by or for DoD or DoE).	DoD or DoE	DoD or DoE, respectively.
Transportation (all other).	Private, State, local, or Federal.	None.
All other emergencies.	do	NRC, DoD, or DoE; or None.

The CFA, in conjunction with FEMA whenever possible, will present any Federal recommendations to the State or other appropriate offsite authority with jurisdiction for implementing or relaxing protective actions. In the case of a fixed nuclear facility licensed by the NRC, the licensee is responsible for developing appropriate protective action recommendations and promptly providing those recommendations to State and local authorities without awaiting NRC's concurrence. NRC, in the role of CFA, will evaluate the licensee's protective action recommendations as time permits, and will either concur in them or suggest modifications, as appropriate. FEMA is then responsible for promoting coordination among Federal agencies providing assistance to the State in implementing those recommendations if such assistance is requested by the State, and for communicating those recommendations to the responding Federal agencies.

B. Notificaton, Activation, Recovery, and Deactivation

The headquarters officials of FEMA and each CFA will follow a pre-established system for notifying all appropriate Federal agencies.

1. Notification

The owner or operator of the facility or radiological activity is generally the first to become aware of a radiological emergency, and is responsible for notifying the appropriate State and Federal authorities.

Subsequent to its receipt of a notification of an incident, the CFA will notify FEMA headquarters in Washington, D.C. by contacting the FEMA Emergency Information and Coordination Center (EICC). CFAs maintain similar emergency operation centers at their headquarters, regional, or field offices.

A notification should include a description of the emergency situation so that FEMA can carry out its further notification and response duties. The CFA will provide FEMA with a general assessment of the emergency including location and nature of the accident, an assessment of the severity of the problem as known, a description of the CFA's response, and any follow-on actions anticipated by the CFA.

FEMA will verify that the State has been notified of the emergency by contacting the State. FEMA and the CFA will notify other appropriate Federal agencies of the emergency in accordance with their notification procedures, pre-established interagency agreements, or interagency operational response procedures. If no Federal agency has the authority to assume the CFA role, FEMA will make all notifications. In those cases where Federal lands could be affected, FEMA will notify the Federal agency with jurisdiction. The notifications will incorporate relevant information exchanged between the CFA, if any, and FEMA. Individual agencies should determine their specific requirements for subsequent information, whenever those requirements have not been predefined with the CFA or FEMA.

DoE will notify Federal agencies with FRMAP responsibilities in accordance with agreed-upon procedures. Federal agencies that can provide radiological assistance may respond upon receiving a direct request for assistance from the State or owner or operator. Federal agencies so contacted will inform the DoE as soon as their response team arrives at the scene.

2. Activation

Upon receipt of notification, each agency will assess the need to initiate its response. The response decision will be based on the situation reported and may consist of several steps:

- Alerting or activating appropriate Federal agency response components;
- Determining whether State or local government requests for assistance have been received (where appropriate);
- Activation of agency emergency response teams and their deployment to the scene; and
- Establishment of bases of operation at the scene of the emergency from which to carry out a coordinated Federal response.

A full-scale Federal response begins with the execution of the notification scheme and includes all the above four steps. Since many emergencies will not require a full-scale response, the Federal response might reach only the first or second step. When the Federal response reaches the third step, FEMA will so notify the affected State. When the third or fourth step is reached, an SFO may be deployed to establish an offsite base of operation for coordinating the Federal response, i.e., a Federal Response Center (FRC). The FRC will be established at a location that has been pre-selected together with the State, or otherwise will be established at the time of the emergency at a location identified in conjunction with the State. A Federal Radiological Monitoring and Assessment Center (FRMAC) will be established by DoE, usually at a nearby airport, in a similar manner. The CFA, if any, will establish a local base of operations. FEMA, the CFA, and DoE will exchange liaison representatives to ensure that activities at the various centers are coordinated.

As a result of notification of a radiological emergency, and after discussions with the CFA, FEMA may activate its headquarters Emergency Support Team. As soon as an Emergency Support Team is activated, FEMA will begin its coordinating activities. Prior to the arrival of the SFO or Deputy SFO (DSFO) at the scene, FEMA will rely on the Cognizant Federal Agency Official (CFAO), if at the scene, as the point of contact concerning Federal activities at the scene.

If an agency decides to initiate its response, that decision will be communicated to FEMA and will include: (1) The name and location of the lead agency official if one is designated; (2) the telephone number at which he/she can be contacted at headquarters or at the scene; (3) if appropriate, the primary official to deploy to the scene and his/her estimated time of arrival at the emergency site; and (4) intended location at the scene. Similarly, FEMA will provide each Federal agency with the same information when FEMA designates its SFO. FEMA will keep Federal agencies informed of the status of Federal agencies' response actions.

Because of its singular responsibility for Federal support on site, the CFA will determine and implement an efficient means for coordinating Federal support on site with Federal response activities off site.

a. *Deployment of Emergency Response Teams.* Agency plans and procedures describe response team deployment and establishment of bases of operations at the scene. Ideally, the SFO and staff, other Federal agency response teams, and State agency respresentatives would be co-located at the scene. Accordingly, FEMA and CFA site-specific emergency plans and procedures should be developed individually to accommodate State operations.

Some Federal agencies may immediately deploy their teams to the scene of the emergency to fulfill statutory responsibilities. This plan is not intended to restrict such activities; however, when the SFO arrives at the scene, the agencies that have already responded will inform the SFO of the offsite actions they have taken.

b. *SFO Designation and Deployment.* Upon activation, FEMA may deploy an Emergency Response Team (ERT) headed by an SFO. The SFO, once at the scene, will be supported by an Emergency Support Team at FEMA headquarters and the ERT. Prior to this deployment, FEMA will inform the affected State and the CFA of the planned FEMA response. FEMA will also notify the other agencies of its ERT deployment and activities.

Upon arrival at the scene, the SFO, or the DSFO if the SFO so authorizes, will establish an offsite base of operations, i.e., the Federal Response Center, for promoting coordination of the Federal response. The Deputy SFO, who leads the regional component, is likely to arrive at the scene prior to the arrival of the headquarters component and may have initial responsibility for establishing and operating the FRC until the SFO arrives.

The SFO will inform other Federal agencies at the emergency scene of the establishment of the FRC and request that they provide representation to it. The SFO will establish contact with the CFA or responsible State agency to determine the status of onsite response efforts. As soon as the SFO or DSFO arrives at the scene and contacts the CFA, the SFO (or DSFO) will serve as the focal point for promoting the coordination of the Federal response at the scene. The SFO and the CFAO will work together directly and through their representatives at the scene to ensure that each has an accurate understanding of the situation throughout the emergency.

3. Recovery and Response Deactivation

Prior to the deactivation of the Federal response, the Federal government may assist the State in developing its offsite recovery plan. Recovery planning will be initiated at the request of the State but generally after the cause of the emergency has been brought under control and immediate public health and safety and property protective actions have been accomplished. The SFO will coordinate Federal assistance to the State in recovery planning.

After the conditions on site have stabilized and the offsite contamination has been characterized and its extent determined, a CFA may or may not be needed. The agency that performed the CFA role may decide to deactivate its position as a CFA and focus primarily on the recovery effort on site. The CFA will discuss this deactivation with the SFO and determine a mutually agreeable time to implement the deactivation. However, the agency that served as CFA will continue to be available to provide required assistance to the State, in coordination with FEMA.

Each agency will discontinue response operations when advised by the State that assistance is no longer required or when its statutory responsibilities or response roles have been fulfilled. Prior to discontinuing its response operation, each agency will discuss its intent to do so with the CFA, FEMA, and with DoE or EPA if that agency is providing radiological support under the FRMAP.

C. General Response Roles of Principal Agencies and Officials

General Response roles are those that are independent of the cause, type, or location of the radiological emergency.

1. Role of the Cognizant Federal Agency

The CFA is the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency, and that has authority to take action on site. When it is necessary for a Federal agency to assume the CFA role, and to deploy to the site, the CFA will manage all Federal actions onsite, develop or evaluate offsite protective action and reentry recommendations, and help to implement those actions if requested by the State and if the CFA's resources permit.

Consistent with this role, the CFA has four general responsibilities:

- Receive notification of the emergency, initiate the CFA response, and notify appropriate Federal, State, and local agencies;
- Manage Federal response actions on site and coordinate these actions, as necessary, with the SFO and monitoring activities off site;
- Assess owner or operator, State, or locally recommended protective action measures and/or develop Federal recommendations for protective action and re-entry; help State and local authorities as resources permit; and
- Serve as the primary Federal source for information of a technical nature regarding the onsite emergency conditions and the potential or actual offsite radiological effects.

Each of these responsibilities is outlined in more detail below:

a *Receive Notification of the Emergency, Initiate the CFA Response, and Notify Appropriate Federal Agencies.* (1) Receive notification of the emergency from the owner or operator of the facility or radiological activity causing the emergency, or from State or local authorities, and determine the significance of the emergency and the appropriate CFA response to it.

(2) Notify FEMA and DoE of the emergency; include in the notification the CFA's activation mode and actions, a general assessment of the emergency, and any necessary background information. Discuss with FEMA the need to deploy a SFO and Emergency Response Team.

(3) Deploy a CFA team to the site, when appropriate.

b. *Manage Federal Response Actions Onsite and Coordinate these Actions, as Necessary, With the SFO and Monitoring Activities Offsite.* (1) Designate a lead CFAO at the site of the emergency who will coordinate with the SFO, as necessary, on any onsite Federal actions that may have significant impacts off site.

(2) Establish appropriate bases of operation to oversee the onsite response, monitor owner or operator activities, provide technical support to the owner or operator if requested, and serve as the principal source of information about onsite conditions for the Federal government.

(3) Manage the onsite Federal response to the emergency, including an assessment of the conditions on site and the means for mitigating their consequences off site.

(4) Keep other agencies informed of conditions and Federal actions on site.

(5) Serve as a point of contact concerning Federal activities at the scene when the CFAO arrives at the scene prior to the SFO or his designee. During this interim period, the CFA will keep FEMA informed of Federal activities at the scene.

(6) Prepare the section of the White House Executive Summary dealing with onsite related conditions and their actual or potential offsite radiological impacts and provide this section to FEMA.

c. *Assess Owner or Operator, State or Locally Recommended Protective Action Measures and/or Develop Federal Recommendations for Protective Action and Re-entry; Help State and Local Authorities as Resources Permit.* One of the primalry areas where the Federal government may be able to assist State and local governments is in advising them on initial protective action recommendations (PARs),[1] and other protective measures and reentry recommendations (RERs)[2] for the public that may be developed by the owner or operator, or State or local authorities. In providing such advice, the CFA will use, to the extent applicable, appropriate advice and input from other Federal agencies with technical expertise on those matters. FEMA, upon request, will assist the CFA as required in developing such advice.

Whenever possible, the CFA will coordinate its presentation of the Federal evaluation of PARs with FEMA either prior to, or at the time of, their presentation to the State or other offsite authorities. When imminent peril threatens the public health and safety, the CFA will present the evaluation of PARs directly to the State or other offsite authorities without having to coordinate with any other Federal agency. With regard to developing or evaluating RERs, the CFA will keep FEMA informed of their development or evaluation and coordinate presentation of such advice to the State with FEMA. More specifically, the CFA's responsibilities related to PAR and RER development or evaluation, and presentation are:

(1) Serve, as a point of contact for State and local government technical information and, as required, for technical assistance requests.

(2) Provide staff liaison representatives to State authorities and the SFO, to help interpret the technical aspects of the emergency on site and its potential or real offsite radiological consequences.

(3) Work with DoE in its efforts to provide offsite monitoring data and assessments to appropriate State and Federal agencies.

(4) Prepare a coordinated Federal position on PARs whenever possible. Consult with HHS, DoE, EPA, USDA, and other Federal agencies as required.

(5) When appropriate, present the Federal assessment of PARs, in conjunction with FEMA, to the State or other offsite authorities.

(6) Develop or evaluate RERs to protect the public and present such advice, in conjunction with the SFO, to the State.

(7) Help State and local government agencies implement protective actions, as required, when the CFA has available resources to help provide the needed assistance.

d. *Serve as the Primary Source for Technical Information Regarding the Emergency Conditions Onsite and the Potential or Real Offsite Radiological Effects.* (1) Make an initial report to the White House Situation Room covering, if possible, the condition of the radiological activity causing the emergency and the actual or potential offsite radiological impact. After the initial report, prepare the section of FEMA's report dealing with onsite conditions and their actual or potential impact off site.

(2) Review and concur in the release of all Federally generated information related to the onsite conditions and remain informed of all information related to offsite radiological effects. Where possible, the CFA should review Federally provided offsite radiological data before release.

(3) Assist the State Public Information Officer in developing coordinated public information releases.

(4) Protect national security by classifying sensitive technical information in a nuclear weapon accident or weapon-significant incident.

2. Role of the Federal Emergency Management Agency

FEMA's primary responsibilities in the Federal response are to immediately notify participating Federal agencies[3] of the emergency and to serve as a focal point for coordinating Federal response activities at the national level and at the scene of the emergency. The Director of FEMA will designate and deploy the

[1] The development or evaluation of protective action recommendations will take into consideratoin Protective Action Guides (PAGs) issued by appropriate Federal and State agencies. See Appendix B for definitions of protective action recommendations and protective action guides.

[2] See Appendix B for definition.

[3] Except the CFA (which is notified directly by the owner or operator) and DoE (which is notified by the CFA or the owner or operator or the State).

SFO for coordinating Federal response activities at the scene of the emergency.

a. *Emergency Support Team Role.* Through its Emergency Support Team at headquarters, FEMA will:

(1) Notify participating agencies of the emergency situation and supply information they need to take appropriate actions.

(2) Coordinate Federal response activities at the national level.

(3) Receive information at the Emergency Information and Coordination Center (EICC) from the CFA headquarters or from other public and private organizations about the impact of the emergency and the organizations' response.

(4) Prepare periodic reports on the Federal response for the White House.

(5) Provide staff support and other resources to the SFO as required.

b. *Emergency Response Team Role.* At the scene of the Emergency, the FEMA response is carried out through its Emergency Response Team, headed by the SFO. The SFO coordinates Federal activities with State offsite activities and promotes the coordination of Federal actions, information, and recommendations. Free interaction among Federal, State, and local agencies is encouraged. The SFO can facilitate information flow among all response elements and help direct Federal resources to the appropriate State and local government agencies. The SFO will not intervene in the relationships and communication channels that already exist between Federal and State agencies; rather, the SFO provides an additional means for facilitating Federal-State interactions.

Through the SFO, FEMA carries out three major responsibilities:

- Promote coordination among Federal agencies and their interactions with the State, including, in conjunction with the CFA, the provision of Federally developed or evaluated PARs and RERs to the State or other appropriate offsite authorities responsible for implementing those recommendations;
- Coordinate offsite activities with onsite response activities of Federal or State agencies; and
- Serve as an information source on the status of the overall Federal response effort. (The public information function is described in Section II.D.)

