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Selected Subjects

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Presidential Documents

Title 3—

The President

Proclamation 5298 of February 2, 1985

Red Cross Month, 1985

By the President of the United States of America

A Proclamation

Whenever disaster strikes, Americans everywhere count on the American Red Cross for immediate response.

This past year, Red Cross volunteers aided victims of fires, tornadoes, floods, hurricanes, and other tragedies on more than 50,000 occasions. In the last six months, the American Red Cross has faced a special challenge. It mobilized its resources to help provide food and medical relief to 14 African nations suffering from a famine of mammoth proportions. By providing funds contributed by generous Americans and seeing to it that they are converted into food for the hungry, the Red Cross is fulfilling its humanitarian mission of helping those in distress.

The American Red Cross has handled this unprecedented challenge without sacrificing any of its ongoing responsibilities. Annually, Red Cross teaches millions of our fellow citizens vital lifesaving techniques in CPR, first aid, small craft operation, and water safety. Its thousands of volunteer donors provide blood to more than half of the Nation's medical facilities. Red Cross also serves the men and women of our Armed Forces and their families, furnishing financial assistance and handling emergency requests through its worldwide communications network.

What all this adds up to is an organization of Americans who have volunteered their money, their time, and their hearts to ensuring that all of us are provided with the most efficient and effective health and human services possible.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, and Honorary Chairman of the American National Red Cross, do hereby designate March 1985 as Red Cross Month, and I urge all Americans to give generous support to the work of their local Red Cross Chapter.

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

Ronald Reagan

[FR Doc. 85-3106
Filed 2-4-85; 2:51 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Wednesday, February 6, 1985

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1136

Milk in the Great Basin Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of January through June 1985 the provisions of the Great Basin milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The suspension was requested by Western General Dairies, Inc., a cooperative association representing most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: February 6, 1985.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 31, 1984; published January 7, 1985 (50 FR 815).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Great Basin marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 7, 1985 (50 FR 815) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon.

Views in opposition to the proposed suspension were received from a dairy farmer and the operators of a pool plant, a partially regulated distributing plant and a milk processing plant that is not regulated by any Federal order. Also, a trade association representing nonpool plants that process milk and manufacture cheese in the States of Utah and Idaho submitted views in opposition to the proposed suspension.

The opponents view the suspension request as a means by which cooperatives could associate additional milk supplies with the Great Basin market, thereby lowering the blend price to producers in the Great Basin market. They also expressed the view that the suspension of the diversion percentages would result in shifting costs that should be borne by the cooperatives to other producers who are not members of the cooperative.

Mountain Empire Dairymen's Association (MEDA) submitted views supporting the proposed suspension. The cooperative indicated that a portion of the reserve milk supplies for the Great Basin order represents milk production of its members. Such reserve supplies are pooled under the Great Basin order through Western General Dairies, Inc., the proponent of the suspension order. MEDA states that if the suspension is not granted, it will be forced to make uneconomic movements of milk to continue pool status for such reserve milk supplies.

Comments in support of the proposed suspension were received from the operator of several nonpool plants that obtain their milk supply from the milkshed that serves the Great Basin market. This commenter viewed the diversion procedure as a more efficient means of transporting reserve milk supplies to nonpool plants than requiring such supplies to be moved first to a pool plant and then transferred to nonpool plants. The commenter also pointed out that the diversion provisions of the Great Basin order are among the most restrictive in Federal milk orders.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of January through June 1985 the following provisions do not tend to effectuate the declared policy of the Act:

(1) In § 1136.13(c)(3), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(2) In § 1136.13(c)(4), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Statement of consideration

This action makes inoperative for January through June 1985 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 25 percent of its member milk physically received at pool plants in any month of March through August, and up to 20 percent of its member milk physically received at pool plants in any month of September through February. Similarly, the operator of a pool plant may divert up to 25 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of March through August, and 20 percent during the months of September through February.

The suspension was requested by Western General Dairies, Inc., a cooperative association that supplies

most of the market's fluid milk needs and handles most of the market's reserve milk supplies.

The suspension is necessary because of the cessation of cheese-making at one of the cooperative's pool plants on the market in October 1984. This change in operations has reduced the volume of milk that may be diverted from pool plants to nonpool plants (the allowable diversions are computed by multiplying the milk physically received at pool plants by a specified percentage for the month). Also, the change in operations increased the amount of reserve milk that must be shipped to nonpool plants. Now, the milk that was utilized in cheese-making at the pool plant must be delivered to nonpool plants. Consequently, the cooperative's reserve milk supplies through June 1985 are expected to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, some of the milk of the cooperative's member producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during January through June 1985.

It is obvious from the comments received that misunderstanding exists regarding the role of diversion provisions under an order. Diversion of milk from a pool plant to a nonpool plant is simply a way for milk that is surplus to the fluid needs of a market to be delivered directly from the farm to a nonpool plant for use in manufactured products. The alternative to such practice is to receive the milk at a pool plant and then transfer the milk to a nonpool plant. Such alternative is more costly than moving the milk directly from the farm to the nonpool plant. Under the alternative method, the milk must first be moved to the pool plant, physically unloaded, then reloaded and then moved to a nonpool plant.

With regard to the percentage limitations on the amount of milk that may be diverted to nonpool plants under the Great Basin order, such limitations are quite restrictive in comparison to most other Federal orders. Under the Great Basin order during months when the 20-percent limitation on diversions to nonpool plants is in effect, not more than 17 percent of the producer milk can be diverted to nonpool plants while in excess of 83 percent of the producer milk supply must be received at pool plants.

The current limitations have not been unduly burdensome during months when most of the milk that is reserve to the fluid needs of the market is processed in pool plants serving the market. However, in recent months, there has been a change in the handling of reserve milk supplies in the Great Basin market. In the middle of October 1984, the cheese-making facility at a pool plant operated by the proponent cooperative was shut down. This action reduced the volume of milk being processed in pool plants and resulted in the need for additional reserve milk supplies to be delivered to nonpool plants. In view of these changed marketing conditions, it is concluded that the current diversion percentages are not appropriate and should be suspended temporarily.

Proponent cooperative requested that the suspension be effective for a six-month period to allow the cooperative time to review whether changes should be made in the order provisions to accommodate future needs of the market. In view of the changed marketing conditions and the cooperative's request for time to assess these changes, a temporary suspension appears to be appropriate. Accordingly, the suspension should be effective for the months of January through June 1985.

While the suspension of the diversion percentages will allow the movement of additional milk supplies directly from the farms of producers to nonpool plants, other provisions of the order will assure that producers have a continuing association with this market. In that regard, it is noted that each producer whose milk is diverted to a nonpool plant during the month must have delivered at least six days' production each month to a pool plant. Furthermore, the pooling requirements for pool plants under the Great Basin order specify that diversions are to be included as receipts of the pool plant in determining the pool status of plants. Consequently, the volume of milk that cooperative associations and pool plant operators may associate with the Great Basin market as producer milk is limited by the pooling provisions of the order. Thus, the suspension of the diversion percentages will not permit the association of unlimited milk supplies with the Great Basin market, which appeared to be one of the primary concerns of opponents of the proposed suspension.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. Views in opposition to the proposed suspension and in favor of the proposed action were received from interested parties and considered in determining whether the proposed suspension should be adopted.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

PART 1136—[AMENDED]

It is therefore ordered, that the following language in § 1136.13(c) is suspended for the months of January through June 1985.

§ 1136.13 [Amended]

(1) In § 1136.13(c)(3), the language *"Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(2) In § 1136.13(c)(4), the language *"Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Effective Date: February 6, 1985.

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

Signed at Washington, D.C. on January 29, 1985.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85-2942 Filed 2-5-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization; Field Service Realignment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule realigns the operational jurisdiction of the San Francisco, California and Phoenix, Arizona district offices. These changes are made to bring the operational jurisdiction in line with the principles of good management.

EFFECTIVE DATE: February 6, 1985.

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

SUPPLEMENTARY INFORMATION: With a view toward more efficient management and more expedient services to the public, the Service is realigning the jurisdictional boundaries of its San Francisco, California and Phoenix, Arizona district offices by transferring the jurisdiction of the State of Nevada from the San Francisco District to the Phoenix District.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant impact on a substantial number of small entities.

This order is not a rule within the definition of section 1(a) of E.O. 12291 as it relates solely to agency management.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Organization and functions (government agencies).

PART 100—STATEMENT OF ORGANIZATION

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

1. In § 100.4, paragraphs (b)13 and (b)18 are revised to read as follows:

§ 100.4 Field Service.

* * * * *

(b) * * *

13. *San Francisco, California.* The district office in San Francisco, California has jurisdiction over the following counties in the State of California: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.

* * * * *

18. *Phoenix, Arizona.* The district office in Phoenix, Arizona has jurisdiction over the States of Arizona and Nevada.

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103))

Dated: January 29, 1985.

Thomas C. Ferguson,

Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 85-2948 Filed 2-5-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 85-002]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Feline Calicivirus Vaccine, Feline Rhinotracheitis Vaccine, Bursal Disease Vaccine, Pseudorabies Vaccines, Parvovirus Vaccines, Canine Parainfluenza Vaccine, and Tenosynovitis Vaccine; Correction of Effective Date

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction of effective date.