Each of these responsibilities is outlined below:

(a) *Promote Coordination Among Federal Agencies and Their Interactions With the State.* (1) Promote coordination of the provision of offsite assistance to appropriate State and local government agencies by the Federal agencies, including medical care, food, potable water, shelter, clothing, transportation, security, and any other assistance needed to protect the public health and safety. This coordination function is to be performed in addition to, and does not supplant, the specific coordination functions assigned to other Federal agencies as part of their normal responsibility to provide these specialized forms of assistance.

(2) Maintain a continuous overview of the total Federal response effort to ensure that no necessary actions are omitted and no unnecessary duplication occurs; any omissions or duplications will be brought to the attention of the agencies concerned.

(3) Establish the Federal Response Center as a base of operations at an offsite location identified in conjunction with the State. The Federal Response Center serves as a focal point for Federal response team interactions with the State.

(4) Provide a principal point of contact for requests for Federal assistance by State or local governments.

(5) Refer all State and local requests to the most appropriate Federal agency.

(6) Refer all Federal agencies to appropriate points of contact in State or local governments.

(7) Provide information to the State or local governments concerning the status of their assistance requests.

(8) Maintain contact with DoE or EPA to ensure that the offsite Federal radiological monitoring and assessment effort is coordinated with other offsite Federal assistance to the State.

(9) Facilitate the exchange of all other information among Federal agencies.

(10) Make requests for additional Federal resources that cannot be acquired by Federal agencies at the scene.

(11) Refer all interagency policy issues and interagency operational problems that cannot be resolved at the scene to FEMA headquarters for resolution with Federal agencies at the national level.

(12) Promote the provision of information from Federal agencies to the State regarding actions taken or anticipated by them.

(13) Promote the coordination of all formal recommendations and guidance from Federal agencies before they are presented to the State.

(b) *Coordinate the Federal Offsite Response With the Federal or State Onsite Response.* (1) Promote the coordination of the Federal offsite response with the Federal or State onsite response so that any Federal actions off site are taken with knowledge of current or anticipated actions on site.

(2) Assist and support the CFA, if any, with obtainig needed logistical support through other Federal agencies as required.

(3) Assist the CFA, as required, in its development or evaluation of PARs and RERs including the provision of needed information to or from other Federal agencies having the required expertise.

(4) Ensure that the CFA is informed of the capabilities and resources of offsite Federal agencies for assisting with the implementation of Federal developed or evaluated PARs and RERs by the State or other offsite authorities.

(5) Assist the CFA, and DoE or EPA in their roles as FRMAP coordinators, in disseminating information to, and obtaining information from, other Federal agencies. Facilitate the exchange of all other information among Federal agencies.

(6) Participate in the presentation of a Federally coordinated assessment of PARs amd RERs to the State or other responsible offsite authorities inconjunction with the CFAO. When the public health and safety are in imminent peril, the CFAO will present PARs without consultation with the SFO or other Federal agencies.

(c) *Serve as an Information Source for the Total Federal Response.* (1) The SFO, in coordination with the CFA, will maintain an executive level summary of the total Federal response and will provide the FEMA Director with information, on a regular basis, on the status of the response that is appropriatre for the FEMA Director's overall executive summary to the President. Similarly, the FEMA Director will keep the White House Situation Room advised daily of continuing response activities. This FEMA activity does not preclude the White House from contacting any agency for information, nor does it restrict an agency from responding to White House request. The CFA will remain the source for technical information on the emergency, i.e., the onsite conditions and the potential or real offsite radiological impacts, and will provide this technical information to FEMA for inclusion in its summary.

(2) Provide pertinent information to the Members of Congress and their staffs making inquiries at the scene, coordinating as necessary with the CFA and other Federal agencies. FEMA and the CFA will each be responsible for keeping their respective Congressional Committees informed and will coordinate this with each other.

3. Role of DoE and EPA

The Department of Energy [4] and the Environmental Protection Agency have a major role in the Federal response by coordinating Federal radiological monitoring and assessment activities. There are three responsibilities involved, which initially fall to DoE. They are:

- Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of the emergency, including notification of Federal agencies in accordance with the provisions of the FRMAP;
- Maintain liaison and a common set of offsite radiological monitoring data with the facility owner or operator and State and local agencies with similar responsibilities; and
- Provide all monitoring data, assessments, and related evaluations to the CFA and State and assist the CFA in development of protective action recommendations and other measures to protect the public, as required. Where possible, the CFA should review the FRMAC monitoring data before release.

After the initial phases of the emergecy, DoE will transfer these offsite coordination responsibilities to EPA at a mutually agreeable time. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort.

D. Public Information and Congressional Relations

This section describes the responsibilities for Federal agency public information and Congressional relations that will be implemented under this plan. Provision of accurate, consistent, well coordinated information to the public and to the Congress is recognized as to be of utmost importance.

1. General Public Information Responsibilities

The major roles and responsibilities for public information release during a radiological emergency are as follows.

a. *Facility or Radiological Activity Owners or Operators* are responsible for information concerning onsite status and conditions.

b. *The State* is responsible for releasing information relating to the impact of the emergency on the health and safety of its citizens and relating to its emergency response operations.

c. *The CFA*, if any, through the CFAO's Public Information Officer (PIO), and in close coordination with the owner or operator, and the State, is responsible for information related to (a) the onsite conditions of the radiological activity and (b) the offsite radiological effects. The CFA is responsible for the security classification of all onsite information in accidents or significant incidents involving nuclear weapons.

d. *Each Federal agency* is responsible for the preparation of public information released related to its own response activities. Prior to release, information will be coordinated through the public information organizations described in the remainder of this section.

e. *FEMA*, through the SFO's PIO, will work with the CFAO's PIO to promote coordination among all Federal agencies regarding public information generated by them and to promote the coordination of press release with the State. Coordination does not mean that the language of all releases must be approved by the SFO and CFAO PIOs, but rather that the information content is to be reviewed by them prior to release to ensure its consistency with the total information available. In cases when the public helath and safety are in imminent peril, the CFAO's PIO may review and release public information independently. The SFO's PIO will assume responsibility from the CFAO's PIO at a mutually agreeable time when recovery efforts are initiated by the State or other appropriate offsite authority. When no Federal agency assumes the CFA role, the SFO's PIO will coordinate Federally generated public information.

2. Coordinated Release of Public Information at the Scene of the Emergency

Upon arrival at the emergency scene, the CFAO's PIO or, if none, the SFO's PIO, will ensure the establishment of Federal public information operations at the Joint Information Center (JIC) in cooperation with the owner or operator's pre-established information center, or separately, if necessary. Most nuclear power plant owners or operators have designated JIC locations and have made arrangements to establish and operate these centers in an emergency. The JIC at the scene of the emergency will provide the public and the media with adequate, accurate, and timely public information regarding a radiological emergency. Efforts will be made to colocate all Federal, State, local and owner or operator public information officials in the JIC. However, if space limitations at a nuclear power plant's designated information center preclude its use as a JIC and/or if the State designates another location for its public information activities, special efforts will be necessary to maintain close coordination between the Federal JIC and these other press centers. If the Federal PIOs and the State PIOs cannot co-locate at the JIC, FEMA will notify the State when and where the Federal JIC has been established.

Whenever practical, the establishment of Federal operations at the JIC will be undertaken by the CFA in coordination with FEMA, other appropriate Federal agencies, and State and local authorities. If FEMA's PIO or any other participating agency's PIO arrives at the scene of the emergency before the CFAO, the FEMA PIO or another agency's PIO may establish and manage Federal operations at the JIC until the CFAO arrives. Upon arrival, the CFAO or his/her PIO shall assume primary responsibility for Federal operations at the JIC. If there is no CFAO for the emergency, the SFO's PIO shall assume primary responsibility for Federal operations at the JIC. When there is a CFAO, the SFO's PIO will assume responsibility for coordinating Federal public information at the JIC from the CFAO's PIO at a mutually agreeable time. FEMA PIOs at the scene will provide support to the CFA during the period that the CFA has Federal operational responsibility for the JIC. FEMA's support will include coordinating public information activities of other Federal, State, or volunteer agencies at the scene but not located at the JIC with which FEMA has a pre-established relationship.

3. Coordinated Release of Public Information at the Headquarters Level

For some emergency situations it may be necessary to release public information prior to the establishment of Federal operations at the JIC. When this is the case, Federal agencies must coordinate the release of public information through their headquarters with the CFA headquarters PIO. The CFA headquarters PIO serves as the single point of contact at the national headquarters level for all Federal agency PIOs as well as for the media. The CFA headquarters PIO, in conjunction with FEMA headquarters, will establish procedures for coordinating the release of Federal public information with the State prior

[4] DoE would also serve as the CFA if the emergency involved DoE owned or authorized nuclear facilities, or radioactive materials (including nuclear weapons and spent nuclear fuel in DoE custody).

to release to the media. If no Federal agency assumes the CFA role for the emergency, than the FEMA headquarters PIO will coordinate Federal public information as described above.

Prior to the establishment of Federal operations at the JIC, Federal agencies will coordinate releases of public information both at the regional level and near the site of the emergency through their Washington, D.C. headquarters offices.

The agency headquarters points of contact for public information will continue to operate throughout the emergency, but once the JIC is established all Washington-based information must be coordinated through the JIC prior to release. The Washington centers may, however, handle overflow news media inquiries and serve as a platform for carefully selected, Washington-based specialists to supply background information, as required.

4. Coordinated Release of Information to Congress

Responses to Congressional requests for information will be coordinated among the Federal agencies whenever possible. The CFA Congressional Liaison Officer (CLO) at the headquarters Congressional Affairs Office will provide a single point of contact for all Federal agency headquarters CLOs and Congressional staffs seeking site-specific emergency information. As time and circumstances permit, all agency CLOs will either channel Congressional requests to this single point of contact, or coordinate their intended responses with it.

If no Federal agency assumes the CFA role for the emergency, the FEMA headquarters CLO will coordinate Congressional information as described above.

A FEMA CLO will be the point of contact at the scene of the emergency for all Federal agency CLOs and Congressional staff seeking information regarding the emergency and actions being taken to assist offsite authorities. The FEMA CLO will keep in frequent contact with the CFA CLO, if any, who will continue to be the primary point of contact in the Washington, D.C. area. The FEMA CLO will provide appropriate information to Members of Congress and/or their field staffs with assistance as necessary from the CFA and other Federal agencies. This formal procedure does not preclude communication and information exchange between Congressional representatives and Federal agencies. However, Federal responses will be coordinated among Federal agencies in the manner described above. The CFA CLO and the FEMA CLO will coordinate with each other on the information provided to the Congress as well as on information being provided to the public through operations at the JIC.

E. International Response Coordination

Although the geographic scope of the FRERP is limited to the United States its territories, possessions, and territorial waters, it is recognized that radiological emergencies occurring near international borders (i.e., near Canada and Mexico) could require international cooperative response efforts.

Therefore, the CFA and FEMA, in consultation with the Department of State and other Federal agencies as appropriate, should coordinate and cooperate at the time of the emergency with affected countries in accordance with already established protocols (e.g., treaties, bilateral agreements). If any contacts are made between Federal agencies and foreign governments during an emergency, this should be reported to the Department of State and FEMA. It is also desirable that requests for assistance from United States border countries as a result of domestic radiological emergencies should be coordinated with the Department of State and FEMA.

III. Federal Radiological Monitoring and Assessment Plan (FRMAP)

A. Foreword

The Federal Radiological Monitoring and Assessment Plan was developed to coordinate Federal radiological assistance. Although the FRMAP is part of the FRERP, it may be implemented separately. The FRMAP, originally required under a FEMA regulation issued on March 11, 1982, is a revised and update version of the planning and response concepts of the Interagency Radiological Assistance Plan (IRAP) and supersedes that plan. FRMAP and IRAP are very similar in concept, with the most notable changes occurring in the designation of participating Federal agencies and, in some cases, their expanded or revised responsibilities, e.g., FEMA. The FRMAP deals with the initiation and coordination of Federal radiological monitoring and assessment assistance, not each Federal agency's individual response.

The FRMAP establishes: (a) A means of requesting and providing Federal radiological assistance from existing Federal resources and (b) an operational framework for coordinating the radiological monitoring and assessment activities of Federal agencies during radiological emergencies occurring within the United States and its territories. The operational guidelines presented here apply to all radiological emergencies in which Federal assistance is requested.

At one end of the range of radiological emergencies, the FRMAP may be implemented without the FRERP. At the other end of the range, the radiological assistance aprovided through FRMAP may be only a small portion of the total Federal response to a major emergency. FRMAP applies primarily to offsite Federal radiological monitoring and assessment assistance and the technical support for these activities.

B. Purpose

The purposes of the FRMAP are as follows:

- To make needed radiological monitoring and assessment assistance available to Federal agencies, State and local governments with jurisdiction, and the general public through appropriate State and local agencies;
- To provide a framework through which Federal agencies will coordinate their emergency radiological monitoring and assessment activities in support of Federal, State, and local governments' radiological monitoring and assessment activities; and
- To assist State and local governments with jurisdiction in preparing for radiological emergencies by describing Federal assistance responsibilities.

C. Authority and Jurisdiction

DoE is assigned the responsibility for developing the FRMAP under authority of 44 CFR Part 351. The FRMAP is included in the FRERP to provide a single, comprehensive document that describes all Federal offsite assistance responsibilities. The agencies participating in the FRMAP, including agencies that joined FRMAP subsequent to 44 CFR Part 351, are: FEMA, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Health and Human Services (HHS); the Department of Energy (DoE); the Department of Agriculture (USDA); the Department of Defense (DoD); the Department of Commerce (DoC); and the Department of the Interior (DoI).

The FRMAP recognizes that the above agencies may have other radiological planning and emergency responsibilities as part of their statutory authority, as well as established working relationships with State counterpart agencies. The provisions of the FRMAP

do not limit those responsibilities, but complement them by providing for a coordinated Federal response when emergency radiological assistance is requested. All FRMAP activities will support the monitoring and assessment programs of the State, the owner of the radioactive material involved or the operator of the nuclear facility, the assessment needs of the CFA, or be carried out to meet statutory responsibilities.

D. Policy

1. Federal agency plans and procedures for implementing the FRMAP will be consistent with any Federal radiological emergency planning requirements for State and local governments and specific facilities.

2. The participating Federal agencies will maintain facilities, equipment, and personnel to carry out their statutory responsibilities. Existing radiological monitoring and assessment capabilities developed to carry out those responsibilities will be made available to State and local authorities with jurisdiction, and to other Federal agencies in an emergency if other resources are not available.

3. The Federal agencies will make their resources available on request. An agency may decline to provide any needed resources only if doing so would prevent that agency from carrying out its essential mission and emergency functions.

4. During the emergency phase of the Federal response, the DoE will coordinate all Federal offsite radiological monitoring and assessment operations and integrate the data derived from those activities. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort. The full FRMAP response will be terminated when the EPA Administrator determines, after consultation with the CFA and State and local officials, that: (a) There is no longer a threat to the public health and safety or to the environment, or (b) State and local resources are adequate for the situation, or (c) the Federal agencies are carrying out only non-emergency statutory responsibilities, or (d) there is mutual agreement of the agencies involved to terminate their response.

5. An agency that makes its resources available, although under the general direction of DoE (or later, EPA), does not place itself under the authority of the coordinating agency.

6. DoE (or later, EPA) will maintain a common and consistent set of all offsite radiological monitoring data and provide it, with interpretation, to the CFA, to the States, and to groups that these agencies designate, as well as to other Federal agencies involved in the emergency response. The principal description of the combined offsite and onsite radiological conditions will come from the CFA and the State.

7. The Federal radiological monitoring and assessment response will be in support of, and coordinated with, that of the State and local governments with jurisdiction. The resources of DoE and the participating agencies will be used only when State and local resources are not adequate. All offsite activities will be coordinated with those of the State.

8. Federal assistance will be initiated when the Federal Radiological Emergency Response Plan is in effect, or through a request from a State or local government, another Federal agency or private entity, or (in rare cases) when DoE, after notification of an incident, but in the absence of implementation of the FRERP or formal State request, believes it must respond to meet statutory requirements to protect public safety. Whenever DoE responds without a State request, the State will be notified by DoE. Requests from private entities will be referred to the State before any decision on response is made to ensure there will not be a duplication of effort.

9. Agencies carrying out statutory responsibilities related to radiological monitoring and assessment during a Federal response will also coordinate their activities through DoE (or later, EPA). This coordination will not limit the normal working relationship between a Federal agency and its State counterpart nor restrict the flow of information from that agency to the State.

10. Federal agencies, as their resources permit, will assist other Federal agencies and State and local governments with planning and training activities designed to improve local response capabilities, and will cooperate in drills, tests, and exercises.

11. Appropriate independent emergency actions may be taken by the participating Federal agencies on their own authority to save lives, minimize immediate hazards, and gather information about the emergency that might be lost by delay. Such action will not preempt later implementation of the FRMAP.

12. Funding for each agency's participation in support of the FRMAP is the responsibility of that agency unless provided for by other agreements.

E. Organization

1. General Principles

The FRMAP addresses the coordination of the participating agencies' support of offsite monitoring and assessment efforts. The organization of the FRMAP emergency response and the roles of some agencies under FRMAP will depend on the specific emergency, but will follow the principles outlined in the Federal Radiological Emergency Response Plan. Information generated from the FRMAP response is provided to the CFA and to the appropriate State authorities.

2. Involvement of Non-Participating Agencies

In some cases, other Federal agencies may become involved with FRMAP activities. The State Department would be involved if an incident occurring within the United States or its territories affected areas outside United States territory or if monitoring efforts needed to be coordinated across an international border. The Federal Bureau of Investigation (FBI) would have the principal role in the investigation of all emergencies where terrorism or deliberate release of radioactive materials is suspected, or in cases of threats against nuclear facilities or materials. The major FBI interfaces, however, are expected to be with the CFA and FEMA. Even when the FBI is involved, DoE/EPA will coordinate monitoring functions with their State counterparts.

3. Coordination of a Limited Response

The FRMAP recognizes that the appropriate response to a request for Federal radiological assistance may take many forms, ranging from advice given by telephone to a large Federal monitoring and assessment operation at the scene of a serious emergency. Most of the following guidelines for participating agencies are designed for the latter situation, but the FRMAP is also applicable to lesser incidents where a limited response, possibly by DoE alone, is sufficient.

F. Responsibilities of Participating Agencies

1. Responsibilities During Emergencies Cognizant Federal Agency. The CFA's primary emergency response responsibilities are stated in the

previous chapter at C.1. The CFA will also contribute to the FRMAP as follows:

a. Ensure that DoE, Federal, State, and local officials are notified quickly of a radiological emergency;

b. Provide pertinent onsite technical and radiological data to the DoE or EPA Offsite Technical Director (OSTD) and State and local officials; and

c. Utilize FRMAP data, as appropriate, to develop the Federal technical recommendations on protective measures and evaluate the facility or radiological activity owner or operator's recommendations. The presentation of these recommendations to the State or other offsite authority will be coordinated with FEMA.

Department of Energy. DoE's offsite responsibilities are:

a. Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting activities of all Federal agencies during the initial phases of an emergency while maintaining technical liaison with State and local agencies with similar responsibilities.

b. Maintain a common set of all offsite radiological monitoring data and provide these data and interpretation, including any Federal dose projections, to the CFA and the State on an expedited basis to assist in developing other protective measures and re-entry recommendations for the public. The CFA will provide these data to other appropriate Federal agencies requiring direct knowledge of radiological conditions.

c. With other appropriate agencies, including those agencies with responsibilities for the ingestion pathway (e.g., EPA, HHS, and USDA), help the CFA to assess the accident potential and to develop technical recommendations on protective actions, and assist the State in preparing re-entry recommendations and in recovery planning.

d. Provide the personnel and equipment required to coordinate and, in cooperation with other Federal components, to perform the offsite radiological monitoring and evaluation activities.

e. Request supplemental radiological monitoring assistance from other Federal agencies when needed, when requested to do so by the State, or if considered necessary to maintain the credibility of the offsite assessment.

f. Request meteorological, hydrological, geographical, etc., data needed for monitoring and assessment efforts.

g. Provide consultation and support services to all other entitities (e.g., private contractors) with radiological monitoring functions and capabilities.

h. Assist HHS and other Federal, State, and local agencies by providing technical and medical advice on the methods of handling radiological contamination.

i. Assist the other Federal, State, and local agencies in early planning for decontamination and recovery of the offsite area and make recommendations to avoid the spread of contamination by improper emergency operations.

j. Provide telecommunications support to Federal agencies assisting in offsite radiological monitoring, if necessary.

k. Ensure the orderly transfer of responsibility for coordinating the intermediate and long-term radiological monitoring function to EPA at a mutually agreeable time after the initial phases of the emergency if the need for Federal radiological assistance continues.

Environmental Protection Agency. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the requested resources, personnel, and funds for the duration of the Federal response effort. Once the coordination responsibilities are transferred from DoE and EPA, EPA will assume the DoE role described above. Prior to assuming coordination responsibility, EPA will function as one of the other participating agencies.

Federal Emergency Management Agency. FEMA has a major role in all situations involving a multi-agency response. In addition to coordinating the offsite (non-technical) response under the FRERP, FEMA may contribute to FRMAP by obtaining telecommunications and logistical support for agencies participating in radiological monitoring and assessment as requested by DoE or EPA as FRMAP coordinators.

Other Participating Agencies. Each participating agency will carry out its statutory responsibilities and any other responsibilities under the FRERP, if the FRERP is implemented, during the course of the radiological emergency. All radiological monitoring and assessment activities conducted as part of the statutory responsibilities will be coordinated with the other participating agencies through DoE and later, EPA. Each agency will make its radiological resources and capabilities available to the Federal assistance operations as resources permit.

2. Responsibilities for Training and Exercises

To improve the response capability of the participating agencies and the State and local personnel with whom they interact, the FRMAP encourages the development of training materials and presentation of training sessions by all agencies and at all levels. Radiological emergency response training should be oriented toward ensuring proper emergency actions at the scene of a radiological emergency, informing the public, and effecting a prompt return to normalcy. In addition to agency personnel, personnel who may be trained include those likely to be at the scene of the accident, such as personnel of a fixed nuclear facility, personnel providing emergency serices, those experts responding to calls for radiological assistance, and local authorities who need to work with State and Federal emergency radiological assistance personnel. Federal assistance in training State and local government personnel is available through FEMA (under 44 CFR Part 351), using the technical expertise and resources of other FRMAP agencies.

Exercises of the FRMAP aspect of the FRERP are encouraged among Federal, State, and local agencies. Exercises may occur independently or in conjunction with other exercises, such as State/facility emergency plan exercises or exercises of the FRERP. Each agency should coordinate its training programs and exercises through the Federal Radiological Preparedness Coordinating Committee (FRPCC) Subcommittee on Training and Exercises to avoid duplication and to make its training available to other agencies. Each agency is encouraged to furnish training materials and training assistance, as its resources permit, when requested to do so by other agencies.

G. Types of Emergencies

Three types of emergencies have been previously described in the FRERP. Each type of emergency may present different types of response problems.

Fixed nuclear facilities, including nuclear power reactors, have the advantages of known locations and existing site-specific emergency plans. Classifications of incident severity have been development for many of these facilities, and the level of FRMAP response may be guided by these

classifications. The NRC has adopted four classifications for incidents at commercial nuclear power plants: Notification of Unusual Event; Alert; Site Area Emergency; and General Emergency. DoD and DoE have chosen the same four classifications for their nuclear facilities, although the type of possible incident would depend on the type of facility. In general, for facilities using these classifications, offsite monitoring and assessment activities would be expected only during a Site Area Emergency or a General Emergency. Substantial offsite radiological problems would be expected only during or following a General Emergency condition. Mobilization and activation could occur under an Alert if degradation of the level of safety at the facility or other conditions (public concern, unfavorable weather, lack of resources) warrant such action.

Response to transportation accidents is more difficult to plan, as such accidents may occur anywhere, may involve a variety of radioactive materials, and may represent much less of a radiological hazard or serious threat to the public. In most cases, State resources or a limited Federal response will suffice.

H. Operating Procedures

1. Notification and Activation

Notification of DoE and other participating agencies may occur through an alert to a possible problem or a request for radiological assistance. DoE will maintain national and regional coordination offices as points of access to Federal radiological emergency assistance and response. Requests for Federal radiological assistance will generally be directed to the appropriate DoE Radiological Assistance Regional Coordinating Office. An exception to this is a request from the DoD, which will be made through the DoD-DoE Joint Nuclear Accident Coordinating Center (JNACC) at Kirtland AFB in Albuquerque, New Mexico. Requests might also go directly to DoE's Emergency Operating Center (EOC) in Germantown, Maryland.

Requests for radiological assistance may come from other Federal agencies, State or local governments, licensees for radioactive materials, industries, or the general public. Requests from the general public will be referred to the State before any decision on response is made to ensure there will not be a duplication of effort. Although activation of a response under the FRMAP can occur at the request of other agencies, authorities, and coordinating centers, a State request for assistance will be obtained before major offsite operations begin.

The DoE regional office may respond by dispatching a Radiological Assistance Program (RAP) team, by requesting assistance from a regional office of another participating agency, or by referring the request to an appropriate State agency that can provide prompt assistance. The State will be notified when a RAP team is being sent. In addition, the DoE regional office will notify the Director of DoE's Emergency Action and Coordination Team (EACT) through the Emergency Operating Center (EOC) when the DoE regional office needs assistance or has responded to a request for assistance. EACT may choose to alert or activate major DoE response resources. If the initial request comes directly to the EOC, its staff will alert or dispatch a RAP team from the appropriate regional office.

The DoE EOC will notify, as necessary, DoC/NOAA, DoD, DoI, EPA, FEMA, HHS, NRC, and USDA in accordance with agreed-upon FRMAP notification procedures, to request their assistance if significant Federal involvement may be required. DoE, in its role as coordinator, may choose to contact, or may be contacted by, any of the participating agencies, but unless DoE is also the DVA, DoE will not be the primary source of general information about the incident.

Notification of FRMAP agencies may be delayed or omitted if necessary to avoid interfering with investigations of threats against nuclear facilities or materials. In some cases, notification may be made, but information not critical to the monitoring and assessment activities can be restricted by an ongoing criminal investigation. Restrictions on classified information may also prevent total disclosure to other participating agencies.

Agencies responding under FRMAP will usually arrive in stages, with advance teams preceding more fully equipped teams. Agencies will anticipate State needs to the maximum extent possible and respond as quickly as practical. However, it should be recognized that the logistics of any major response operation make the expectation of an immediate response to all State requests unrealistic.

2. Coordination at the Emergency Scene

DoE's Emergency Action and Coordination Team (EACT) at headquarters will designate an initial Off Site Technical Director (OSTD) for any emergency requiring more than a limited Federal response. The OSTD ensures that the DoE responsibility for coordinating offsite monitoring and assessment is met. Upon arrival at the scene of the emergency, the OSTD will contact the State or local agency responsible for radiological monitoring, and the senior officials of the CFA, FEMA, and EPA present at the emergency scene.

The person designated as OSTD may vary as the nature and degree of response change. For example, the OSTD will generally be the RAP team captain during the early response. As additional resources or additional RAP teams arrive, EACT may designate a higher-level official from a regional office of an official from DoE headquarters as OSTD. DoE will notify the appropriate participating agencies when these designations are made. In emergencies where DoE is also the CFA or has onsite responsibilities by agreement, the OSTD will coordinate the FRMAP activities, reporting to the CFAO through the designated DoE Team Leader. (The DoE Team Leader is the DoE official who coordinates the total DoE response.)

The OSTD is responsible for establishing a Federal Radiological Monitoring and Assessment Center (FRMAC) to be used as a coordination center for Federal monitoring efforts. This center need not be located near the emergency site or the Federal Response Center (FRC) as long as its actions can be coordinated with those centers. In some instances, the FRMAC location may have already been determined and included as part of a Federal agency, State, or local emergency plan. When the FRMAC location has not been previously determined, a location will be selected after conferring with the State. The location of the FRMAC will be reported to the CFA, FEMA, and State officials at the scene, and DoE headquarters will inform the headquarters of other appropriate participating agencies. When the FRC and FEMA and not located together, the OSTD will designate a liaison to the FRC and FEMA will designate a liaison to the FRMAC to facilitate coordination between centers. Representatives of all agencies participating in the FRMAP response should be present in the FRMAC, if possible.

The DoE OSTD will work closely with the EPA Radiological Response Coordinator to facilitate a smooth transition of the coordination responsibility to EPA at a mutually agreeable time and after consultation with the State. It is difficult to specify in advance when this transfer could occur, but it would generally be expected to

take place after the immediate emergency situation is stabilized, offsite releases of radioactive material have ceased, and the offsite radiological conditions have been documented and their consequences have been assessed. In the case of an accident at a nuclear power plant, for instance, the transfer of responsibility might take place at a mutually agreeable time after NRC has determined the plant to be in stable condition.

After this transfer, a person designated by EPA's Office of Radiation Programs will serve as the OSTD and will assume the coordination responsibilities of the DoE OSTD. Other participating agencies will be responsible for coordinating their monitoring activities through the EPA OSTD as long as the FRMAP response continues.

3. Public Information

Public information activities relative to FRMAP operations will be coordinated in accordance with the FRERP. Each particiating agency is responsible for preparation of press releases about its own response activities in support of FRMAP. However, information for the public about the results of the Federal radiological monitoring should be coordinated through the CFA and FEMA. The participating agencies may supply public information personnel or technical experts to assist the CFA, FEMA, or State in their public information efforts.

Security considerations may restrict available information when classified nuclear material or facilities are involved. Information may also be temporarily withheld from the public in emergencies involving terrorism or sabotage to avoid interfering with an ongoing criminal investigation.

When the Federal response is limited, public information may be handled locally by appropriate Federal or local officials.

4. Congressional Information

Responses to Congressional requests for information will be coordinated among the Federal agencies as provided for in the FRERP.