SUMMARY: This document makes a correction concerning the effective date of the document captioned "Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Feline Calicivirus Vaccine, Feline Rhinotracheitis Vaccine, Bursal Disease Vaccine, Pseudorabies Vaccines, Parvovirus Vaccines, Canine Parainfluenza Vaccine, and Tenosynovitis Vaccine" which was published in the Federal Register on January 4, 1985, (50 FR 431). The document establishes standard requirements to be used by USDA-licensed establishments in preparation of these veterinary biological products. It was intended that the document become effective upon publication because the regulated industry was sufficiently apprised of the changes in the proposed rulemaking and wishes to implement the changes as soon as possible. The document was signed on December 28, 1984. However, the **"DATES"** section of the document was inadvertently omitted from the final publication. Therefore, this document corrects the **"DATES"** portion of the document to reflect the effective date as January 4, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. David F. Long, Chief Staff Veterinarian, Veterinary Biologics Staff VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8674.

Done at Washington, D.C., this 31st day of January 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-2994 Filed 2-5-85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 150

[Docket No. 18691; Amdt. No. 11-25; Revision of Part 150]

Airport Noise Compatibility Planning; Development and Submission of Airport Operator's Noise Exposure Map and Noise Compatibility Planning Program

Correction

In FR Doc. 84-32914, beginning on page 49260, in the issue of Tuesday, December 18, 1984, make the following corrections:

1. On page 49271, in the third column in § 150.21(b), in the eighth line from the top, "development of" should read "development of the".

2. On page 49272, in the second

column, in § 150.23(b), in the seventh line, "noise of the" should read "noise exposure map and finds that it and its supporting documentation are in compliance with the".

3. On page 49274, in the first column, in Appendix A to Part 150, in the twelfth line from the bottom, "A150." should read "A150.1".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 35-23583; IC-14341]

Delegation of Authority to Director of the Division of Investment Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its rules of organization and program management to reflect the dissolution of the Office of Public Utility Regulation and the simultaneous transfer of the responsibility for the administration of the Public Utility Holding Company Act of 1935 to the Division of Investment Management. The amendments effect appropriate changes to the statement of the functional responsibilities of the Division of Investment Management and the delegation of authority to that Division and remove both the statement of functional responsibilities of the Office of Public Utility Regulation and the delegation of authority to the Director of that Office.

EFFECTIVE DATE: February 6, 1985.

FOR FURTHER INFORMATION CONTACT: George G. Kundahl, Executive Director, SEC, 450 Fifth Street, NW., Washington, D.C. 20549-6004, (202) 272-2700.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act ("APA") [5 U.S.C. 553(b)] that this amendment relates solely to agency organization, procedures, or practices and that notice and procedures pursuant to the APA are therefore not necessary and that such amendment shall be adopted, effective immediately.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

Text of Amendments

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Part 200 of 17 CFR Chapter II is amended as follows:

Subpart A—Organization and Program Management

§ 200.20a [Removed]

1. By removing § 200.20a.

2. By revising the introductory text, and adding paragraphs (f) and (g) to § 200.20b as follows:

§ 200.20b Director of Division of Investment Management.

The Director of the Division of Investment Management is responsible to the Commission for the administration of the Commission's responsibilities under the Investment Company Act of 1940 and the Investment Advisers Act of 1940, the administration and execution of the Public Utility Holding Company Act of 1935, and with respect to matters pertaining to investment companies registered under the Investment Company Act of 1940 and pooled investment funds or accounts, the administration of all matters relating to establishing and requiring adherence to standards of economic and financial reporting and the administration of fair disclosure and related matters under the Securities Act of 1933 and the Securities Exchange Act of 1934 and enforcement of the standards set forth in the Trust Indenture Act of 1939 regarding indentures covering debt securities, as listed in paragraphs (a) through (e) of this section. These duties shall include investigations and inspections arising in connection with such administration; duties under paragraphs (a) through (e) of this section shall not include enforcement and related activities under the jurisdiction of the Division of Enforcement, but duties under paragraphs (f) and (g) shall include enforcement and related activities under the jurisdiction of the Division of Enforcement.

* * * * *

(f) The examination and processing of proxy solicitation material that is subject to Regulation 14 (§§ 240.14a-1 to 240.14a-12 of this chapter) adopted under the Securities Exchange Act of 1934.

(g) The examination and processing of ownership reports filed under § 17(a) of the Public Utility Holding Company Act (15 U.S.C. 79q(a)).

3. By redesignating current paragraphs (f), (g) and (h) of § 200.30-5 as paragraphs (g), (h) and (i), respectively by redesignating paragraph (a) of § 200.30-2 as paragraph (f) of § 200.30-5 and by revising new paragraph (g) of § 200.30-5 as follows:

§ 200.30-5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(g) To designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)), section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 8(e) of the Securities Act of 1933 (15 U.S.C. 77h(e)), and section 18(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r(c)).

* * * * *

§ 200.30-2 [Removed]

4. By removing § 200.30-2.

Statutory Authority

The Commission hereby amends Articles 20a, 20b, 30-2, and 30-5, paragraphs of the rules of the Commission relating to general organization (17 CFR 200.20a, 200.20b, 200.30-2 and 200.30-5), pursuant to authority contained in Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2).

By the Commission.

John Wheeler,

Secretary.

January 30, 1985.

[FR Doc. 85-2936 Filed 2-5-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Casino Regulations; Application for Exemption

AGENCY: Office of the Secretary, Department of the Treasury.

ACTION: Notice of application for an exemption on behalf of casinos in the State of Nevada.

SUMMARY: In accordance with 31 CFR 103.45 the State of Nevada, on behalf of Nevada casinos, has requested that Treasury grant an exemption from the recordkeeping and reporting requirements imposed on casinos by 31 CFR Part 103. The Secretary of the Treasury intends to grant an exemption to Nevada casinos upon implementation of a regulatory system by the State of Nevada that substantially meets the requirements of 31 CFR Part 103, pursuant to the timetable set forth below.

EFFECTIVE DATE: February 6, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, (202) 566–8022.

SUPPLEMENTARY INFORMATION: On February 6, 1985 the Department of the Treasury is issuing a final rule amending the Bank Secrecy Act regulations, 31 CFR Part 103, to make gambling casinos with gross annual gaming revenue in excess of $1,000,000 subject to certain recordkeeping and reporting requirements. In the notice of proposed rulemaking for these amendments, the Secretary offered to grant an exemption to casinos in any state that implemented a regulatory system that substantially met the requirements proposed. The State of Nevada has requested such an exemption and is in the process of submitting for approval the necessary regulatory system. Any exemption is conditioned on timely implementation of an adequate regulatory system by the State of Nevada as set forth below.

By February 15, 1985 Nevada gaming regulators will propose to the Secretary a draft regulatory system designed to meet substantially the requirements of 31 CFR Part 103. If the proposed system is acceptable to the Secretary, Nevada authorities will take steps to make the system effective no later than May 1, 1985. The system will include a standard for a minimum system of internal controls that will be applicable to the casinos for the period May 1, 1985 through July 31, 1985.

If the regulatory system is approved by the Secretary, adopted by the State and effective by May 1, 1985, the Secretary intends to grant an exemption to casinos in the State of Nevada in accordance with 31 CFR 103.45. If the regulatory system is not effective by May 1, 1985, an exemption will not be granted and Nevada casinos with gross annual gaming revenues in excess of $1,000,000 will become fully subject to the requirements of 31 CFR Part 103.

In addition, by July 31, 1985 the State of Nevada must have enacted a maximum criminal penalty of five years equivalent to the criminal penalty of 31 U.S.C. 5322(a) for violations of the requirements of the regulatory system. In lieu of enactment of a criminal fine equivalent to that in 31 U.S.C. 5322(a), State regulations must provide that whenever there is a criminal conviction for violations of the state regulatory system, gaming regulators will seek to enforce civil penalties or fines from $10,000 up to $250,000. In addition, changes in the internal control systems of individual casinos necessary to implement the State's regulatory system must be made and reviewed by the State before July 31, 1985. Failure to meet the July 31, 1985 deadline for these events will result in the revocation of any exemption granted.

Dated: January 31, 1985.

John M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 85–3016 Filed 2–5–85; 8:45 am]

BILLING CODE 4810–25–M

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31 CFR Part 103

Casino Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending 31 CFR Part 103 to include gambling casinos in the definition of financial institution. The final rule subjects casinos to the reporting and recordkeeping requirements of Titles I and II of Pub. L. 91–508 (84 Stat. 1114 (Oct. 26, 1970)), commonly referred to as the Bank Secrecy Act. Title I is codified at 12 U.S.C. 1829b and 12 U.S.C. 1951–1959 (1982), and Title II is permanently codified at 31 U.S.C. 5311–5322. The reporting and recordkeeping requirements of the regulations which implement the Bank Secrecy Act, 31 CFR Part 103, have been determined by the Secretary of the Treasury, pursuant to congressional mandate, to have a high degree of usefulness in criminal, tax and regulatory investigations or proceedings.

EFFECTIVE DATE: May 7, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, (202) 566–8022.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1984, the Department of the Treasury published a Notice of Proposed Rulemaking proposing to amend 31 CFR Part 103, the regulations which implement the Bank Secrecy Act, to subject gambling casinos to the reporting and recordkeeping requirements of the Act.

The reporting and recordkeeping requirements of Part 103 have been determined by the Secretary of the Treasury to have a high degree of usefulness in criminal, tax and regulatory investigations or proceedings. Under the Bank Secrecy Act regulations, a variety of financial institutions, including banks, savings and loan associations, credit unions, currency exchanges and brokers and dealers in securities, are required to file reports of large currency transactions. Frequently, these large currency transactions have been found to be closely related to activities that violate a number of civil, tax and criminal laws. Financial institutions are also required by the regulations to maintain certain records necessary to reconstruct financial transactions in the event of an investigation of such violations.