5. Reimbursement

As stated in Section D, funding for each agency's participation in support of FRMAP is the responsibility of that agency, unless other agreements are in effect. This will be the case regardless of whether the activities were initiated by statutory responsibilities or by the request of another agency.

I. Supporting Agreements

Several interagency agreements have been signed that pertain to the offsite monitoring and assessment activities covered by FRMAP. Authority for each agency's role during a radiological emergency is contained within the authorities cited in each agency's response plan summary in the following chapter.

IV. Federal Agency Interfaces and Response Plan Summaries

To facilitate the coordination of Federal agency response actions, this section defines and summarizes Federal agency interfaces—those activities for which two or more agencies have related responsibilities. The interfaces among Federal agencies are determined in large part by the nature and severity of given emergencies. This section also contains summaries of the response plans of the participating Federal agencies, which provide agency mission statements, contact points for notification, Federal interfaces, plan references, and sources of authority.

A. Federal Agency Interfaces

Federal agency interfaces are necessary for a coordinated Federal response. These interfaces, describing how various Federal agencies will work together, are the planning elements that promote coordination in the Federal response. Some of these interfaces were described explicitly in the preceding sections; others are in the individual agency response plans and procedures. The interfaces are summarized and catalogued alphabetically in this section to provide a comprehensive reference list for participating agencies and other offsite authorities. This catalogue also serves as a glossary, since only the titles of these interfaces are used in the agency response plan summaries that follow.

Activation and Deployment (Procedures)

FEMA will execute operational response procedures as agreed to with each potential CFA to ensure that notification, activation, and deployment of Federal agencies take place in a timely, efficient, and mutually agreeable manner and in accordance with procedures in their agency plans.

Advise on Transportation of and to Emergency Housing

HUD may consult with DoT for advice on the best means for transporting dislocated persons to emergency housing or on transporting emergency housing to dislocated persons.

Congressional Information

Agency Congressional Liaison Officers (CLOs) will coordinate Congressional requests with the CFA Congressional Liaison Officer at headquarters or the FEMA CLO who will be the Congressional point of contact at the scene of the emergency. The CFA Headquarters CLO and FEMA CLO will keep in frequent contact.

Coordination (Liaison)

Agencies will provide or exchange liaison representatives, as necessary, to assist in the exchange of information among agencies.

Coordination (Offsite)

Federal agencies providing offsite assistance to State and local government agencies will coordinate this assistance through the SFO whenever Federal agencies share the implementation of certain responsibilities or when their activities may impinge on the actions of other agencies.

Coordination (Onsite/Offsite)

The SFO and the CFAO will work together directly and through their representatives at the scene, whether co-located or located at separate response centers, to coordinate the response efforts of the Federal agencies off site with the response efforts of the CFA and owner or operator on site.

Designation of Agency Lead Official

Each agency will exchange with FEMA appropriate information about its designated lead official and personnel at the scene, if any.

Emergency Shelter Availability

HUD and HHS will coordinate their assistance to State and local government officials in providing emergency shelter for relocated persons.

Federal Lands

The CFA and FEMA will coordinate with any affected Federal land management agencies (DoI, USDA, DoD, TVA) about response activities to ensure that they are consistent with governing Federal statutes.

Federal Response Center

Upon notification by FEMA of the location and establishment of the Federal Response Center, each Federal agency with representatives at the scene of the emergency will provide representation to the Center if possible.

FRMAP (Coordination With FRERP)

DoE or EPA will coordinate FRMAP monitoring and assessment activities with other Federal offsite assistance being provided to the State through the SFO.

FRMAP (Liaison)

Upon arrival at the scene, the DoE Offsite Technical Director (OSTD) will establish liaison with State and local officials, the CFA, FEMA, and EPA.

FRMAP (Monitoring Results)

DoE will coordinate Federal monitoring activities for the CFA and in support of the State during the initial stages of the emergency. The CFA, other Federal agencies, and the State will work with DoE to develop a comprehensive assessment of the offsite radiological monitoring data. The results of the assessment will be provided to the CFA and the State for further evaluation and distribution.

FRMAP (Notification)

DoE will notify Federal agencies that have FRMAP responsibilities in accordance with agreed-upon notification procedures.

FRMAP (Resources)

In making their resources available to support the FRMAP, all participating Federal agencies will coordinate their activities with DoE. When EPA has assumed the coordination responsbilities from DoE, participating Federal agencies will coordinate their activities with EPA.

FRMAP (Transition)

After the emergency phase of the response, DoE will transfer FRMAP coordination responsibilities to EPA at a mutually agreeable time.

Food/Feed Availability

USDA and HHS will coordinate their assistance to State and local government officials to ensure the availability of food and feed during emergencies.

Food/Feed Safety Recommendations

HHS and USDA, in coordination with the CFA, will jointly develop recommendations concerning the safety of food and animal feed.

Impact Assessment (Agriculture)

USDA will coordinate with HHS and EPA to assist State and local officals, as requested, in the disposition of contaminated livestock and poultry.

Impact Assessment (Health)

HHS will assist the CFA, FEMA, EPA, DoE as FRMAP coordinator, and, if requested, the State in assessing the impact of the radiological emergency on the health of persons in the affected area.

Indian Tribes

DoI (tribal government and trust resources issues) and HHS (health and safety issues) are available to assist the CFA and FEMA in consulting and coordinating with Federally recognized Indian tribes about incidents, responses, and protective measures affecting them.

Information Exchange

FEMA will establish a mechanism to facilitate the timely exchange of information among responding Federal agencies.

Information Requirements

CFA, DoE/EPA, and FEMA will satisfy the mutually agreed-upon information requirements specified by each participating Federal agency during the planning process.

International Cooperation (CFA)

The CFA, in consultation with FEMA, the Department of State, and other Federal agencies as appropriate, will cooperate with government counterparts in Canada and Mexico as agreed to in already established protocols in responding to radiological emergencies occurring near U.S. borders. The CFA will also provide appropriate and timely information directly to its counterparts in Mexico and Canada at the time of emergency.

International Cooperation (FEMA)

FEMA will work with the Department of State and other Federal agencies at the time of an emergency to ensure that affected or potentially affected countries are kept fully informed.

Logistical Support for Federal Agencies

FEMA will assist in obtaining resources needed by the CFA and other Federal agencies at the emergency scene.

Marine Fishery Product Safety

The Department of Commerce will provide support to HHS/FDA at its request on matters of fishery product safety (marine areas only).

Monitoring Resources (EPA)

EPA will provide resources to assist DoE in monitoring radioactivity levels in the environment during the emergency phase of the incident and, during the intermediate and long-term phase, will coordinate Federal radiological monitoring and the evaluation of actual environmental impact.

Notification (CFA)

The CFA, after receiving notification of the emergency, will notify FEMA and other Federal agencies in accordance with the CFA's notification procedures. This notification will include a description of the CFA's response status and current activities, a general assessment of the emergency, and any other information available.

Notification (FEMA)

FEMA will notify Federal agencies of the emergency situation and supply them with all relevant information available.

Other Protective Measures and Re-entry Recommendations (RERs) (Development)

The CFA will consult as appropriate with FEMA, DoE, EPA, HHS, USDA, and other Federal agencies in developing advice for the State regarding other protective measures and re-entry recommendations for the public.

Other Protective Measures and Re-entry Recommendations (RERs) (Presentation)

The CFA, in conjunction with FEMA and other appropriate Federal agencies, will present a coordinated Federal position on other protective measures and re-entry recommendations for the public to the State or other appropriate offsite authorities.

Protective Action Recommendations (Development)

Unless the public health and safety are in imminent peril, the CFA will consult as appropriate with FEMA, HHS, EPA, USDA, DoE, and other Federal agencies in preparing a coordinated Federal position on protective action recommendations, taking into consideration appropriate Federal and State Protective Action Guides when such recommendations are necessary.

Protective Action Recommendations (Presentation)

Unless the public health and safety are in imminent peril, the CFA, in conjunction with FEMA, will present an evaluation of protective action recommendations (PARs) to the State or

other appropriate offsite authority, as requested.

Protective Action and Re-entry Recommendations Dissemination (CFA)

The CFA will inform DoE or EPA, as coordinators of Federal offsite radiological monitoring, of protective action and re-entry and other protective measures recommendations made to the State, and of any decisions or actions taken by the State based on those recommendations.

Protective Action and Re-entry Recommendations Dissemination (FEMA)

FEMA shall inform Federal agencies at the national level and at the Federal Response Center of protective action and re-entry recommendations made to the State and of any decisions or actions taken by the State based on those recommendations.

Protective Action Implementation (Food)

USDA, in coordination with HHS, will assist State and local officials in the implementation of protective measure to minimize radiation exposure to the public through food ingestion, and will inform FEMA of such assistance.

Public Information Releases from Headquarters

Federal agencies' headquarters PIOs will either channel media information requests to the CFA's PIO at the CFA headquarters or coordinate their intended public information releases through him/her prior to release.

Public Information Releases from the JIC

Federal agencies' PIOs will work together to promote the coordinated release of public information through the JIC.

Radiation Victim Care advice

DoE will provide HHS and other Federal, State, and local agencies with advice and medical resources to the extent available to assist in the handling and care of radiation accident victims if requested.

Recovery Planning

Prior to the Deactivation of the Federal response, FEMA will coordinate Federal assistance to the State, as requested, in planning for offsite recovery.

Status Updates

Agencies at the scene of the emergency prior to the arrival of the CFA, FEMA, and DoE will provide a status update on their activities when each of these agencies arrives at the scene of the emergency. Subsequent agency status updates will be provided to the CFA, FEMA, and DoE on a recurring basis as requested and to EPA upon transfer of the FRMAP coordination responsibility from DoE.

Water Projects

Federal water resources project managers (DoD, DoI, TVA) will coordinate the operation of their projects with the appropriate agencies to ensure protection of municipal (EPA) and agricultural (USDA) water supplies and fish and wildlife (DoC, DoI) during radiological emergencies.

DoC and DoD will provide weather support capabilities for radiological emergencies, backing up one another when required, and may call on additional support from other agencies, as necessary.

White House Information

The CFA will notify the White House of the incident. After the intial report, the CFA will prepare the section of FEMA's White House reports dealing with onsite conditions and their actual or potential offsite impacts. Based on information provided by the SFO and the other Federal agencies, FEMA will provide periodic executive summaries to the President and advise the White House daily of the overall Federal response.

White House Responses

All responses to the White House will be coordinated with FEMA. The agency receiving the inquiry will have lead responsibility for preparing and transmitting the response.

B. Summaries of Federal Agency Response Plans

This section provides summaries of the response plans prepared by participating Federal agencies:

Department of Commerce (DoC)
Department of Defense (DoD)
Department of Energy (DoE), CFA and FRMAP
Department of Health and Human Services (HHS)
Department of Housing and Urban Development (HUD)
Department of the Interior (DoI)
Department of Transportation (DoT)
Environmental Protection Agency (EPA)
Federal Emergency Management Agency (FEMA)
National Communications System (NCS)
Nuclear Regulatory Commission (NRC)
U.S. Department of Agriculture (USDA)

Each summary provides a mission statement, the agency contact point for notification, Federal agency interfaces, assistance responsibilities to Federal, State, and local governments, agency response plan and procedure references, and sources of agency authority. For ease of updating, emergency telephone and facsimile numbers are provided in Appendix C.

Department of Commerce Response Plan Summary

1. Summary of Response Mission

The National Oceanic and Atmospheric Administration (NOAA) is the primary agent within the Department of Commerce responsible for providing assistance to the Federal, State, and local organizations responding to a radiological emergency. NOAA's responsibilities include: Acquiring weather data and providing weather forecasts in connection with the emergency; disseminating weather and emergency information; and ensuring that marine fishery products available to the public are not contaminated.

2. Point of Notification at DoC Headquarters

Contact Person's Title: Chief, Applied Services Branch.

Contact Person's Organization: National Weather Service Headquarters.

Alternate Emergency Point of Contact: NOAA/NWS Communications Branch.

3. Federal Department or Agency Interfaces

Listed below are DoC's interfaces with other Federal departments and agencies in responding to a radiological emergency.

DEPARTMENT OF COMMERCE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoC organization
Status updates, information requirements, and public information releases from Joint Information Center (JIC).	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	NOAA.
Federal response center	FEMA	NOAA.
Recovery planning	FEMA	NOAA/National Marine Fisheries Service (NMFS).

DEPARTMENT OF COMMERCE FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible DoC organization
Public information from headquarters, and congressional information.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	NOAA.
Notification	FEMA, NRC	NOAA/National Weather Service (NWS).
Fishery Product Safety	HHS/FDA	NMFS.
Information exchange, logistical support for other Federal agencies, coordination (offsite), and designation of agency lead official.	FEMA	NOAA.
Water projects	DoD (Army Corps of Engineers), DoI, USDA	NOAA/NMFS.
Weather support	DoD	NWS.
FRMAP (notification)	DoE	NWS.
FRMAP (resources)	DoE, EPA	NWS.
White House responses	FEMA	NOAA.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Prepare and disseminate forecasts and warnings for sever weather such as hurricanes, tornadoes, severe thunderstorms, floods, extreme winter weather, and tsunamis to local officials and the general public.
- Broadcast, watches and warnings of natural disasters prepared by NOAA, and radiological emergency warnings approved by the States, over NOAA Weather Radio and other NOAA dissemination systems.
- Provide to the CFA, DoE, and the State, current and forecast meteorological information about wind speed and direction, low level stability, precipitation, and other meteorological and hydrological factors affecting the transport or dispersion of radioactive materials (gaseous, liquid, particulate).
- Provide support to HHS/FDA at its request, through the National Marine Fisheries Service (NMFS), in order to avoid human consumption of contaminated commercial fishery products. (Marine areas only.)

5. DoC Response Plan and Procedure References

Agency Response Plan

1. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants.* Federal Coordinator for Meteorological Services and Supporting Research, National Oceanic and Atmospheric Administration, November 1982.

6. DoC Specific Authorities

- *Department of Commerce Organization Order 25–5B,* as amended August 18, 1980.

Department of Defense Response Plan Summary

1. Summary of Response Mission

a. The Department of Defense is charged with the safe handling, storage, maintenance, assembly, and transportation of nuclear weapons, nuclear weapon components, and other radioactive material in DoD custody, and with the safe operation of DoD nuclear facilities. Inherent in this responsibility is the requirement to protect life and property from any health or safety hazards that could ensue from an accident or significant incident associated with these materials or activities. To fulfill these responsibilities, the DoD has issued plans and policy guidance requiring the development of a well-trained and equipped nuclear accident response organization. It should be noted that in order to protect national security information, policy guidance prohibits public release of information that identifies storage locations of nuclear materials, schedules of transportation of nuclear materials, or the schedules of nuclear-powered vessels. When DoD is not the CFA for a radiological emergency, it will support the CFA and FEMA within the constraints of national security.

b. The responsibility for onsite Command and Control at the scene of a nuclear accident or significant incident is assigned to:

(1) The Service or Agency in charge of a DoD installation, DoE facility, naval ship, or assigned geographic area where the accident or incident occurs.

(2) The Service or Agency having custody of the material at the time of the accident or significant incident if the accident occurs beyond the boundaries of a DoD installation, DoE facility, naval ship, or geographic area.

c. The National Military Command Center (NMCC) is responsible for initial national-level command and control and response of DoD resources and personnel until conditions have stabilized. Command and Control will be transferred to the responsible Service Operations Center, as Directed by the Secretary of Defense or his authorized representative. The NMCC will continue to provide information and support as required.

2. Point of Notification at DoD

Contact Person's Title: Deputy Director of Operations (DDO).

Contact Person's Organization: National Military Command Center, Organization of the Joint Chiefs of Staff.

3. Federal Department or Agency Interfaces

Listed below are DoD's interfaces with other Federal departments and agencies in responding to a radiological emergency.

DEPARTMENT OF DEFENSE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoD organization
Notification (CFA)	DoE, FEMA	NMCC.
Activation and deployment (procedures)	FEMA	NMCC.
Status updates	White House situation room, EPA, FEMA, USDA, HHS, DoE, NRC, DoJ.	NMCC.
Federal lands	DoE, DoI, USDA	NMCC.
FRMAP (notification)	EPA, HHS, USDA, DoC, DoE	NMCC.
FRMAP (coordination with FRERP)	DoE	NMCC.
FRMAP (liaison)	FEMA, DoE	NMCC.
Indian tribes	DoI, HHS	NMCC.
Recovery planning	FEMA	Department of Army.
Information exchange, public information releases from the JIC, public information releases from headquarters.	DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	NMCC, OSD or service public affairs.
PAR (development)	FEMA, EPA, HHS, USDA, DoE (FRMAP), EPA (FRMAP)	NMCC.

DEPARTMENT OF DEFENSE FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible DoD organization
PAR (presentation)	FEMA	NMCC.
RER (development)	FEMA, EPA, HHS, USDA	NMCC.
RER (presentation)	FEMA	NMCC.
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	NMCC.
Congressional information	FEMA, DoE (CFA), NRC	OSD or service public affairs, congressional liaison offices.
Logistical support for the CFA	FEMA	NMCC or Department of Army.
Logistical support for Federal agencies	FEMA	NMCC or Department of Army.
Coordination (onsite/offsite)	FEMA	NMCC.
Designation of agency lead official	FEMA	NMCC.
Federal response center	FEMA	NMCC.
Water projects	DoI	Army Corps of Engineers.
White House information, White House responses	FEMA	OSD.

4. Responsibilities for Assistance to Federal, State, and Local Governments

a. Offsite authority and responsibilities at a nuclear accident rest with State and local officials. It is important to recognize that for nuclear weapons or weapon component accidents, land may be temporarily placed under effective Federal control by the establishment of a National Defense Area (NDA) or National Security Area (NSA) to protect U.S. government classified materials. These lands will revert back to State control upon disestablishment of the NDA or NSA.

b. The State Governor is responsible for the health, safety, and welfare of individuals within the territorial limits of the State during periods of emergency or crisis and may be expected to direct measures that must be taken to satisfy that responsibility. The On-scene Commander will assist the State, when possible, in coordination with FEMA, to ensure the public is protected.

c. Within the constraints of national security, provide military assistance in the form of manpower and logistic support, including aircraft services, as requested by FEMA.

d. Provide telecommunications support not available from other Federal agencies when requested by FEMA.

5. DoD Response Plan and Procedures References

Agency Response Plan

1. *Nuclear Weapon Accident Response Procedures (NARP) Manual*—January 1984.

2. DoD Directive 5100.52 *Radiological Assistance in the Event of Accident Involving Radiological Materials*—10 March 1981.

3. DoD Directive 5230.16 *Nuclear Accident and Incident Public Affairs Guidance*—7 February 1983.

6. DoD Specific Authorities

- The Atomic Energy Act of 1954, as amended.
- Pub. L. 97–351 "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982".

Department of Energy Response Plan Summary (CFA)

1. Summary of Response Mission

The Department of Energy owns and operates a variety of fixed nuclear facilities and activities throughout the United States. Most of these facilities are located on large, government-owned reservations, and are operated by extensive technical staffs under the direction of DoE. Subject to review and concurrence by DoE headquarters, DoE officials at these field facilities are responsible for the preparation of emergency plans and procedures for all nuclear activities under their jurisdiction. DoE field officials have the authority to initiate immediate emergency response procedures, direct emergency shutdown operations, or place in safe condition the nuclear facilities and activities under their cognizance. DoE is the Cognizant Federal Agency (CFA) for nuclear activities under its jurisdiction. All field emergency activities are coordinated with appropriate headquarters officials, including the Director, Emergency Action and Coordination Team (EACT).

DoE field officials are also required to assist State and local authorities, within the constraints of national security and in coordination with FEMA, in the preparation of those portions of their radiological emergency plans related to DoE nuclear facilities.

As part of its preparedness activities, DoE maintains extensive, field-based radiological emergency response resources for deployment under the FRMAP.

2. Point of Notification at DoE Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Office: DoE Emergency Operations Center (EOC).

Contact Person's Emergency Location: DOE EOC.

3. Federal Department or Agency Interfaces

Listed below are the DoE's interfaces with other Federal departments or agencies in responding to a radiological emergency at a DoE facility:

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoE organization
Notification (CFA)	FEMA, NRC, EPA, HHS	EACT, field.
Activation and deployment (Procedures)	FEMA	EACT.
Status updates	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	Emergency action and coordination team (EACT), field.
Federal lands	DoD, DoI, USDA	EACT, field.
FRMAP (resources)	NRC, EPA, DoC, DoD, DoI	EACT, field.
Impact assessment (health)	HHS, EPA	Field, EACT.
Indian tribes	DoI, HHS	Field, EACT.
Information exchange	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	EACT, field.
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	EACT, Assistant Secretary for Congressional, intergovernmental and public affairs (ASCP) or field.

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible DoE organization
Congressional information	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	ASCP
PAR (development)	FEMA, NRC, EPA, HHS, USDA	
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	Field, EACT
PAR (presentation), logistical support for Federal agencies, coordination (onsite/offsite), information exchange, White House information, designation of agency lead official, international cooperation (CFA), Federal response center.	FEMA	Field, EACT.
RER (development)	FEMA, EPA, HHS, USDA	Field.
RER (presentation)	FEMA	
Recovery planning	FEMA	As designated.
White House information, White House responses	FEMA	EACT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies based on this assessment.
- Develop Federal recommendations on protective actions for State and local governments that consider, as appropriate, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or designee), except in situations of imminent peril to the public health and safety where the DoE may be required to make independent contact with State and local officials.
- Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. DoE Response Plan and Procedure References

- *Emergency Planning, Preparedness, and Response for Operations,* Order DoE 5500.2, August 1981.
- *Reactor and Nonreactor Facility Emergency Planning, Preparedness, and Response Program for Department of Energy Operations,* Order DoE 5500.3, August 1981.
- *Public Affairs Policy and Planning Requirements for Emergencies,* Order DoE 5500.4, August 1981.
- *Response to Accidents and Significant Incidents Involving Nuclear Weapons,* Order DoE 5530.1, January 1983.

6. DoE Specific Authorities

- *Atomic Energy Act of 1954* as amended.
- *Energy Reorganization Act of 1974.*
- *Department of Energy Organization Act of 1977.*
- *Nuclear Waste Policy Act of 1982 (Public Law 97–425).*

Department of Energy Response Plan Summary (FRMAP)

1. Summary of Response Mission

Independent of its responsibilities as a CFA, the Department of Energy (DoE) maintains and implements, during the initial phase of a radiological emergency, the Federal Radiological Monitoring and Assessment Plan (FRMAP). Under FRMAP DoE provides and coordinates Federal offsite radiological monitoring and assessment support to the CFA and to the State and local governments. DoE's support is augmented by several other Federal agencies including FEMA, NRC, EPA, HHS, USDA, DoC, DoD, and DoI. The FRMAP establishes the framework for coordinating the monitoring and assessment activities of the Federal agencies.

2. Point of Notification at DoE Headquarters

Contact Person's Title: Duty Officer.

Contact Person's Organization: Emergency Action and Coordination Team.

Contact Person's Emergency Location: Emergency Operations Center.

3. Federal Department or Agency Interfaces

Listed below are the DoE's interfaces with other Federal agencies and departments in responding to a radiological emergency. DoE's Radiological Control Division is largely responsible for coordinating DoE's reponse effort within DoE and among the Federal agencies.

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoE organization
Status updates	NRC (CFA), EPA, FEMA, DoC, USDA, HHS, DoI, DoD (CFA), DoE (CFA).	Radiological assistance program (RAP) team.
FRMAP (notification)	EPA, HHS, USDA, DoC, DoT, DoI, DoD (CFA), NRC (CFA), DoE (CFA).	Emergency action and coordination team (EACT).
FRMAP (coordination with FRERP)	EPA, HHS, USDA, DoC, DoI, DoD (CFA), NRC (CFA), DoE (CFA), FEMA.	RAP team/offsite technical director (OSTD).
FRMAP (liaison)	EPA, FEMA, NRC, DoD, DoE, (CFA), EPA	RAP team/OSTD.
FRMAP (monitoring results)	NRC (CFA), DoD (CFA), DoE (CFA), EPA	RAP team/OSTD.
FRMAP (transition)	EPA	EACT, RAP team/OSTD.
Recovery planning	FEMA	As designated.
Information exchange, public information releases from the JIC	DoD (CFA), NRC (CFA) during emergency phase	RAP team/OSTD.
Public information releases from headquarters	FEMA during recovery phase	EACT.
Congressional information	FEMA, NRC (CFA), DoD (CFA), DoE (CFA), EPA	Assistant Secretary for congressional, intergovernmental, and public affairs.
PAR (development)	NRC (CFA), DoD (CFA), DoE (CFA)	RAP team/OSTD.
Radiation victim care advice	HHS	Radiological emergency assistance center/training site (REAC/TS).
Logistical support for Federal agencies	FEMA	RAP team/OSTD.
Coordination (offsite)	FEMA	RAP team/OSTD, EACT.
Designation of agency lead official	FEMA	EACT.

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible DoE organization
Federal response center	FEMA	RAP team/OSTD.
White House responses	FEMA	EACT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of an incident, and maintain liaison with State and local agencies with similar responsibilities.

• Maintain a common set of offsite radiological monitoring data, and provide it with interpretation to the CFA and to appropriate State and local agencies requiring direct knowledge of radiological conditions.

• Provide HHS and other Federal, State, and local agencies with technical and medical advice concerning treatment of radiological contamination, if requested.

5. DoE Response Plan and Procedure References

Agency Response Plan

1. The Federal Radiological Monitoring and Assessment Plan Chapter III of the FRERP

Interagency Procedures

1. *Agreement between ERDA and NRC for Planning, Preparedness, and Response to Emergencies* March 8, 1977

2. *Operational Response Procedures (ORPs) Developed Between HHS, DoE, EPA, and the NRC* 1983

3. *DoE-EPA Letter of Agreement on Notification of Incidents at DoE Facilities* January 18, 1978

4. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants*, DoC–NOAA, November 1982.

6. DoE Specific Authorities

• *The Energy Reorganization Act of 1974* (Pub. L. 93–438).

• *The Department of Energy Organization Act of 1977* (Pub. L. 95–91).

Department of Health and Human Services Response Plan Summary

1. Summary of Response Mission

In a radiological emergency, the Department of Health and Human Services (HHS) assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential human services. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to Federal, State, and local governments.

2. Point of Notification at HHS Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Division: Division of Emergency Coordination.[1]

Contact Person's Emergency Location: Emergency Operating Center, Room 3B–10, Hubert H. Humphrey Building, Washington, D.C. 20201.

3. Federal Department or Agency Interfaces

Listed below are HHS's interfaces with other Federal departments and agencies in responding to a radiological emergency.

DEPARTMENT OF HEALTH AND HUMAN SERVICES FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible HHS organization
Notification (FEMA)	FEMA	Emergency coordinator, regional emergency coordinator.
Status updates	FEMA, DoD (CFA), DoE (Not as (CFA), DoE (CFA), NRC (CFA).	Emergency coordinator, regional emergency coordinator.
Information exchange logistical support for Federal agencies	FEMA	Emergency coordinator, regional emergency coordinator, operating division(s).
Coordination (offsite)	FEMA	Regional emergency coordinator (OS), Public Health Service (FDA).
Coordination (liaison)	USDA	Public Health Service.
Information requirements	DoD (CFA), DoE (CFA), NRC, FEMA	Public Health Serivce, Office of the Secretary.
Designation of agency lead official	FEMA	Office of the Secretary (OS).
Public information releases from headquarters, public information releases from the JIC.	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Office of public affairs/OS.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of legislative liaison/OS.
Recovery planning	FEMA	Public Health Service (CDC/FDA/HRSA), SSA.
Federal response center	FEMA	Regional emergency coordinator.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), EPA, USDA	Public Health Service (CDC/FDA/HRSA).
Impact assessment (health)	DoD (CFA), DoE (CFA), NRC (CFA), EPA	Public Health Service (CDC/FDA/HRSA).
Impact assessment (agriculture)	USDA, EPA	Public Health Service (FDA).
Indian tribes	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Public Health Service (CDC/FDA/HRSA).
FRMAP (resources)	DoE, EPA	Public Health Service (FDA).
Radiation victim care advice	DoE	Public Health Service (HRSA, CDC).
Fishery product safety	DoC	Public Health Service (FDA).
Food availability	USDA	Public Health Service (FDA), Social Security Administration (OFA), Human Development Services (OPCR).
Food/feed safety recommendations, protective action implementation (food).	USDA, DoD (CFA), DoE (CFA), NRC (CFA)	Public Health Service (FDA).
Emergency shelter availability	HUD	Human Development Services.
White House responses	FEMA	Office of the Secretary (OS).

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Assist State and local government officials with jurisdiction in evacuating and relocating persons from the affected area as requested. Ensure the availability of health and medical care, food, emergency shelter, clothing, and other human services, especially for the aged, the poor, the infirm, the blind, and others most in need;

[1]The Emergency and Epidemiological Operations Branch (EEOB) and the Office of Health Physics (OHP), Food and Drug Administration (FDA), Public Health Service, have made special arrangements with the Cognizant Federal Agencies (CFAs) for direct notification in a radiological emergency.

• Provide grants for crisis counseling to victims in affected geographic areas;

• Provide guidance to State and local officials with jurisdiction on the use of radio-protective substances (e.g., thyroid blocking agents), including doasage and also projected radiation doses that warrant the use of such drugs;

• Based on information from DoE's REACS/TS personnel, advice medical care personnel regarding proper medical treatment of people exposed to or contaminated by radioactive materials;

• Provide advice and guidance to State and local officials with jurisdiction and the CFA, if requested, in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;

• Provide advice and guidance to State and local officials with jurisdiction and the CFA, if requested, in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;

• Provide resources, in coordination with the U.S. Department of Agriculture, to ensure that food and animal feeds are safe for consumption;

• Assist, in coordination with the U.S. Department of Agriculture, in developing technical recommendations for State and local officials with jurisdiction regarding protective measures related to food and animal feed;

• Provide guidance to State and local governments on protective action guides for food and animal feeds; and

• Provide guidance to State and local health officials with jurisdiction when requested on disease control measures and epidemiological surveillance of exposed populations.