Historically, gambling casinos have not been classified as financial institutions for purposes of the Bank Secrecy Act under 31 CFR 103.11. As a result, casinos have not been subject to the reporting and recordkeeping requirements of the Bank Secrecy Act. However, in recent years Treasury has found that an increasing number of persons are using gambling casinos for meney laundering and tax evasion purposes. In a number of instances, narcotics traffickers have used gambling casinos as substitutes for other financial institutions in order to avoid the reporting and recordkeeping requirements of the Bank Secrecy Act.

Inclusion of casinos in the definition of financial institution in 31 CFR Part 103 was among the specific recommendations in the October 1984 report of the President's Commission on Organized Crime, "The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering." The problem was also the subject of hearings in 1984 before the House Judiciary Subcommittee on Crime entitled "The Use of Casinos to Launder

the Proceeds of Drug Trafficking and Organized Crime."

In order to prevent the use of casinos for these purposes, Treasury is amending the regulations in 31 CFR Part 103 to require gambling casinos to file the same types of reports that it requires from financial institutions currently covered by the Bank Secrecy Act. In addition, Treasury is amending the regulations in 31 CFR Part 103 to require gambling casinos to maintain certain records relating to financial transactions by and with casinos.

These amendments will only be applicable to casinos having gross annual gaming revenues in excess of $1,000,000. However, effective January 1, 1985, smaller casinos must report to the Internal Revenue Service cash in excess of $10,000 received in a trade or business pursuant to section 60501 of the Internal Revenue Code. This section of the Internal Revenue Code was added by section 146 of the Deficit Reduction Act of 1984, Pub. L. 98-369 (98 Stat. 685 (July 18, 1984)). Non-casino businesses at casino hotels and resorts, such as shops, restaurants and hotels, are separate trades or businesses subject to the requirements of 26 U.S.C. section 60501 and any regulations issued thereunder.

Questions arising regarding the relationship between § 60501 and 31 CFR Part 103, as they relate to casinos covered by, or exempted from, Part 103, will be addressed in regulations to be promulgated by the Internal Revenue Service under section 60501.

Recognizing the State's interest in the regulation of gaming, Treasury outlined a procedure in the Notice of Proposed Rulemaking to grant an exemption to casinos in any state that implemented a regulatory system substantially meeting the reporting and recordkeeping requirements of amended Part 103. The exemption criteria have been modified somewhat in response to comments and are now included in § 103.45(c)(2).

The State of Nevada has requested an exemption on behalf of Nevada casinos. Concurrently with the publication of this final rule, a notice sets forth a timetable for the granting of an exemption from these regulations upon approval of and implementation of a regulatory system by the State of Nevada which substantially meets the requirements of Part 103. Treasury will continue to consider requests for exemptions from other jurisdictions in accordance with § 103.45.

Any exemptions granted prior to July 31, 1985 will terminate on July 31, 1985 unless the state has enacted criminal penalties at least equivalent to those set forth in 31 U.S.C. 5322. After July 31, 1985, an exemption will not be granted unless the state has enacted such criminal penalties.

It should be noted that the criminal penalties of 31 U.S.C. 5322(a) were recently increased pursuant to section 901 of the Comprehensive Crime Control Act of 1984, Title II of Pub. L. 98-473 (Oct. 12, 1984). The regulation on criminal penalties, 31 CFR 103.49, will shortly be amended to reflect this change.

Treasury will continue to evaluate the effectiveness of the regulatory system of any state whose casinos are granted an exemption. Pursuant to § 103.45(c)(3), the Secretary may in his sole discretion revoke the exemption.

Public Comments

In the August 17, 1984 Notice of Proposed Rulemaking, Treasury asked for the comments of all interested parties. Comments were received from the Federal Bureau of Investigation, three industry trade associations, two gambling casinos, and one state's gambling industry regulatory bodies. The United States Attorney for the District of New Jersey submitted comments generally favoring the proposal and citing several examples of money laundering through New Jersey casinos, but these comments were received after the comment period had ended.

The Federal Bureau of Investigation strongly endorsed the proposal, noting that it "will provide the law enforcement community with another tool which can be utilized in tracking the enormous proceeds generated by organized crime and drug traffickers in the United States." The FBI cited many examples in which casinos have been used to launder illicit proceeds from criminal activities through various methods.

The commenters from the casino industry and the state industry regulators were critical that the criteria established for an exemption were too strict and that a system that met the criteria would overtax the limited resources of the state regulatory authorities. The requirement that the state regulatory authorities commence an investigation of a named casino at Treasury's request was viewed as potentially disruptive to the state regulatory authorities' other functions. In response, the final regulation, § 103.45(c)(2)(vi), provides that if the state could not undertake an investigation within a reasonable time, the state will permit Treasury to conduct the investigation. The exemption criterion governing Treasury's access to state records in § 103.45(c)(2)(iii) has been clarified.

A state regulatory system that merely precludes certain cash transactions associated with money laundering without reporting would not qualify for an exemption. It is Treasury's view that such a system would not substantially meet the reporting and recordkeeping requirements of 31 CFR Part 103 and would not adequately fulfill the various law enforcement purposes of the Bank Secrecy Act, including tax law enforcement, to the same extent as the Treasury regulations.

One commenter stated that state recordkeeping requirements made the recordkeeping provisions of § 103.36 unnecessary. Treasury does not believe that state requirements suffice to make the recordkeeping provisions of § 103.36 unnecessary both because of the detail of the information required and the length of time the records must be retained (5 years). In addition, Treasury wants to establish uniform minimum standards for all casinos that are not subject to future action by state agencies. Treasury is not prescribing that the information to be recorded and retained be in any particular form. Therefore, to the extent that the requirements are duplicative of state requirements, there will be no additional recordkeeping burden on the casinos.

Two commenters suggested that the recordkeeping and reporting requirements for casinos were more detailed and burdensome than those imposed on other financial institutions and that thus the casino industry was being treated in a discriminatory fashion. The specific requirements for casinos reporting are tailored to reflect the unique nature of casinos among financial institutions. The requirements are designed to maximize reporting and retention of information necessary for Bank Secrecy Act purposes, including tax law enforcement. Similarly, distinct and equally detailed recordkeeping requirements exist for other types of financial institutions, such as banks and brokers and dealers in securities, based on the nature of their businesses.

Some commenters argued that gaming activity will be reduced because of these new procedures; that customers will view the regulations as an intrusion on their privacy; and that even honest gamblers will not want to be identified as gamblers to the Internal Revenue Service and will fear that reporting triggers tax audits. they indicated that the new requirements would cause a shift in business to both foreign and illegal gambling establishments.

In response, such a possible loss of business is highly speculative and was not supported by any data or studies on

how customers may react. Moreover, this feared curtailment of business must be weighed against the important law enforcement concerns at stake. The fact that casinos have been used extensively for money laundering activities is well-established (1) based on Treasury's study of the problem, (2) as described in the hearings last year before the House Judiciary Committee, Subcommittee on Crime and (3) as reflected in the comments of the FBI on this rulemaking. With respect to the comment that customers will view the new regulations as an intrusion on their privacy and will resent being identified to the IRS, the enactment of § 6050I of the Internal Revenue Code makes the reporting of cash over $10,000 received in any business a legal requirement which is no longer a matter of regulatory discretion.

Treasury is not unmindful that the new requirements will cause changes in procedures, additional employee workload and training, and some difficulties in customer relations. However, industry representatives who testified before the House Judiciary Subcommittee on Crime stated that the burden of taking measures to inhibit money laundering would not be substantial. Again, any inconveniences must be viewed in light of the magnitude of the law enforcement interests being served.

One state's industry trade organizations asked that the usual thirty day effective date period be extended to allow more preparation for compliance or for further exploration of the possibility of an exemption. In response to this concern, Treasury has determined that the recordkeeping and reporting requirements of these regulations will become effective 90 days from the date of publication of this final rule.

Some commenters stated that the requirement that identification information be obtained when there is an exchange of over $10,000 cash for chips at a gaming table would be disruptive to table games by interfering with the spontaneity of the situation. Based on Treasury's review of casino operations, and as one commenter verified, it appears that exchanges of $10,000 or more at a table are very rare. Large purchases of chips at a table are already disruptive because of the procedures necessary to verify the amount of the bet and are generally discouraged.

A commenter requested that Treasury reconsider the requirement that social security numbers be obtained in the recordkeeping provision of § 103.36. The commenter stated that this very requirement would make customers apprehensive about exposure to the IRS and would result in lost business. It was argued that other identification such as driver's licenses, routinely required by casinos as identification, is more reliable. The purpose of the Bank Secrecy Act is to trace records of financial transactions. Treasury has determined that the social security number is highly desirable for effective use of the retained records for all potential law enforcement purposes. With respect to the reliability of social security numbers, we assume that casinos will verify the name and address information given by a customer through a driver's license or other reliable means.

One commenter said that the recordkeeping requirement in § 103.36 that a social security number be obtained before an additional line of credit is extended would create an operations problem with respect to persons with existing lines of credit. These customers can request further credit at the tables while playing. The commenter said it would upset the game to stop to obtain identifying information and would create bad customer relations. In response, it should be noted that pursuant to § 103.36(a), the identification requirement does not go into effect until the effective date of these regulations, *i.e.*, 90 days from the date of publication. This should give casinos adequate time to communicate with their established credit customers and obtain identification information.

One commenter was uncertain of the length of time records would have to be retained. Pursuant to § 103.37 (former § 103.36), all records would have to be retained for a period of five years.