5. HHS Response Plan and Procedure References

Agency Response Plan

1. *The Department of Health and Human Services Response Plan for Radiological Emergencies (Draft)* Division of Emergency Coordination March 14, 1983.

Interagency Procedures

1. *Delegation of Authority—Emergency Preparedness Functions* Division of Emergency Coordination December 21, 1981.

2. *Emergency Planning and Operations Manual* Division of Emergency Coordination July 1, 1983.

3. *Disaster Response guides* Operating Divisions Various Dates.

6. HHS Specific Authorities

• *Older Americans Act.*

• *Public Health Service Act.*

• *Food, Drug, and Cosmetic Act of 1938.*

• *Snyder Act,* 25 U.S.C. 13 (1921).

• *Transfer Act,* Pub. L. 83–568.

• *Indian Health Care and Improvement Act,* (Pub. L. 14–437).

• *Federal Civil Defense Act of 1950.*

• *Disaster Relief Act of 1974,* (Pub. L. 93–288)—Section 413, Crisis Counseling, Administration, Training.

Department of Housing and Urban Development Response Plan Summary

1. Summary of Response Mission

The Department of Housing and Urban Development (HUD) provides information on available housing for disaster victims or displaced persons. HUD assists in planning for and placing homeless victims by providing emergency housing and technical and support staff within available resources.

2. Point of Notification at HUD Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Office: Emergency Preparedness Staff (EPS).

Contact Person's Emergency Location: Emergency Preparedness Staff.

3. Federal Department or Agency Interfaces

Listed below are HUD's interfaces with other Federal departments or agencies in responding to a radiological emergency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible HUD organization
Notification (FEMA, coordination (offsite), designation of agency lead official, logistical support to Federal agencies, information exchange, Federal response center.	FEMA	Emergency preparedness staff.
Information requirements	FEMA, NRC (CFA), DoD (CFA), DoE (CFA)	Emergency preparedness staff.
Public information releases from headquarters, public information releases from the JIC.	DOD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Office of Public Affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of Legislation and Congressional Relations.
Emergency shelter availability	HHS	Emergency preparedness staff.
Advice on transportation of and to emergency housing	DoT	Emergency preparedness staff.
Recovery planning, White House responses	FEMA	Emergency preparedness staff.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Review and report on available housing for disaster victims and displaced persons.

• Assist in planning for and placing homeless victims in available housing.

• Provide emergency housing support staff within available resources.

• Provide technical housing assistance and advisory personnel to State and local authorities with jurisdiction.

5. HUD Response Plan and Procedure References

Agency Response Plan

1. HUD *FRERP,* Office of Emergency Preparedness, September 30, 1983.

6. HUD Specific Authorities

None.

Department of the Interior Reponse Plan Summary

1. Summary of Reponse Mission

The Department of the Interior manages over 500 million acres of Federal lands and thousands of Federal natural resources facilities, and is responsible for these lands and facilities when they are threatened by a radiological emergency. In addition, the Department coordinates emergency response plans for Interior-managed park and recreation areas with State and local authorities, and operates Interior water resources projects to protect municipal and agricultural water supplies in cases of radiological emergencies. The Department provides advice and assistance concerning hydrologic and natural resouces, including fish and wildlife, to Federal, State, and local governments upon request. The Department also administers the Federal government's trust responsibility for 488 Federally recognized Indian tribes and villages

and about 50 million acres of Indian lands. It also has certain responsibilities for the island territories of the United States.

2. Headquarters Point of Notification

Contact Person's Title: Director, Office of Environmental Project Review (OEPR).

Contact Person's Office: Office of the Secretary, Department of the Interior, Room 4256, Interior Building, Washington, D.C. 20240.

3. Federal Department or Agency Interfaces

DEPARTMENT OF INTERIOR FEDERAL AGENCY INTERFACES

Description	FRERP agency	Responsible DoI organization
Notification (FEMA), coordiation (offsite), information exchange, logistical support to federal agencies.	FEMA	OEPR
Designation of agency lead official, status updates, and information requirements.	DoD (CFA), DoE (CFA), NRC (CFA)	OEPR
Federal lands, Indian tribes	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	OEPR (initially).
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), DoE (CFA), NRC (CFA)	Office of public affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	Office of congressional liaison.
FRMAP (resources)	DoE, EPA	U.S. Geological Survey.
Water projects	DoD (Army Corps Engineers), EPA, USDA	OEPR (initially).
White House Reponses	FEMA	OEPR.

4. Reponsibilities for Assistance to Federal, State, and Local Governments

- Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.
- Provide advice and assistance in assessing and minimizing offsite consequences on natural resources, including fish and wildlife.
- Provide economic, social, and political advice and assistance to the Territories of Guam, American Samoa, and the Virgin Islands and the Trust Territory of the Pacific Islands (interim).
- Provide cooridnation and liaison between Federal, State, and local agencies and Federally recognized Indian tribal governments.

5. DoI Reponse Plan and Procedure References

Agency Response Plan

1. 910 DM 5 (Draft)—Interior Emergency Operations, Federal Radiological Emergency Response Plan.

2. 296 DM 3 (Draft)—Interior Emergency Delegations, Radiological Emergencies.

6. DoI Specific Authorities

- *Act of 1894* providing for gauging streams and determining the water supplies of the U.S. (28 Stat. 398).
- *The Reclamation Act of 1902,* as amended (43 U.S.C. 391), and project authorization acts.
- *National Park Service Act of 1919* (16 U.S.C. 1), and park enabling acts.
- *The Snyder Act of 1921,* as amended (25 U.S.C. 13), including assistance to Indian tribes.
- *National Wildlife Refuge System Administration Act of 1966,* as amended (16 U.S.C. 668), and refuge enabling acts.
- *Federal Land Policy and Management Act of 1976* (43 U.S.C. 1701).

Department of Transportation Response Plan Summary

1. Summary of Response Mission

The Department of Transportation Radiological Emergency Response Plan for Non-Defense Emergencies (the plan) provides for assistance to State and local governments when a non-defense radiological emergency occurs that has adversely affected any one or more of the several transportation modes. The assistance will be in response to a request from a state or local jurisdiction when a determination has been made that their civil transportation technical or logistical resources are insufficient to adequately handle the requirements created by a radiological emergency.

2. Point of Notification at DoT Headquarters

Contact Person's Title: Director of Emergency Transportation.

Contact Person's Office: Office of Emergency Transportation.

Contact Person's Emergency Location: Headquarters, U.S. Department of Transportation, Washington, D.C. 20590.

3. Federal Department or Agency Interfaces

Listed below are DoT's interfaces with other Federal agencies and departments in responding to a non-defense radiological emergency.

DEPARTMENT OF TRANSPORTATION FEDERAL AGENCY INTERFACES

Interface Description	Agencies	Responsible DoT organization
Status Updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Director of emergency transportation crisis coordinator (when designated).
Notification (FEMA), information exchange, logistical support for Federal agencies, coordination (offsite), and designation of agency lead official.	FEMA	Office of emergency transportation.
Information requirements	FEMA, DoD (CFA), DoE (CFA), NRC	Office of emergency transportation.
Public information release from the JIC, public information release from headquarters.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	Office of public affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of congressional affairs.
Federal response center	FEMA	Crisis coordinator, regional emergency transportation coordinator (RETCO)
Advice on transportation of and to emergency housing	HUD	Office of emergency transportation (RETCO).
White House responses	FEMA	Crisis coordinator.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Maintain capability and resources to respond to a request for assistance in a non-defense radiological emergency.

• Provide civil transportation technical and/or logistical resources.

• Coordinate the Federal transportation response in support of emergency transportation plans and actions of State and local authorities.

• Provide, through Regional Emergency Transportation Coordinators (RETCOs), representation to State and local transportation authorities.

5. DoT Response Plan and Procedure References

Agency Response Plan

1. Department of Transportation (DoT) Radiological Emergency Response Plan for Non-Defense Emergencies, November 1983

Intra-Agency Procedures

1. DoT Order 1900.7C, DoT Crisis Action Plan

2. DoT Order 1950.1A, Reports on Non-Defense Transportation Emergencies

6. DoT Specific Authorities

• Public Law 89–670, 1966, the *Department of Transportation Act.*

• Code of Federal Regulations 44 CFR Part 351 (44 CFR Part 351), Radiological Planning and Preparedness—Final Regulations, § 351.25—THe Department of Transportation.

Environmental Protection Agency Response Plan Summary

1. Summary of Response Mission

The Environmental Protection Agency (EPA) assists State and local governments during radiological emergencies in environmental and water supply monitoring, consequence assessment, and protective action decisions. These services may be provided at the request of the Federal or State government through FRMAP, or EPA may respond unilaterally to an emergency in order to fulfill its statutory responsibilities.

2. Point of Notification at EPA Headquarters

Contact Person's Title: Radiological Response Coordinator.

Contact Person's Office: Office of Radiation Programs (ORP).

Contact Person's Emergency Location: Emergency Operations Center.

3. Federal Department or Agency Interfaces

Listed below are EPA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

ENVIRONMENTAL PROTECTION AGENCY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible EPA organization
Status updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of radiation programs (ORP).
FRMAP (notification), FRMAP (resources), FRMAP (monitoring results), FRMAP (coordination with FRERP), FRMAP (transition), FRMAP (liaison).	HHS, DoC, DoD, DoE, DoI, NRC, USDA	ORP.
Water projects	DoD (Army Corps of Engineers), DoI, USDA	ORP.
Impact assessment (Agriculture)	USDA	ORP.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), HHS, USDA	ORP.
Information requirements	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	ORP.
Public information releases from headquarters, public information releases from JIC, congressional information.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase, FEMA during recovery phase.	Office of Press Services.
Information exchange, logistical support for Federal agencies, coordination (offsite), designation of agency lead official, Federal response center.	FEMA	ORP.
Recovery planning, White House responses	FEMA	ORP.

4. Responsibilities For Assistance to Federal, State, and Local Governments

• Provide resources including personnel, equipment, and laboratory support to assist DoE in monitoring radioactivity levels in the environment during the emergency phase of the incident.

• Assume responsibility from DoE for coordinating Federal intermediate and long-term radiological monitoring after the initial phase of the emergency after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort.

• Assess the nature and extent of the environmental radiation hazard.

• Provide guidance to Federal agencies and State and local governments with jurisdiction on acceptable emergency levels of radioactivity and radiation in the environment.

• Assist the Cognizant Federal Agency (CFA), as requested, in developing recommended measures to protect the public health and safety.

5. EPA Response Plan and Procedure References

Agency Response Plan

1. *U.S. Environmental Protection Agency Radiological Emergency Response Plan,* Office of Radiation Programs, January 30, 1981.

2. *Letter Agreement between DoE and EPA for Notification of Accidental Radioactivity Releases into the Environment from DoE Facilities;* January 8, 1978.

3. *Operational Response Procedures*—Developed among the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, and the Department of Energy, November 30, 1982.

Interagency Procedures

1. *Manual of Protective Action Guides and Protective Actions for Nuclear Incidents,* Office of Radiation Programs, September 1975.

2. *Standard Operating Procedures for Radiological Emergency Response,* Appendix 3 to the *EPA Radiological Emergency Response Plan,* Office of Air, Noise, and Radiation, January 1981.

3. *Memorandum of Understanding Between the Federal Emergency Management Agency and the Environmental Protection Agency Concerning the Use of High Frequency Radio for Radiological Emergency Response* (under development), Office of Radiation Programs, Environmental Protection Agency.

6. EPA Specific Authorities

• *President's Reorganization Plan No. 3,* December 2, 1970.

• *Public Health Service Act,* as amended, 42 U.S.C. 241, Section 301, and 42 U.S.C. 243, section 311.

• *Safe Drinking Water Act* (Pub. L. 93–523).

Federal Emergency Management Agency Response Plan Summary

1. Summary of Response Mission

FEMA is responsible for coordinating the Federal response to all radiological emergencies that require a significant, multi-agency Federal presence. FEMA's coordination role promotes an effective and efficient response by Federal agencies at both the national level and at the scene of the emergency. Coordination is achieved at the national level by FEMA through use of FEMA's Emergency Support Team (EST) and at the scene of the emergency between Federal, State, and local agencies by FEMA's Emergency Response Team (ERT). FEMA's ERT includes a FEMA Regional Communications Manager, who is responsible for providing communications management support to the Senior FEMA Official.

2. Point of Notification at FEMA Headquarters

Contact Person's Title: Emergency Action Officer.

Contact Person's Office: Emergency Operations Directorate.

Contact Person's Emergency Location: Emergency Information and Coordination Center (EICC).

3. Federal Department or Agency Interfaces

Listed below are FEMA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible FEMA Organization(s)
Notification (FEMA)	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA, DoE.	EICC (emergency support team (EST), when activated).
Activation and deployment (procedures)	DoD (CFA), DoE (CFA), NRC (CFA)	EICC (EST, when activated).
Status updates	DoC, DoI, DoT, EPA, HHS, HUD, NCS, USDA, DoE	Emergency response team (ERT), EST.
Federal lands	DoD, DoE, DoI, USDA	ERT, EST.
Federal Response Center	DoC, DoI, DoT, DoD (CFA), DoE (CFA), NRC, EPA, HHS, HUD, NCS, USDA.	ERT, EST.
Information exchange	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
Logistical support for Federal agencies	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA.	ERT, EST.
PAR (development), PAR (presentation)	DoD (CFA), DoE (CFA), NRC	ERT.
PAR and RER dissemination (FEMA)	DoC, DoD, DoE, DoI, DoT, EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
FRMAP (coordination with FRERP)	DoE, EPA	ERT.
FRMAP (liaison)	DoE, EPA	ERT.
Coordination (onsite/offsite)	DoD (CFA), DoE (CFA), NRC	ERT.
Coordination (offsite)	DoC, DoI, DoT, EPA, HHS, HUD, NCS, USDA	ERT, EST.
Information requirements	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EICC and EST.
Indian tribes	DoI, HHS	ERT.
Designation of agency lead official	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA.	EST.
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase	EST, ERT, (respectively).
Congressional information	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EST, ERT.
White House responses	DoC, DoD, DoE, DoI, EPA, HHS, HUD, NCS, NRC, USDA	EST, ERT.
White House information	DoD (CFA), DoE (CFA), NRC (CFA) initially	EST.
RER (development), RER (presentation)	DoD (CFA), DoE (CFA), NRC (CFA)	ERT.
Recovery planning	DoD (CFA), DoE (CFA), NRC, DoC, DoE (non-CFA), DoI, DoT, EPA, HHS, HUD, USDA.	ERT.
International cooperation	DoS, DoD (CFA), DoE (CFA), NRC	EST, ERT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Coordinate assistance to State and local governments among the Federal agencies.

• Coordinate among the Federal agencies all offsite response activities, except those pertaining to the FRMAP, and coordinate these with the onsite activities of the Cognizant Federal Agency.