A commenter asked whether § 103.22 requires a casino to report in cases involving transactions by the casino itself. Casinos would have to report covered transactions by casinos except transactions between casinos and commercial banks as specified in 31 CFR 103.22(b)(1).

A commenter asked for clarification of the relationship between the recordkeeping provisions in § 103.36(a) and § 103.36(b) (1), (4), and (5). Section 103.36(a) states that a casino will not be deemed to be in violation "of this section,"— that is, in violation of the requirement that a social security number be obtained—if it makes a reasonable effort to obtain the number, keeps lists of names and permanent addresses of those from whom a social security number cannot be obtained, and makes that list available to Treasury upon request. The proviso applies to the entire § 103.36. Therefore, a casino similarly will not be in violation of the requirement in § 103.36(b) (1), (4), and (5) that a social security number be obtained if it makes a reasonable effort and keep lists of the names and permanent addresses.

In response to comments that the $500 floor for recordkeeping of extensions of credit in § 103.36(b)(4) would greatly increase recordkeeping burdens because check cashing accounts are considered by many casinos to be credit accounts until the funds clear, Treasury has raised this amount in the final rule to $2500.

Another commenter asked whether pursuant to § 103.26 a casino would be prohibited from undertaking a transaction subject to the reporting requirement of § 103.22 if a customer did not have a social security number or taxpayer identification number. The casino would not be precluded from undertaking the transaction, provided that the casino obtains and reports other information verifying the customer's identity as described in § 103.26.

The recordkeeping provisions of § 103.36 does not require the photocopying of checks, provided the required information is otherwise recorded and retained. Under § 103.36(b)(6), a casino need not photocopy a check deposited with a casino if the casino has records needed to trace the check to the bank of deposit. We also have made clear in the final regulations that no photocopying of checks is required by § 103.36(b)(3) unless that is the only way the required information would be retained.

Two commenters requested justification for Treasury's determination that this was not a "major rule" under Executive Order 12291. This determination was based on Treasury's on-site review of gambling operations, discussions regarding the effect on operations with casino management, and on the testimony of industry spokesmen and others before the House Judiciary Committee Subcommittee on Crime.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable to this proposal because this rule would not have a significant economic impact on a substantial number of small entities.

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

Compliance with Executive Order 12291

It has been determined that this rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment activity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act Notice

The collection of information requirements contained in this rule have been approved by the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* *(OMB Control number 1505–0087)*

List of Subjects in 31 CFR Part 103

Casinos, Financial institutions, Reporting and recordkeeping requirements, Currency transactions.

Authority and Issuance

Accordingly, under the authority 31 U.S.C. 5311–5322 and Title I of Pub. L 91–508, 84 Stat. 1114 (Oct. 26, 1970), codified at 12 U.S.C. 1829b and 12 U.S.C. 1951–1959, 31 CFR Part 103 is amended as follows:

PART 103—[AMENDED]

1. The table of contents in 31 CFR Part 103 is amended by adding a new § 103.36 and renumbering existing §§ 103.36 and 103.37 as §§ 103.37 and 103.38. As amended, the table of sections would read as follows:

* * * * *

Subpart C—Records Required To Be Maintained

* * * * *

Sec.

103.36 Additional records to be made and retained by casinos.

103.37 Nature of records and retention period.

103.38 Person outside the United States.

* * * * *

§ 103.11 (Amended)

2. In Subpart A, § 103.11 is amended by adding at the end of the definition of "Financial Institution" the following paragraph (6):

* * * * *

(6) (i) A casino or gambling casino licensed as a casino or gambling casino by a State or local government and having gross annual gaming revenue in excess of $1,000,000.

(ii) A casino or gambling casino includes the principal headquarters and any branch or place of business of the casino or gambling casino.

* * * * *

3. In Subpart B, § 103.22(a) is revised to read as follows:

§ 103.22 Reports of currency transactions.

(a) (1) Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary under 31 CFR 103.25(a) and all information called for in the forms shall be furnished in accordance with 31 CFR 103.25(a).

(2) Each casino shall file a report of each deposit, withdrawal, exchange of currency, gambling tokens or chips, or other payment or transfer by, through, or to such casino which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary under 31 CFR 103.25(a) and all information called for in the forms shall be furnished in accordance with § 103.25(a). (OMB Control number 1505–0087)

* * * * *

4. In Subpart B, § 103.25(a) is revised to read as follows:

§ 103.25 Filing of reports.

(a) A report required to be filed by paragraph (a)(1) or (a)(2) of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished. A copy of each report shall be retained by the financial institution for a period of five years from the date of the report. (OMB Control number 1505–0087)

* * * * *

5. In Subpart C, §§ 103.36 and 103.37 are redesignated as §§ 103.37 and 103.38, and a new § 103.36 is added to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

(a) With respect to each deposit of funds, account opened or line of credit extended after the effective date of these regulations, a casino shall, at the time the funds are deposited, the account is opened or credit is extended, secure and maintain a record of the social security number of the person involved. Where the deposit, account or credit is in the names of two or more persons, the casino shall secure the social security number of each person having a financial interest in the deposit, account or line of credit. In the event that a casino has been unable to secure the required social security number, it shall not be deemed to be in violation of this section if (1) it has made a reasonable effort to secure such number and (2) it maintains a list containing the names and permanent addresses of those persons from who it has been unable to obtain social security numbers and makes the names and addresses of those persons available to the Secretary upon request.

(b) In addition, each casino shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) A record of each receipt (including but not limited to funds for safekeeping or front money) of funds by the casino for the account (credit or deposit) of any person. The record shall include the name, permanent address and social security number of the person from whom the funds were received, as well as the date and amount of the funds received. If the person from whom the funds were received is a non-resident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded;

(2) A record of each bookkeeping entry comprising a debit or credit to a customer's deposit account or credit account with the casino;

(3) Each statement, ledger card or other record of each deposit account or credit account with the casino, showing each transaction (including deposits, receipts, withdrawals, disbursements or transfers) in or with respect to, a customer's deposit account or credit account with the casino;

(4) A record of each extension of credit in excess of $2500, the terms and conditions of such extension of credit, and repayments. The record shall include the customer's name, permanent address, social security number, and the

date and amount of the transaction (including repayments). If the customer or person for whom the credit extended is a non-resident alien, his passport number or description of some other government document used to verify his identity shall be obtained and recorded;

(5) A record of each advice, request or instruction received or given by the casino for itself or another person with respect to a transaction involving a person, account or place outside the United States (including but not limited to communications by wire, letter, or telephone). If the transfer outside the United States is on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the transfer is received from outside the United States on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the person for whom the transaction is being made is a non-resident alien the record shall also include the person's name, his passport number or a description of some other government document used to verify his identity;

(6) Records prepared or received by the casino in the ordinary course of business which would be needed to reconstruct a person's deposit account or credit account with the casino or to trace a check deposited with the casino through the casino's records to the bank of deposit.

(7) All records, documents or manuals required to be maintained by a casino under state and local laws or regulations. (OMB Control number 1505–0087)

6. In Subpart D, § 103.45 is amended by adding a new paragraph (c) to read as follows:

§ 103.45 Exceptions, exemptions, and reports.

* * * * *

(c) (1) The Secretary may, as an alternative to the reporting and recordkeeping requirements for casinos in §§ 103.22(a)(2) and 103.25(a)(2), and 103.36, grant exemptions to the casinos in any state whose regulatory system substantially meets the reporting and recordkeeping requirements of this part.

(2) In order for a state regulatory system to qualify for an exemption on behalf of its casinos, the state must provide:

(i) That the Treasury Department be allowed to evaluate the effectiveness of the state's regulatory system by periodic oversight review of that system;

(ii) That the reports required under the state's regulatory system be submitted to the Treasury Department within 15 days of receipt by the state.

(iii) That any records required to be maintained by the casinos relevant to any matter under this Part and to which the state has access or maintains under its regulatory system be made available to the Treasury Department within 30 days of request.

(iv) That the Treasury Department be provided with periodic status reports on the state's compliance efforts and findings;

(v) That all but minor violations of the state requirements be reported to Treasury within 15 days of discovery; and

(iv) That all but minor violations of the state requirements be reported to Treasury within 15 days of discovery; and

(vi) That the state will initiate compliance examinations of specific institutions at the request of Treasury within a reasonable time, not to exceed 90 days where appropriate, and will provide reports of these examinations to Treasury within 15 days of completion or periodically during the course of the examination upon the request of the Secretary. If for any reason the state were not able to conduct an investigation within a reasonable time, the state will permit Treasury to conduct the investigation.

(3) Revocation of any exemption under this subsection shall be in the sole discretion of the Secretary.

7. In Subpart D, § 103.51 is revised to read as follows:

§ 103.51 Access to records.

Except as provided in §§ 103.34(a)(1), 103.35(a)(1), and 103.36(a) and except for the purpose of assuring compliance with the recordkeeping and reporting requirements of this part, this part does not authorize the Secretary or any other person to inspect or review the records required to be maintained by Subpart C of this part. Other inspection, review or access to such records is governed by other applicable law.

Dated: January 31, 1985.

John M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 85–2913 Filed 2–5–85; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Action NE 1514; A–7–FRL–2771–6]

Revision to Attainment Status Designations; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 5, 1984, EPA proposed revisions to attainment status designations in Nebraska, as requested by the Nebraska Department of Environmental Control, based upon supporting air quality data and evidence of an implemented control strategy.

Today's rule takes final action on the proposed revisions to the attainment status designations. No comments were received in response to the proposed rule.

EFFECTIVE DATE: This action is effective March 8, 1985.

ADDRESSES: Copies of the State submission are available for review during normal business hours at the following locations: Environmental Protection Agency, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106; Nebraska Department of Environmental Control, Air Pollution Control Division, Box 94877, Statehouse Station, 301 Centennial Mall South, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION, CONTACT: Mary C. Carter at (816) 374–3791, FTS 758–3791.

SUPPLEMENTARY INFORMATION: On February 13, 1984, the Nebraska Department of Environmental Control submitted a request for redesignation of an area at 11th and Nicholas Streets in Omaha. The State requested redesignation of the area, which is currently designated as nonattainment of both the primary and secondary total suspended particulate (TSP) standards, to attainment of the primary TSP standard. The submission from the State contained monitoring data showing no violations of the primary TSP standard for eight consecutive quarters in 1982 and 1983.

Supplementary material submitted by the State of March 2, 1984, referenced an RFP report which confirmed that the control strategy contained in the approved State Implementation Plan (SIP) had been implemented in accordance with the SIP.

For redesignation, the State must show that there were no violations of the standards during the most recent

eight consecutive quarters of ambient air quality monitoring. Additionally, the State must demonstrate that the reductions in pollution levels are attributable to the implementation of a control strategy. For further information regarding the State submission and requirements for redesignation, see the proposed rulemaking of September 5, 1984 (49 FR 35029).

Review of the information submitted by the State indicates that the area meets the requirements for redesignation from nonattainment of the primary TSP standard to nonattainment of the secondary TSP standard only.

At the time the proposed rulemaking was prepared, redesignation of the 11th and Nicholas area to secondary nonattainment would have removed the construction ban on major stationary sources of TSP which had been in effect in this area since July 2, 1979. However, on July 23, 1984, EPA published final approval of the new source review elements of the Nebraska State Implementation Plan. This action lifted the construction ban in areas that had fully approved TSP plans, including the 11th and Nicholas area in Omaha. See 49 FR 29597, July 23, 1984. Consequently, the construction ban on this area had already been lifted.

Action

EPA removes the primary nonattainment designation and retains the secondary nonattainment designation for the 11th and Nicholas Streets TSP nonattainment area.

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 is issued under the authority of Section 107(d) and 301 of the Clean Air Act, as amended, 42 U.S.C. 7407(d) and 7601.

List of subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 31, 1985.

Lee M. Thomas,

Acting Administrator.

PART 81—[AMENDED]

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

1. Section 81.328 is amended by revising the table labeled "Nebraska-TSP" as follows:

§ 81.328 Nebraska.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Nebraska—TSP				
AQCR 085 (Douglas and Sarpy Counties):				
Douglas County:				
Omaha		X		
Remainder of Douglas County				X
Sarpy County:				
Bellevue		X [1]		
Remainder of Sarpy County				X
AQCR 086			X [1]	
AQCR 145				X
AQCR 146:				
Cass County:				
Louisville (Municipal boundaries)	X			
Weeping Water (Municipal boundaries)		X		
Remainder of Cass County			X [1]	
Dawson County			X [1]	
Remainder of AQCR 146				X

[1] EPA designation replaces State designation.

* * * * *

[FR Doc. 85-2957 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7F1983/R649A; PH-FRL 2770-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a tolerance in milk for the combined residues of the insecticide methidathion, its oxygen analog and its sulfoxide and sulfone metabolites. The tolerance is corrected from "0.05 ppm" to "0.03 ppm".

EFFECTIVE DATE: Effective on January 9, 1985.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, 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. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: In FR Doc. 85-586, appearing in the **Federal Register** of January 9, 1985 (50 FR 1052), EPA amended 40 CFR 180.298 by establishing tolerances for the combined residues of the insecticide methidathion, (*O,O* dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one), its oxygen analog (*S*-[(5-methoxy-2-oxo-1,3,4-thiadiazol 3(2*H*)-yl)methyl] *O,O*-dimethyl phosphorothioate), the sulfoxide metabolite (2-methoxy-4-(methylsulfinyl-methyl)-1,3,4,-thiadiazolin-5-one), and the sulfone metabolite (2-methoxy-4(methylsulfonylmethyl)-1,3,4-thiadiazolin-5-one) in or on certain commodities which included milk.

In paragraph (b), under the heading § 180.298 *Methidathion; tolerances for residues*, at page 1054, second column, the tolerance for "milk" was inadvertently listed as "0.05 ppm," and is corrected to read "0.03 ppm".

List of Subjects in 40 CFR Part 180

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

Dated: January 25, 1985.

Anne L. Barton,

Acting Director, Office of Pesticide Programs.

§ 180.298 [Corrected]

Therefore, § 180.298 *Methidathion; tolerances for residues* is corrected in the list of commodities in paragraph (b) by changing the tolerance level for "milk" from "0.05 ppm" to "0.03 ppm".

[FR Doc. 85-2749 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6642]

Changes in Flood Elevation Determinations; Alaska 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 fourth 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) 287-0700.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule inicudes the address of the Chief Exeuctive 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 Progam (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 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 signficant 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.
Alaska: Unorganized borough	Valdez (city of)	Nov. 14, 1984 and Nov. 21, 1984—*Valdez Vanguard.*	Hon. Susie Collins, Mayor, city of Valdez, P.O. Box 307, Valdez AK 99686.	Oct. 19, 1984	020094
Arizona: Yavapai	City of Prescott	Jan. 16, 1985 and Jan. 23, 1985—*The Courier.*	Hon. William Young, Mayor, city of Prescott, P.O. Box 2059, Prescott, AZ 86302.	Dec. 26, 1984	040098
Connecticut: New Haven	Town of Orange	Nov. 15, 1984 and Nov. 22, 1984—*New Haven Journal Courier.*	Hon. Ralph E. Capecelatro, First Selectman for the town of Orange, 617 Orange Center Road, Orange, CT 06477.	Nov. 8, 1984, letter of map revision.	090087B
Florida: Monroe county	Unincorporated areas of Monroe County.	Dec. 20, 1984 and Dec. 27, 1984—*The Reporter.*	Hon. Kermit Lewin, County Administrator, Monroe County.		125129
Maryland: Anne Arundel (unincorporated areas).		Dec. 28, 1984 and Jan. 4, 1985—*Capitol Gazette.*	Hon. O. James Lighthizer, Anne Arundel County Executive, Arundel Center, 44 Calvert Street, Annapolis, MD 21401.	Dec. 21, 1984	240008C
Texas: Dallas, Tarrant and Ellis counties.	Grand Prairie, city of	July 12, 1984 and July 19, 1984—*Grand Prairie Daily News.*	Hon. Jerry Debo, Mayor of the City of Grand Prairie, 317 College Street, Grand Prairie, TX 75050.	July 5, 1984	485472B

(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: January 24, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85–2925 Filed 2–5–85; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Changes in Flood Elevation Determinations; Iowa 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) 287–0700.

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.
Iowa: Bremer County	City of Waverly (Docket No. FEMA-6631).	Oct. 16, 1984 and Oct. 23, 1984—*Waverly Independent Democrat*	Hon. Michael Schneider, City Administrator, City of Waverly, P.O. Box 616, Waverly, IA 50677.	Oct. 9, 1984	190030
Maryland: Anne Arundel (FEMA Docket No. 6520).	Unincorporated areas	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

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: January 24, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85–2924 Filed 2–5–85; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20735; RM–1301; RM–1974; RM–2655; FCC 84–658]

Noncommercial Educational FM Broadcast Stations; Changes

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Effective February 6, 1985, the amendments to §§ 73.509, 73.511, 73.525 and 73.4135 as published at 49 FR 45146–45155 are suspended and stayed.

SUMMARY: This Order stays the effective date of the Rules adopted in the *Third Report and Order*. The changes relating to noncommercial, educational FM broadcast stations will not take effect until after disposition of the reconsideration petitions. This action was taken in order to assure adequate time for reconsideration before the rule changes go into effect.

DATES: Effective February 6, 1985.

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Mass Media Bureau (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order

In the matter of changes in the Rules Relating To Noncommercial, Educational FM Broadcast Stations; Docket 20735, RM–1301, Rm–1974, RM–2655; FCC 84–658.

Adopted: December 28, 1984.

Released: January 3, 1984.

By the Commission: Commissioner Rivera Absent.

1. The Commission has before it a joint request for stay (Joint Request) of the effective date of its action, adopted October 26, 1984, by the *Third Report and Order (Third Report)* [49 FR 45146 published November 15, 1984]. In the *Third Report*, the Commission amended the noncommerical, educational FM broadcast rules to require protection of TV Channel 6 stations. Parties to the Joint Request were: The Association of Maximum Service Telecasters, Inc.; The Corporation for Public Broadcasting; The National Association of Broadcasters; The National Federation of Community Broadcasters; National Public Radio; McGraw-Hill Broadcasting Company; and Taft Broadcasting Company.

2. The Joint Request seeks a stay until after the Commission disposes of several petitions for reconsideration (received on or before December 17, 1984), arguing that "it is best to hold off processing applications under the new rules until these matters on reconsideration are resolved." It further noted that the opposing parties are having discussions to arrive at a consensus which would allow them to present a joint position on some of the issues.

3. We are sensitive to the concerns expressed in the Joint Request. We concur that the public interest would best be served by a temporary stay to allow a full opportunity for reconsideration of this complex decision. A grant of a temporary stay does not, however, imply any prejudice for or against the rule changes adopted in the *Third Report*, nor any bias with respect to any of the merits of any issues raised in the petitions for reconsideration.