• Work with the CFA to coordinate the dissemination of public information concerning Federal emergency response activities. Promote the coordination of public information releases with State and local governments, appropriate Federal agencies, and appropriate private sector authorities.

• Help obtain logistical support for Federal agencies.

5. FEMA Response Plan and Procedure References

Response Plan

1. *FEMA Emergency Response Operations for Extraordinary Situations: Emergency Support Team Policy and Operations Response Procedures*, February 8, 1984.

2. *Guidance for Emergency Response Team Plans*, August 17, 1982.

3. *Emergency Response Team Plans* for FEMA Regions I, II, III, IV, V, VI, VII, VIII, IX, and X. Various dates

Interagency Procedures

1. *NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident* (NUREG–0981; FEMA–51). Rev. 1, January 1984.

2. *Memorandum of Understanding* for Incident Response between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

6. FEMA Specific Authorities

• *Executive Order 11490*, June 15, 1976, as amended.

• *Executive Order 12148*, July 20, 1979.

• *Executive Order 12241*, September 29, 1980.

National Communications System Response Plan Summary

1. Summary of Response Mission

Under the current National Plan for Communications Support in Emergencies and Major Disasters, July 1983,[2] the National Communications

[2] The National Plan for Communications Support in Emergencies and Major Disasters dated July 1983 is being revised and will be published in October 1984 to reflect changes in the role of the FEMA Regional Communications Manager consistent with the FEMA ERT/EST concept.

System (NCS) coordinates and manages telecommunications support for Federal agencies during radiological emergencies. The General Services Administration (GSA) appoints a Regional Emergency Communications Coordinator (RECC) to provide technical support to the FEMA Regional Director during the pre-emergency or emergency planning phase. The GSA also assigns, on request, a Federal Emergency Communications Coordinator (FECC) to the FEMA Regional Director or Senior FEMA Official (SFO) to head an Emergency Communications Staff (ECS), assess the availability of telecommunications means, and take necessary action to satisfy essential telecommunications requirements in the emergency area. The Emergency Communications Staff is made up of a FEMA-appointed Radio Communications Coordinator (RCC), a Military Communications Representative (MCR), telecommunications industry representatives, and others as needed.

2. Point of Notification at NCS Headquarters

Contact Person's Title: Operations Officer.

Contact Person's Office: Office of Emergency Preparedness (Operations).

Contact Person's Emergency Location: NCS/DCA Operations Center, 8th St. and South Court House Rd., Arlington, VA 22204.

3. Federal Department or Agency Interfaces

Listed below are NCS's interfaces with other Federal departments or agencies in responding to a radiological emergency.

NATIONAL COMMUNICATIONS SYSTEMS FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible NCS organization
Notification (FEMA)	FEMA	Emergency preparedness.
Logistical support for Federal agencies	FEMA	Emergency preparedness.
Information exchange	FEMA	Emergency preparedness.
Designation of agency lead official	FEMA	Emergency preparedness.
Federal response center	FEMA	Federal emergency communications coordinator (FECC) and staff.
Status updates	FEMA	(FECC) and staff.
Information requirements	DoD (CFA), DoE, (CFA), NRC (CFA)	Emergency preparedness.
Congressional information	DoD (CFA), DoE, (CFA), NRC, FEMA	Emergency preparedness.
Public information releases from headquarters, public information releases from the JIC.	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Emergency preparedness.
Recovery planning, White House responses	FEMA	FECC and staff.

4. Responsibilities for Assistance to Federal, State and Local Governments

- Provide and coordinate, in response to a FEMA request, the necessary communications for the Federal government response in accordance with the *National Plan for Communications Support in Emergencies and Major Disasters*, July 1983. Be prepared to provide this support prior to a formal declaration of an emergency or major disaster.

- Provide representation to appropriate State agencies to assist in meeting their communications requirements.

5. NCS Response Plan and Procedure References

Agency Response Plan

1. *National Plan for Communications Support in Emergencies and Major Disasters*, Office of Emergency Preparedness (Operations), July 1983.

Interagency Procedures

1. *Memorandum of Understanding*, GSA and FEMA, January 29, 1980.

2. *Executive Order 12046* (Relates to the transfer of telecommunications functions), The White House, March 27, 1978.

6. NCS Specific Authorities

- *Executive Order 12472*, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984.

- *Executive Order 11490*, October 30, 1969.

- *Executive Order 12046, March 27, 1978.*

- White House Memorandum, *National Security and Emergency Preparedness: Telecommunications and Management and Coordination Responsibilities*, July 5, 1978.

U.S. Nuclear Regulatory Commission Response Plan Summary

1. Summary of Response Mission

The U.S. Nuclear Regulatory Commission (NRC) regulates the use of byproduct, source, and special nuclear material, including activities at commercial and research nuclear facilities. If an incident involving NRC-regulated activities poses a significant threat to the public health or safety or environmental quality, the NRC would be the Cognizant Federal Agency (CFA). In such an incident, the NRC is responsible for monitoring the licensee to ensure that appropriate protective action recommendations are being made to offsite authorities in a timely manner. In addition, the NRC will support its licensees and offsite authorities, including confirming the licensee's recommendations to offsite authorities, and will keep the media informed of the NRC's knowledge of the status of the incident. The NRC is also responsible for the development, coordination, and presentation (in conjunction with FEMA) of Federal protective action recommendations and for keep other Federal agencies and entities informed of the status of the incident.

Consistent with NRC's agreement to participate in FRMAP, the NRC may also be called upon to assist in Federal radiological monitoring and assessment activities during incidents for which it is not the CFA.

2. Point of Notification at NRC Headquarters

Contact Person's Title: Headquarters Operations Officer.

Contact Person's Office: Inspection and Enforcement (I&E).

Contact Person's Emergency Location: NRC Operations Center, Bethesda, Maryland.

3. Federal Department or Agency Interfaces

Listed below are the NRC's interfaces with other Federal departments or agencies in responding to a radiological emergency.

NUCLEAR REGULATORY COMMISSION FEDERAL AGENCY INTERFACES

Interface description	Agencies [1]	Responsible NRC organization
Notification (CFA)	FEMA, DoE, EPA, HHS	For all interfaces listed:
Activation and deployment (procedures)	FEMA	
Status updates	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	a. Director of executive team (during initial activation).
Information requirements	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	b. Director of site operations (during expanded activation).
Public information releases from headquarters, public information releases from JIC.	DoD, (CFA), DoE, (CFA), during emergency phase; FEMA during recovery phase.	
Congressional information	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA, FEMA, DoE (FRMAP).	
Coordination (liaison)	FEMA, DoE (FRMAP)	
White House information, White House responses	FEMA	
PAR (development) RER (development)	FEMA, DoE EPA, HHS, USDA	
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	
Federal lands	DoD, DoE, DoI, USDA	
Food/feed safety recommendations	HHS, USDA	
FRMAP (monitoring results)	DoE, (FRMAP)	
FRMAP (resources)	DoE, (FRMAP), EPA, (FRMAP)	
Impact assessment (Health)	HHS, EPA	
Indian tribes	DoI, HHS	
PAR (presentation), Logistical support for Federal agencies, Coordination (onsite/offsite), information exchange, designation of agency lead official, international cooperation (CFA), Federal response center.	FEMA	For all interfaces listed: a. Director of executive team (during expanded activation). b. Director of site operations (during expanded activation).
RER (presentation), PAR and RER dissemination (CFA)	FEMA, DoE, EPA, HHS, USDA, DoE (FRMAP), EPA (FRMAP)	
Recovery planning	FEMA	

[1] Periodic communications will be conducted with those agencies with which NRC has formal agreements, i.e., FEMA, DoE, EPA, HHS. Interfaces with other agencies will occur as required.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies with jurisdiction based on this assessment.

• Assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments with jurisdiction that consider, as required, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or designee), except in situations of imminent peril to the public health and safety where the NRC may be required to make independent contact with State officials.

• Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. NRC Response Plan and Procedure References

Response Plan

1. *NRC Incident Response Plan* Revision 1 (NUREG–0728), NRC Office of Inspection and Enforcement, April 1983.

Interagency Procedures

1. *Agency Procedures for the NRC Incident Response Plan* (NUREG–0845), NRC Office of Inspection and Enforcement, February 1983.

2. *NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident,* (NUREG–0981; FEMA–51), Rev. 1, January 1984.

3. *Operational Response Procedures Developed Between NRC, EPA, HHS, and DOE, 1982.*

4. Memorandum of Understanding for Incident Response Between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

6. NRC Specific Authorities

• *Atomic Energy Act of 1954, as amended.*

• *Energy Reorganization Act of 1974.*

• 10 CFR Parts 0 to 199.

U.S. Department of Agriculture Response Plan Summary

1. Summary of Response Mission

The United States Department of Agriculture (USDA) is responsible for assisting State and local governments in developing agricultural protective measures and damage assessments. Other radiological emergency responsibilities of the USDA include: providing for the procurement of food for emergency feeding programs; ensuring that meat and meat products, poultry and poultry products, and eggs and egg products are safe for public consumption; and providing technical information and advice to farmers to aid in their recovery from the emergency.

2. Point of Notification at USDA Headquarters

Contact Person's Title: USDA Emergency Coordinator, Director, Intergovernmental Affairs, Room 102–A, Administration Building, Washington, D.C. 20250.

Contact Person's Office: Office of Intergovernmental Affairs, USDA.

3. Federal Department or Agency Interfaces

Listed below are USDA's interfaces with other Federal agencies in responding to a radiological emergency.

DEPARTMENT OF AGRICULTURE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible USDA organization
Notification (FEMA)	FEMA	Governmental and Public Affairs (GPA)/Office of Intergovernmental Affairs (OIA).
Status updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OIA, Food Safety Inspection Service (FSIS), Office of Emergency Planning (OEP).
Information requirements	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OIA, FSIS/OEP.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), EPA, HHS	GPA/OIA, FSIS/OEP.
Public information releases from headquarters, public information releases from joint information center (JIC).	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	GPA/Office of Information (OI).
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OI, GPA/Congressional relations (CR).
Coordination (offsite)	FEMA, HHS, EPA	GPA/OIA, FSIS/OEP.
Information exchange, designation of agency lead official, and logistical support for Federal agencies.	FEMA	GPA/OIA, FSIS/OEP, GPA/OIA, FSIS, Office of Operations (00).
Federal lands	DoD, DoE, DoI	GPA/OIA, FSIS/OEP.
FRMAP (notification), (resources), (liaison)	DoE, EPA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Impact assessment (agriculture)	HHS, EPA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Protective action implementation (food)	HHS, FEMA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Food/feed availability, food/feed safety recommendations	HHS, FEMA, DoD (CFA), DoE (CFA), NRC (CFA)	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Water projects	DoD (Army Corps of Engineers), DoI, EPA	GPA/OIA, FSIS/OEP.
Recovery planning	FEMA	GPA/OIA, FSIS (OEP), USDA State/county resources as required.
White House responses	FEMA	GPA/OIA, FSIS (OEP).

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Provide emergency food coupon assistance in officially designated disaster areas whenever a predetermined threshold of need is reached and the commercial system is sufficiently viable to accommodate the use of food coupons.
- Assist in providing livestock feed.
- Provide assistance through regular USDA programs if legally adaptable to radiological emergencies.
- Advise and assist State and local officials on the disposition of livestock and poultry affected by radiation. Coordinate this action with the EPA and HHS.
- Ensure the purity and wholesomeness of meat and meat products, poultry and poultry products, and eggs and egg products.
- Provide for the procurement of food.
- Assist State and local officials, in coordination with HHS and EPA, in the implementation of protective measures to minimize contamination through food ingestion.
- Assist in coordination with HHS and EPA in the emergency production, processing, and distribution of food during a radiological emergency, and assess damage to agricultural resources.
- Provide advice to State and local officials on how to minimize losses to agricultural resources from radiation effects.
- Provide information and assistance to farmers and others to aid them in returning to normal after a radiological emergency.
- Assist in reallocation of USDA donated food supplies from Commodity Credit Corporation stocks stored in warehouses, local schools, and other outlets to emergency care centers.
- Provide a liaison to State agricultural agencies to keep State and local officials informed of Federal efforts.

5. USDA Response Plan and Procedure References

1. *USDA Radiological Emergency Response Plan,* April 1984.

6. USDA Specific Authorities

- Title 7, U.S.C.

Appendix A—Acronyms*

ARAC Atmospheric Release Advisory Capability
CFA Cognizant Federal Agency
CFAO Cognizant Federal Agency Official
CFR Code of Federal Regulations
CHEMTREC Chemical Transportation Emergency Center
CLO Congressional Liaison Officer
DoC Department of Commerce
DoD Department of Defense
DoE Department of Energy
DoI Department of the Interior
DoJ/FBI Department of Justice/Federal Bureau of Ivestigation
DoS Department of State
DoT Department of Transportation
DSFO Deputy Senior FEMA Official
DSO Director of Site Operations, NRC
EACT Emergency Action and Coordination Team, DoE
EICC Emergency Information and Coordination Center, FEMA
EOC Emergency Operations Center, DoE
EOF Emergency Operations Facility, Licensee
EPA Environmental Protection Agency
FDA Food and Drug Administration
FEMA Federal Emergency Management Agency
FRC Federal Response Center
FRERP Federal Radiological Emergency Response Plan
FRMAC Federal Radiological Monitoring and Assessment Center, DoE or EPA
FRMAP Federal Radiological Monitoring and Assessment Plan (DoE)
FRPCC Federal Radiological Preparedness Coordinating Committee
HHS Department of Health and Human Services
HUD Department of Housing and Urban Development
IRAP Interagency Radiological Assistance Plan
JIC Joint Information Center
JNACC Joint Nuclear Accident Coordinating Center
LAO Lead Agency Official
LNO Liaison Officer
NCS National Communications System
NOAA National Oceanic and Atmospheric Administration, DoC
NRC Nuclear Regulatory Commission
NWS National Weather Service
OSTD Offsite Technical Director, DoE
PAG Protective Action Guide
PAR Protective Action Recommendation
PIO Public Information Officer
RAC Regional Assistance Committee
RAP Radiological Assistance Program, DoE
RER Other Protective Measure and Reentry Recommendation
SCO State Coordinating Officer

* This Appendix does not include acronyms that are defined in the Agency Response Plan Summaries (Section IV).

SFO Senior FEMA Official
USDA U.S. Department of Agriculture
USGS U.S. Geological Survey

Appendix B—Definitions

Accident Response Group (ARG)—A DoE team of scientists, engineers, and technicians that is trained, organized, and equipped to respond to a nuclear weapons accident/incident.

Agency Lead Official—The designated official in each participating agency authorized to direct that agency's response to the radiological emergency.

Agreement State—A State that has entered into an Agreement under the *Atomic Energy Act of 1954*, as amended, in which NRC has relinquished to such States the majority of its regulatory authority over source, byproduct, and special nuclear material in quantities not sufficient to form a critical mass.

Assessment—The evaluation and interpretation of radiological measurements and other information to provide a basis for decision-making. Assessment can include projections of offsite radiological impact.