4. In addition to this stay, we are instituting an immediate freeze on acceptance of applications for new noncommercial, educational FM broadcast stations for Channels 201–220. Applications for changes in the coverage areas of such previously accepted applications or previously granted licenses will also not be accepted. This freeze is necessary to prevent the filing of applications for noncommercial, educational FM stations that may be inconsistent with the rules as reconsidered. Also, the existing freeze on processing of certain FM applications announced on July 22, 1981, will remain in effect. *Public Notice*, FCC 81–340. Procedural fairness requires us also to freeze grants of new applications for and major modifications to television Channel 6 stations. Similarly, this action will assure that no TV Channel 6 stations are granted changes during the period of the stay that may later negatively impact the affected FM stations.

5. Accordingly, it is ordered, that effective upon FR publication, the Commission's *Third Report and Order* in Docket 20735 is stayed until disposition of the timely filed petitions for reconsideration.

6. It is further ordered, that effective at 5:30 PM EST on the day of adoption of this *Order*, the Commission will not accept for filing either applications for new noncommercial, educational FM broadcast stations or applications for changes that would affect the service areas of existing applications for such stations or for existing noncommercial, educational FM broadcast stations. This provision applies only to applications involving channels 201–220, inclusive.

7. It is further ordered, that effective at 5:30 PM EST on the day of adoption of this *Order*, the Commission will not grant any application for a new television Channel 6 station, nor will the Commission grant applications for changes that would affect the service areas of existing television Channel 6 stations.

8. These actions are taken, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, effective upon adoption, as a delay would frustrate the intent of the action.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–2864 Filed 2–5–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 81

[FCC 85–37]

Transmitter Frequency Tolerances in the Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action corrects an error in the frequency tolerances contained in the Maritime Services rules, and incorporates minor changes in frequency tolerances of certain coast station

transmitters in accordance with Appendix 7 of the international Radio Regulations. This action was initiated by changes in the international Radio Regulations. This action will conform domestic regulations with the international plan for frequency tolerances of coast station transmitters.

DATES: Effective January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Garcia, Special Services Division, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Communications equipment.

Order

Adopted: January 18, 1985.
Released: January 29, 1985.

By the Commission

1. This Order corrects an error regarding transmitter frequency tolerances in the Marine Services, Part 81 of the Commission's Rules and Regulations. In the Report and Order in PR Docket 83-90,[1] the frequency tolerance for coast station A1A emissions (manual Morse code telegraphy) in the 4,000 to 27,500 kHz band was erroneously listed as 15 Hz. We are correcting the frequency tolerance in § 81.131(b)(3)(iii) to read 15 parts per million.

2. This Order also incorporates in the rules two minor changes in the authorized frequency tolerance of certain coast station transmitters which in accordance with Appendix 7 of the international Radio Regulations was effective January 1, 1985. The frequency tolerance for A1A emissions in the 4,000 to 27,500 kHz band will decrease from 15 parts per million in to parts per million for all new transmitters installed after January 1, 1985, and for all transmitters after January 1, 1990. Additionally, the frequency tolerance for coast station emissions, other than H2A emissions, in the 14.5 and 525 kHz band will decrease from 200 parts per million to 100 parts per million.

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Since the changes implement provisions of an international agreement, the public notice, procedure and effective date provisions of the Administrative Procedure Act are not applicable. 5 U.S.C. 553(a).

4. The actions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; they will not increase or decrease burden hours imposed on the public.

5. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective January 29, 1985.

6. Regarding questions on matters covered by this document, contact Loretta J. Garcia, (202) 632-7175.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED STATIONS

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 81.131, paragraph (b)(1), and paragraph (b)(3)(iii) are revised to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b) * * *

(1) From 14 to 525 kHz:	
For H2A emission	20 Hz.
For other than H2A emission	100 [1].
* * * * *	
(3) * * *	
(iii) For other than (i) and (ii) above	10 [2].

* * * * *

[1] For coast station transmitters used for direct printing telegraphy or for data transmissions the tolerance is 15 Hz.
[2] 15 parts in 10^6 for transmitters installed before January 1, 1985.

[FR Doc. 85-2862 Filed 2-5-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 95

[FCC 85-41]

Personal Radio Services; Update and Simplification of Technical Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Technical Regulations governing the Personal Radio Services in order to update and simplify them. This action is necessary so that the technical requirements conform more closely to the regulatory requirements of the General Mobile Radio Service, the Radio Control Radio Service and the Citizens Band Radio Service. The effect of these amendments is to make them as clear as possible for the users.

EFFECTIVE DATE: March 1, 1985.

FOR MORE INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Order

Revision of Part 95, Subpart E, Technical Regulations, Personal Radio Services.
Adopted: January 23, 1985.
Released: January 29, 1985.

By the Commission.

1. The Commission has under consideration a revision of Subpart E of Part 95, Technical Regulations, Personal Radio Services. The Personal Radio Services are comprised of the General Mobile Radio Service (GMRS), the Radio Control Radio Service (R/C) and the Citizens Band Radio Service (CB). The rules governing those services have previously been reviewed and rewritten to delete obsolete provisions and to update them. We are now doing that for Subpart E, Technical Regulations.

2. The amended rules have been grouped into four major headings: General Provisions; Technical Standards; Type Acceptance Requirements; and Additional Type Acceptance Requirements for CB Transmitters. As with the other Personal Radio Services Rules, we are making the Technical Regulations as direct and clear as possible.

3. New § 95.605 in the Appendix hereto lists only necessary definitions. Many of the definitions contained in the present rules have been deleted either because they are repetitive of definitions contained in the service rules or because they are unnecessary to be included in a rules part which deals with technical regulations. Other information such as licensing details has also been deleted.

4. Before the General Mobile Service rules in Part 95, Subpart A, were revised in 1983 (48 FR 35237, August 3, 1983), they contained lengthy provisions concerning the conditions upon which frequencies were available for assignment. Similar provisions in the present Technical Regulations are being deleted in order to conform them to the simplified rules now found in Subpart A. The section dealing with available transmitter channel frequencies has been combined with the section showing the authorized frequency tolerance, thus

[1] Adopted September 13, 1983, FCC 83-418, 47 FR 45580.

enabling the user to see at a glance what the frequency tolerance requirements are for frequencies associated with GMRS, R/C or CB stations.

5. The requirement that single sideband transmitters be capable of transmitting on the upper sideband has been moved from the type acceptance requirements section and placed under modulation requirements. Also the requirement for insertion of a CB application form (FCC Form 505) and Temporary Permit (Form 555–B) with a packaged transmitter has been deleted. These forms are obsolete since there is no longer a CB licensing requirement. Section 95.669 provides that a copy of the CB Rules must still be furnished with each transmitter marketed. Those rules must be current at the time the transmitter is packed.

6. Section 95.621 has been deleted in its entirety since instructions concerning how to bring a station into compliance with these Technical Regulations are given by personnel in our field offices on a case-by-case basis.

7. We have deleted § 95.631 which prohibits external radio frequency power amplifiers from being attached to CB station transmitters. That prohibition is presently contained in Subpart D, CB Rule 11.

8. The type approval provisions and procedures contained in §§ 95.647 through 95.655 have been deleted. No applications for type approval of non-crystal controlled R/C transmitters using frequencies in the 26–27 MHz band have been received for a number of years.

9. Except as noted below, the changes in this revision of Part 95, Subpart E, Technical Regulations, are not substantive as they generally recodify the rules. Therefore, the provisions of the Administrative Procedure Act are not applicable. With respect to deleting the type approval rules, manufacturers of R/C 26–27 MHz transmitters are able, by using crystal control, to avoid delays in marketing such transmitters which would otherwise occur if they were required to obtain type acceptance or type approval for them. Thus, our experience shows that all manufacturers are using crystal control for their R/C 26–27 MHz equipment. Nevertheless, if the manufacturer prefers to use some other method for controlling the stability of the operating frequency, the type acceptance procedure is available. For these reasons, it is unnecessary to comply with the notice and comment provisions or the effective date provisions of the Administrative Procedure Act. See 5 U.S.C. (b)(B) and (d)(3).

10. In view of the foregoing, and pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is ordered that Part 95, Subpart E, Technical Regulations, is amended as set forth in the Appendix.

11. It is further ordered, that these rule amendments shall become effective March 1, 1985.

12. It is further ordered, That the Secretary shall cause a copy of this Order to be published in the Federal Register.

13. Information in this matter may be obtained by contacting Maurice J. DePont, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 95, Subpart E, of Chapter I of Title 47 of the Code of Federal Regulations is revised to read, as follows:

PART 95—PERSONAL RADIO SERVICES

* * * * *

Subpart E—Technical Regulations

General Provisions

Sec.

Technical Standards

Type Acceptance Requirements

Additional Type Acceptance Requirements for CB Transmitters

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

Subpart E—Technical Regulations

General Provisions

§ 95.601 Purpose of these rules.

These rules provide the technical standards with which transmitters used in the Personal Radio Services must comply. They also provide requirements for manufacturers obtaining type acceptance of transmitters intended for use in the Personal Radio Services. The Personal Radio Services are comprised of the General Mobile Radio Service (GMRS), the Radio Control Radio Service (R/C) and the Citizens Band Radio Service (CB).

§ 95.603 Complying with these rules.

All transmitters used in the Personal Radio Services must comply with these rules, as applicable. For operating rules, see Part 95, Subpart A—GMRS; Part 95, Subpart C—R/C; and Part 95, Subpart D—CB.

§ 95.605 Definitions.

The following definitions are applicable to this subpart.

(a) *Transmitter.* Apparatus which converts electrical energy received from a source into radio frequency energy capable of being radiated.

(b) *GMRS transmitter.* A transmitter intended to be used at a station authorized in the General Mobile Radio Service. See Part 95, Subpart A.

(c) *R/C transmitter.* A transmitter intended to be used at a station authorized in the Radio Control (R/C) Radio Service. See Part 95, Subpart C.

(d) *CB Transmitter.* A transmitter intended to be used at a station authorized in the Citizens Band (CB) Radio Service. See Part 95, Subpart D.

(e) *Channel frequency.* The reference frequency from which the transmitter carrier frequency may not deviate by more than the specified tolerance.

(f) *Authorized bandwidth.* The maximum permissible emission bandwidth of a transmittal signal.

(g) *Occupied bandwidth.* The emission bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission.

(h) *Necessary bandwidth.* The minimum value of the occupied bandwidth sufficient for the proper transfer of information at the rate and with the quality required. Emissions useful for the proper functioning of the receiving equipment, as for example, an emission corresponding to the carrier in

a reduced carrier type system, are included in the necessary bandwidth.

(i) *Harmful interference.* Any emission, radiation or induction which endangers the functioning of a radionavigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accord with applicable laws, treaties and rules.

(j) *Power.* The radio frequency power expressed in watts, mean or peak, measured at the transmitter output terminals.

(k) *Transmitter power.* The power at the transmitter antenna output terminals.

(l) *Carrier power.* The average power during one radio frequency cycle with no modulation.

(m) *Mean power.* Power averaged over a time period consisting of at least 30 cycles of the lowest modulating frequency. (Typically 0.1 second at maximum power.)

(n) *Peak envelope power.* Power averaged during one radio frequency cycle at the highest crest of the modulation envelope.

(o) *Crystal controlled transmitter.* A transmitter with a reference frequency established by a quartz piezo-electric element.

§ 95.607 Type acceptance required.

(a) All GMRS transmitters must be type accepted.

(b) R/C transmitters must be type accepted, except transmitters in the 26–27 MHz band which must be type accepted or crystal controlled.

(c) All CB transmitters must be type accepted.

Note.—Only type accepted CB transmitters may be operated in the CB Radio Service. CB transmitters type accepted pursuant to an application filed prior to September 10, 1976 must be manufactured or marketed.

§ 95.609 Procedure for type acceptance.

(a) Any manufacturing entity may request type acceptance for its transmitter in one of the Personal Radio Services, following the type acceptance procedures set forth in Part 2 of this chapter. Transmitters which are type accepted under this paragraph are included in the FCC Radio Equipment List (available for reference at any FCC Field Office).

(b) Type acceptance for an individual transmitter may also be requested. The Part 2 procedures must be followed. If type accepted, the individual transmitter will not appear on the FCC Radio Equipment List.

§ 95.611 CB transmitter modification.

Only the manufacturer of the particular type accepted CB transmitter may make the permissive modifications permitted under the provisions for type acceptance (see Part 2 of this chapter). The manufacturer must not make any of the following modifications to the CB transmitter without prior written permission from the FCC:

(a) The addition of any accessory or device not specified in the application for type acceptance and authorized by the FCC in granting the type acceptance;

(b) The addition of any switch, control or external connection; or

(c) Any modification to provide for additional transmitting frequencies, increased modulation or a different form of modulation.

Technical Standards

§ 95.621 GMRS transmitter channel frequencies.

(a) The GMRS transmitter channel frequencies are:

MHz	
462.550	467.550
462.575	467.575
462.600	467.600
462.625	467.625
462.650	467.650
462.675	467.675
462.700	467.700
462.725	467.725

(b) Certain GMRS transmitter channel frequencies are authorized only for certain station classes and station locations (see Part 95, Subpart A).

(c) The GMRS transmitter channel frequency tolerance must be maintained within the following percentages:

Station class	Tolerance (percent)
Mobile	0.0005
Base	0.00025
Mobile relay	0.00025
Control	0.0005
Fixed	0.00025

§ 95.623 R/C transmitter channel frequencies.

(a) The R/C transmitter channel frequencies are:

MHz		
26.995	72.15	72.37
27.045	72.16	72.39
27.095	72.17	72.40
27.145	72.19	72.41
27.195	72.21	72.43
27.255	72.23	72.45
72.01	72.24	72.47
72.03	72.25	72.49
72.05	72.27	72.51
72.07	72.29	72.53
72.08	72.31	72.55
72.09	72.32	72.57
72.11	72.33	72.59
72.13	72.35	72.61
72.63	72.96	75.67
72.65	72.97	75.69
72.67	72.99	75.71
72.69	75.41	75.73
72.71	75.43	75.75
72.73	75.45	75.77
72.75	75.47	75.79
72.77	75.49	75.81
72.79	75.51	75.83
72.81	75.53	75.85
72.83	75.55	75.87
72.85	75.57	75.89
72.87	75.59	75.91
72.89	75.61	75.93
72.91	75.63	75.95
72.93	75.64	75.97
72.95	75.65	75.99

(b) Certain R/C transmitter channel frequencies are authorized to operate only certain kinds of devices (see Part 95, Subpart C).

(c) The R/C transmitter channel frequency tolerance must be maintained within 0.005 percent, except that an R/C transmitter operating on the 26–27 MHz frequencies with a mean power output of 2.5 watts or less and used solely by the operator to turn on and/or off a device at a remote location, other than devices used solely to attract attention, are permitted to have a channel frequency tolerance of 0.01 percent.

§ 95.625 CB transmitter channel frequencies.

(a) The CB transmitter channel frequencies are:

Channel No.	(MHz)
1	26.965
2	26.975
3	26.985
4	27.005
5	27.015
6	27.025
7	27.035
8	27.055
9	27.065
10	27.075
11	27.085
12	27.105
13	27.115
14	27.125
15	27.135
16	27.155
17	27.165
18	27.175
19	27.185
20	27.205
21	27.215
22	27.225
23	27.255
24	27.235
25	27.245
26	27.265
27	27.275
28	27.285
29	27.295
30	27.305
31	27.315
32	27.325
33	27.335
34	27.345
35	27.355
36	27.365
37	27.375
38	27.385
39	27.395
40	27.405

(b) The CB transmitter channel frequency tolerance must be maintained within 0.005 percent.

§ 95.627 Emission types.

(a) A GMRS transmitter may employ only the following type emissions:

A1D, H1D, R1D, J1D (See Part 95, Subpart A for use limitations.)
A3E, H3E, R3E, J3E
G1D, F1D. (See Part 95, Subpart A for use limitations.)
G3E, F3E

(b) An R/C transmitter may employ:

(1) Amplitude tone modulation or on-off keying of an unmodulated carrier on frequencies in the 26–27 MHz band; *OR*

(2) Any form of amplitude, frequency or phase modulation on frequencies in the 72–76 MHz band.

(c) A CB transmitter may employ only the following type emissions:

A1D, H1D, R1D, J1D (See Part 95, Subpart D for use limitations.)
A3E, H3E, R3E, J3E

(d) Digital modulation techniques or the transmission of data are not permitted in the Personal Radio Services.

§ 95.629 Emission bandwidth.

(a) The authorized bandwidth of an emission is limited to the following values:

Emission type	Authorized bandwidth
H1D, R1D, J1D	4 kHz
H3E, R3E, J3E	4 kHz
A1D, A3E	8 kHz
G1D, F1D	20 kHz
G3E, F3E	20 kHz

(b) R/C emissions are limited to an 8 kHz authorized bandwidth.

§ 95.631 Spurious emissions.

(a) The requirements of this section apply to each transmitter both with and without the connection of all attachments acceptable for use with the transmitter, such as an external speaker, microphone, power cord, antenna, etc.

(b) The power of each spurious and each harmonic emission must be less than the transmitter power (P) as specified in the following schedule:

Transmitter	Emission type	Applicable paragraphs
GMRS	A1D, A3E, F1D, G1D, F3E, G3E with filtering.	(1)(3)(7)
	A1D, A3E, F1D, G1D, F3E, G3E without filtering.	(5)(6)(7)
	J1D, R1D, H1D, J3E, R3E, H3E	(2)(4)(7)
R/C	As specified in § 95.627(b)	(1)(3)(7)
CB	A1D, A3E	(1)(3)(8)(9)
	J1D, R1D, H1D, J3E, R3E, H3E	(2)(4)(8)(9)
	A1D, A3E type accepted before September 10, 1976.	(1)(3)(7)
	J1D, R1D, H1D, J3E, R3E, H3E type accepted before September 10, 1976.	(2)(4)(7)

Note.—Filtering refers to the requirement in § 95.633(a).

Note.—Spurious and harmonic power may be stated in mean power or in peak envelope power, provided it is stated in the same parameter as the transmitter power.

(1) At least 25 decibels on any frequency removed from the center of the authorized bandwidth by more than 50 percent up to and including 100 percent of the authorized bandwidth.

(2) At least 25 decibels on any frequency removed from the center of the authorized bandwidth by more than 50 percent up to and including 150 percent of the authorized bandwidth.

(3) At least 35 decibels on any frequency removed from the center of the authorized bandwidth by more than 100 percent up to and including 250 percent of the authorized bandwidth.

(4) At least 35 decibels on any frequency removed from the center of the authorized bandwidth by more than 150 percent up to and including 250 percent of the authorized bandwidth.