Cognizant Federal Agency (CFA)—The Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological activity causing the emergency and that has the authority to take action on site.

Cognizant Federal Agency Official (CFAO)—The lead official designated by the CFA to manage its response at the site of a radiological emergency.

Coordinate—To bring into common action so as not to unnecessarily duplicate or omit important actions. Coordination does not involve direction of one agency by another.

DoE Emergency Operations Center (EOC)—The center located at DoE headquarters through which DoE's EACT coordinates a FRMAP multi-agency response to a radiological emergency.

DoE Team Leader—The individual designated by the Director of the Emergency Action and Coordination Team (EACT) to manage all DoE field activities in response to an accident/incident if DoE has onsite responsibilities. The DoE Team Leader primarily supervises onsite operations.

Emergency—Any natural or man-caused situation that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Emergency Action and Coordination Team (EACT)—The DoE senior management team at headquarters that coordinates the initial FRMAP response to radiological emergencies.

Emergency Response Team (ERT)—The FEMA team deployed to a radiological emergency scene by the FEMA Director to make an initial assessment of the situation and then provide FEMA's primary response capability.

Emergency Support Team (EST)—The FEMA headquarters team that carries out notification, activation, and coordination procedures from the FEMA EICC. The EST is responsible for Federal agency headquarters coordination, staff support of the FEMA Director, and support of the SFO.

Federal Radiological Monitoring and Assessment Plan (FRMAP)—A center usually established at an airport near the scene of a radiological emergency from which the DoE Offsite Technical Director conducts the FRMAP response. This center generally need not be located near the onsite or Federal-State operations centers as long as its operations can be coordinated with them.

Federal Radiological Monitoring and Assessment Center (FRMAC)—A plan to provide coordinated radiological monitoring and assessment assistance to the State and local governments in response to radiological emergencies. This plan, authorized by 44 CFR Part 351, is a revised version of the Interagency Radiological Assistance Plan.

Federal Response Center—A center established by FEMA at a location identified in conjunction with the State that serves as a focal point for Federal response team interactions with the State.

Fixed Nuclear Facilities—Stationary nuclear installations that use or produce radioactive materials in their normal operations. These facilities include commercial nuclear power plants and other fixed facilities.

Interagency Radiological Assistance Plan (IRAP)—A Plan originally published in 1965 by an interagency committee of Federal agency representatives as a means for providing rapid and effective radiological assistance in the event of a peacetime radiological incident. This plan has been superseded by the FRMAP.

Joint Information Center (JIC)—A central point of contact for all news media at the scene of the incident. News media representatives are kept informed of activities and events via public information officials from all participating Federal, State, and local agencies, who, ideally, are co-located at the JIC.

Joint Nuclear Accident Coordinating Center (JNACC)—A joint DoE/DoD capability at Kirtland Air Force Base, Albuquerque, New Mexico, responsible for maintaining current information on the location of specialized DoE and DoD teams or organizations capable of providing nuclear weapons accident assistance.

Liaison Officer (LNO)—A Federal agency official sent to another agency to facilitate interagency communications and coordination.

License—A license issued to a facility owner or operator by the NRC pursuant to the conditions of the *Atomic Energy Act of 1954* (as amended), or issued by an Agreement State pursuant to appropriate State laws. NRC licenses certain activities under section 170(a) of that Act.

Limited Response—Response to a request for radiological assistance that involves limited DoE or other agency resources and does not require the formal field management structure.

Local Government—Any county, city, village, town, district, or political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, including any rural community or unincorporated town or village or any other public entity.

Monitoring—The use of sampling and radiation detection equipment to determine the levels of radiation.

National Contingency Plan—An operations plan required to outline the Federal response to radiological emergencies at commercial nuclear power plants. In Executive Order 12241, the President delegated to FEMA the responsibility for the development and promulgation of such a plan in response to Pub. L. 96-295.

National Defense Area (NDA)—An area established by a DoD official on non-Federal lands located within the United States, its possessions, or its territories for the purpose of safeguarding classified defense information or protecting DoD equipment or material. Establishment of a National Defense Area temporarily places such non-Federal lands under the effective control of DoD and results only from an emergency event. The senior DoD representative at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

National Radiological Emergency Preparedness/Response Plan For Commercial Nuclear Power Plant Accidents (Master Plan)—Commonly referred to as the Master Plan, this document was published by FEMA for interim use in December 1980 and represented the first step towards developing Federal radiological

emergency response plans and procedures.

National Security Area (NSA)—An area established by DoE on non-Federal lands located within the United States, its possessions, or territories, for the purpose of safeguarding classified or restricted information, or protecting DoE equipment or material. Establishment of a NSA temporarily places such non-Federal lands under the effective control of DoE and results only from an emergency event. The senior DoE representative having custody of the material at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

Nuclear Weapon Accident—An unexpected event involving nuclear weapons or radiological nuclear weapon components that results in any of the following:

- Accidential or unauthorized launching, firing, or use by U.S. forces or U.S.-supported allied forces of a nuclear capable weapons system that could create the risk of an outbreak of war;
- Nuclear detonation;
- Non-nuclear detonation or burning of a nuclear weapon or radiological nuclear weapon component;
- Radioactive contamination;
- Seizure, theft, loss, or destruction of a nuclear weapon or radiological nuclear weapon component, including jettisoning; and
- Public hazard, actual or implied.

Nuclear Weapon Significant Incident—An unexpected event involving nuclear weapons or radiological nuclear weapon components which does not fall in the nuclear weapon accident category but:

- Results in evident damage to a nuclear weapon or radiological nuclear weapon component to the extent that major rework, complete replacement, or examination or recertification by DoE is required;
- Requires immediate action in the interest of safety or nuclear weapons security;
- May result in adverse public reaction (national or international) or premature release of classified information; and
- Could lead to a nuclear weapon accident and warrants high officials of the signatory agencies being informed or taking action.

Off Site—The area outside the boundary of the onsite area.

Off Site Federal Support—Federal assistance in mitigating the offsite consequences of an emergency and protecting the public health and safety, including assistance with determining and implementing public protective action measures.

Off Site Technical Director (OSTD)—The DoE or EPA official designated to coordinate the Federal radiological monitoring and assessment activities under the Federal Radiological Monitoring and Assessment Plan.

On Site—The area within (a) the boundary established by the owner or operator of a fixed nuclear facility; or (b) the boundary established at the time of the emergency by the State or local government with jurisdiction for a transportation accident not occurring at a fixed nuclear facility and not involving nuclear weapons; or (c) the area established by the CFA as defined by a National Defense Area or National Security Area in a nuclear weapons accident or weapon significant incident.

On-Scene Commander—The military officer of senior DoE official who commands DoD and DoE forces and supervises all DoD and DoE operations at the scene of a DoD/DoE nuclear weapon accident or weapon significant incident.

Onsite Federal Support—Federal assistance that is the primary responsibility of the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological facility or material being transported, i.e., the CFA. This response supports State and local efforts by supporting the owner or operator's efforts to bring the incident under control and thereby prevent or minimize offsite consequences.

Other Protective Measures and Re-entry Recommendations (RERs)—Advice provided to the State concerning guidance on actions necessary to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway. Also advice provided to the State concerning guidance that may be issued to members of the public on returning to an area affected by a radiological emergency, either permanently or for short-term emergency actions.

Owner or Operator—The organization that owns or operates the nuclear facility or carrier, or cargo that causes the radiological emergency. The owner or operator may be a Federal agency, a State or local government, or a private business.

Participating Agencies—44 CFR Part 351 establishes the Federal Radiological Preparedness Coordinating Committee (FRPCC), which has approved the establishment of the Subcommittee on Federal Response. The 12 agencies represented on this Subcommittee are referred to as the participating agencies in the FRERP. They are: FEMA, NRC, EPA, HHS, DoE, USDA, DoC, DoT, DoD, DoI, HUD, and NCS.

Protective Action Guide (PAG)—A radiation exposure level or range established by appropriate Federal or State agencies beyond which protective action should be considered.

Protective Action Recommendation (PAR)—Advice to the State on emergency measures it should consider in determining action for the public to take to avoid or reduce their exposure to radiation.

Public Information Officers (PIOs)—Federal agency officials at headquarters and in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

Radiological Assistance Program (RAP) Team—A team dispatched to the site of a radiological incident by the DoE regional office responding to a radiological incident.

Radiological Emergency—A type of radiological incident that poses an actual or potential hazard to public health or safety or loss of property.

Radiological Transportation Incident—Any incident that involves a transportation vehicle or shipment containing radioactive materials.

Recovery Plan—A plan developed by the State to restore the affected area with Federal assistance if needed.

Senior FEMA Official (SFO)—Official appointed by the Director of FEMA, or his representative, to direct the FEMA response at the scene of a radiological emergency.

State Coordinating Officer (SCO)—An official designated by the Governor of the affected State to work with the CFAO and SFO in coordinating the response efforts of Federal, State, local, volunteer, and private agencies.

Subcommittee on Federal Response—A Subcommittee of the Federal Radiological Preparedness Coordinating Committee formed to develop and test the Federal Radiological Emergency Response Plan. Most agencies that would participate in the Federal radiological emergency response are represented on this Subcommittee.

Transportation of Radioactive Materials—Refers to the loading, unloading, movement, or temporary storage en route of radioactive materials.

Appendix C—Federal Emergency Phone and Facsimile Numbers

Federal department or agency	Contact person's tile	Phone No. and facsimile
DoC	Chief, Applied Services Branch (Alt) NOAA/ NWS Communications Branch.	(301) 427-7858, (301) 427-7889. (FTS) 763-8189.
DoD	Deputy Director of Operations (DDO).	(202) 697-6340 (24-Hour). (Auto) 227-6340. (FTS) 697-6340.
DoE	Emergency Coordinator	(301) 353-5555. (FTS) 233-5555.
HHS	do	(202) 475-0276.
HUD	do	(202) 755-6020. (202) 755-6417 (After Hours).
DoI	Director, Office of Environmental Project Review.	(202) 343-3891. (FTS) 343-3891. (202) 248-8259 (Res). (202) 533-0488 (Alt Res).
	U.S. Park Police	(202) 426-6600 (24-Hour). (FTS) 426-6000 (24-Hour).
DoT	Director of emergency Transportation.	(202) 426-4262 (Ofc). (202) 426-1830. (Dot/USCG Duty Officer after normal duty hours).
EPA	Radiological Response Coordinator.	(703) 557-7390. (FTS) 557-7390. (FAX) 235-9027 (DEX-4100).
FEMA	Emergency Action Officer.	(202) 646-2400.
NCS	Operations Officer	(202) 692-2714. (202) 692-2539. (Auto) 231-1787. 851-1790, 851-3740. (FTS) 692-2816 (Ofc). (Auto) 222-2816 (Ofc). (FAX) 692-2714 (Commor FTS).
NRC	Headquarters Operstions Officer.	(202) 951-0550 (FAX) (301) 492-7285 (Group I, II, III). (301) 492-8187 (Group I, II, III). (301) 492-7376 (Group I, II, III). (301) 492-7293 (Verification).
USDA	USDA Emergency Coordinator.	(FTS) 447-8643 (Days). (703) 491-6751 (Res). (301) 461-2237.

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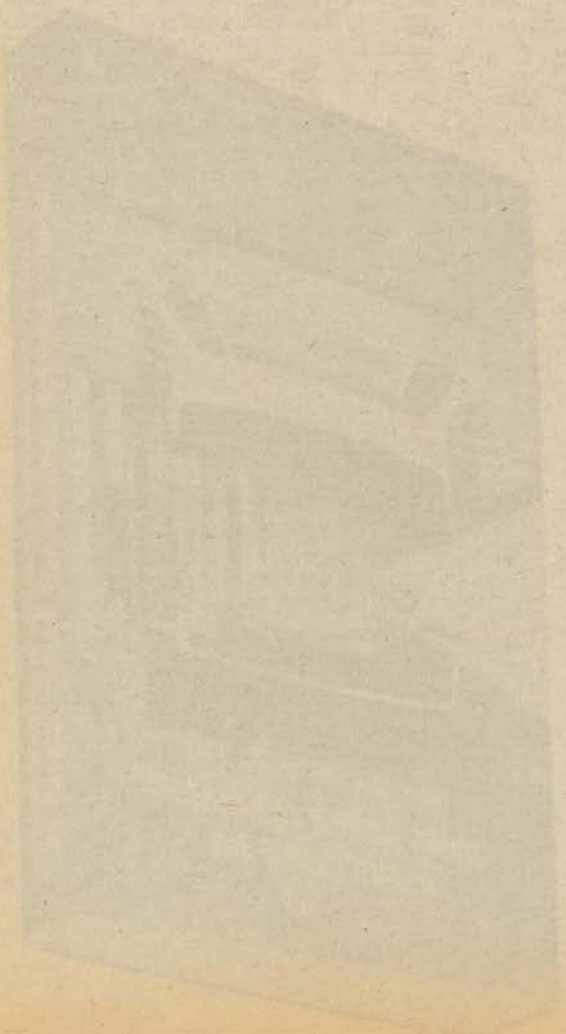

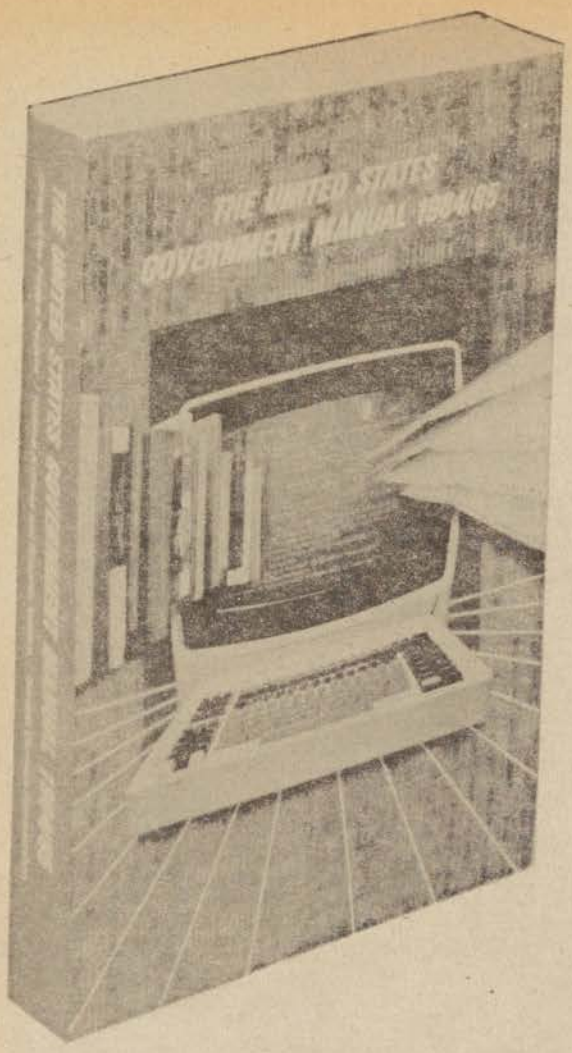

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