(5) At least 83 $\log_{10}$ (f_d/5) decibels on any frequency removed from the center of the authorized bandwidth by a displacement frequency, (f_d in kHz), of more than 5 kHz up to and including 10 kHz.

(6) At least 116 $\log_{10}$ (f_d/6.1) decibels, or, if less, 50+10 $\log_{10}$ (P) decibels, on any frequency removed from the center of the authorized bandwidth by a displacement frequency, (f_d in kHz), of more than 10 kHz up to and including 250 percent of the authorized bandwidth.

(7) At least 43+10 $\log_{10}$ (P) decibels on any frequency removed from the center of the authorized bandwidth by more than 250 percent.

(8) At least 53+10 $\log_{10}$ (P) decibels on any frequency removed from the center of the authorized bandwidth by more than 250 percent.

(9) At least 60 decibels on any frequency twice or greater than twice the fundamental frequency.

(c) If spurious or harmonic emissions result in harmful interference, the FCC may, in its discretion, require appropriate technical changes in the station equipment to alleviate the interference, including requiring the use of a low pass filter between the transmitter RF output terminal and the antenna feedline.

§ 95.633 Modulation requirements.

(a) A GMRS transmitter employing frequency modulation must not exceed a peak frequency deviation of plus or minus 5 kHz.

(b) All GMRS transmitters, except mobile stations with a power output of 2.5 watts or less, must automatically prevent a greater than normal audio level from causing overmodulation. These transmitters must also include audio frequency low pass filtering, unless they comply with the applicable paragraphs of § 95.631 (without filtering). The filter must be between the modulation limiter and the modulated stage of the transmitter. At any frequency (f) between 3 and 20 kHz, the filter must have an attenuation of at least 60 $\log_{10}$ (f/3) decibels greater than the attenuation at 1 kHz. Above 20 kHz, it must have an attenuation of at least 50 decibels greater than the attenuation at 1 kHz.

(c) When tape A3E emission is used, the modulation percentage must be sufficient to provide efficient communication and must not exceed 100 percent. Simultaneous amplitude modulation and frequency or phase modulation of a transmitter are not permitted.

(d) Each CB transmitter employing type A3E emission having a power output of greater than 2.5 watts must automatically prevent modulation in excess of 100%.

(e) Each CB transmitter employing type H3E, R3E or J3E emission must be capable of transmitting the upper sideband. The capability of also transmitting the lower sideband is permitted.

§ 95.635 Maximum transmitter power.

(a) A GMRS transmitter, under any condition of modulation, must not exceed:

(1) 50 watts carrier power when employing type A1D, A3E, F1D, G1D, F3E or G3E emission.

(2) 50 watts peak envelope power when employing type J1D, H1D, R1D, J3E, H3E or R3E emission.

(b) An R/C transmitter, under any condition of modulation, must not exceed:

(1) 4 watts carrier power in the 26–27 MHz band, except on channel frequency 27.255 MHz;

(2) 25 watts carrier power on channel frequency 27.255 MHz; *or*

(3) 0.75 watts carrier power or peak envelope power (single sideband only) in the 72–76 MHz band.

(c) A CB transmitter, under any condition of modulation, must not exceed:

(1) 4 watts carrier power when employing type A1D or A3E emission; *or*

(2) 12 watts peak envelope power when employing type J1D, H1D, R1D, J3E, H3E, or R3E emission.

Type Acceptance Requirements

§ 95.641 General requirements.

Each GMRS transmitter, each R/C transmitter and each CB transmitter for which an application for type acceptance is filed must comply with the technical standards specified in this subpart.

§ 95.643 Accessibility of controls.

No control, switch or other type of adjustment which, when manipulated, can result in a violation of the rules may be accessible from the transmitter operating panel or from the exterior of the transmitter enclosure.

§ 95.645 Antenna limitations.

The antenna of an R/C transmitter operated in the 72–76 MHz band must be an integral part of the R/C transmitter. The antenna must have no gain (as compared to a one-half wave dipole) and must be vertically polarized.

§ 95.647 Power capability.

(a) No R/C transmitter may incorporate provisions for increasing its power to any level in excess of the pertinent limit specified in § 95.635.

(b) No CB transmitter may incorporate provisions for increasing its power to any level in excess of the pertinent limit specified in § 95.635.

§ 95.649 Crystal control required.

All transmitters in the Personal Radio Services must be crystal controlled, except R/C transmitters in the 26–27 MHz frequency band which must be either type accepted or crystal controlled.

§ 95.651 Instructions and warnings.

(a) A users instruction manual must be supplied with each transmitter marketed, and one copy (a draft or preliminary copy is acceptable provided a final copy is provided when completed) must be forwarded to the FCC with each request for type acceptance.

(b) The instruction manual must contain all information necessary for the proper installation and operation of the transmitter including:

(1) Instructions concerning all controls, adjustments and switches which may be operated or adjusted without resulting in a violation of the rules.

(2) Warnings concerning any adjustment which could result in a violation of the rules or which should only be made by or under the immediate supervision and responsibility of a person certified as technically qualified to perform transmitter maintenance and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

(3) Warnings concerning the replacement of any transmitter component (crystal, semiconductor, etc.) which could result in a violation of the rules.

(4) For GMRS transmitters, warnings concerning licensing requirements and information concerning license application procedures.

Additional Type Acceptance Requirements for CB Transmitters

§ 95.661 Frequency capability.

(a) Each multi-frequency CB transmitter must be capable of transmitting only on the CB transmitter channel frequencies (see § 95.625).

(b) Any CB transmitter equipped with a frequency capability not listed in § 95.625 will not be type accepted for use in the CB Radio Service, unless such transmitter is also type accepted for use in another radio service in which the frequency is authorized and type acceptance is also required in that radio service.

(c) All transmitter frequency determining circuitry (including crystals), other than the frequency selection mechanism, employed in a CB transmitter must be internal to the CB transmitter and must not be accessible from the exterior of the transmitter operating panel or from the exterior of the transmitter enclosure.

(d) Any add-on device, whether internal or external to a CB transmitter, the function of which is to extend the CB transmitter frequency capability beyond its original frequency capability, must not be manufactured, sold or attached to any CB transmitter.

§ 95.663 Transmitter power limitations.

(a) The dissipation rating of all of the semiconductors or electron tubes which supply radio frequency power to the antenna terminals of the CB transmitter must not exceed ten watts. For semiconductors, the dissipation rating is the greater of the collector or device dissipation value established by the manufacturer of the semiconductor. These values may be temperature derated by no more than 50 degrees centigrade. For electron tubes, the dissipation rating shall be the Intermittent Commercial and Amateur Service plate dissipation value established by the manufacturer of the electron tubes.

(b) A CB transmitter employing type J3E, R3E or H3E emission must automatically prevent the transmitter power from exceeding 12 watts peak envelope power or the manufacturer's rated peak envelope power for the transmitter, whichever is less.

§ 95.665 External controls.

(a) Only the following external transmitter controls, connections or devices will normally be permitted in a CB transmitter:

(1) Primary power connection. (Circuitry or devices such as rectifiers, transformers, or inverters which provide the nominal rated transmitter primary supply voltage may be used without voiding the transmitter type acceptance.)

(2) Microphone connection.

(3) Radio frequency output power connection (antenna terminals).

(4) Audio frequency power amplifier output connection and selector switch.

(5) On/off selector switch for primary power to transmitter. This switch may be combined with receiver controls such as the receiver on/off switch and volume control.

(6) Upper/lower sideband selector switch (for transmitters employing type J3E, H3E or R3E emission).

(7) Carrier level selector control (for transmitters employing type J3E, H3E or R3E emission). This control may be combined with the sideband selector switch.

(8) Channel frequency selector switch.

(9) Transmit/receive selector switch.

(10) Meter(s) and selector switch(es) for monitoring transmitter performance.

(11) Pilot lamp(s) or meter(s) to indicate the presence of radio frequency output power or that transmitter control circuits are activated to transmit.

(b) The FCC may authorize additional controls, connections or devices after considering the functions to be performed by such additions.

§ 95.667 Serial number.

The serial number of each CB transmitter must be engraved on the transmitter's chassis.

§ 95.669 Copy of rules.

A copy of Part 95, Subpart D, of the FCC rules for the Citizens Band Radio Service, current at the time of packing of the transmitter, must be furnished with each CB transmitter marketed.

[FR Doc. 85–2863 Filed 2–5–85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

Amendment of the Amateur Radio Service Rules To Make Clear That in Appropriate Circumstances the Call Sign of Another Amateur Station May Be Transmitted.

Correction

In FR Doc. 85–1982 appearing on page 3525 in the issue of Friday, January 25, 1985, make the following correction: In the second column, in the **SUMMARY** paragraph, in the fifth line, "has been assigned" should have read "has not been assigned".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 50, No. 25
Wednesday, February 6, 1985

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 THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Proposed Modifications to the Oklahoma Permanent Regulatory Program

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

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on modified portions of the Oklahoma permanent regulatory program. On August 16, 1984 (49 FR 32772), OSM announced a public comment period and procedure for requesting a public hearing on the substantive adequacy of proposed amendments to the Oklahoma permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by Oklahoma on July 8, 1983. The amendments submitted by Oklahoma are modifications to the Oklahoma regulations that address coal exploration. OSM is reopening the comment period to allow the public an opportunity to comment on supplemental material relating to the proposed coal exploration amendment submitted by Oklahoma on January 2, 1985.

DATE: Written comments not received on or before 4:00 p.m. on February 21, 1985 will not necessarily be considered.

FOR FURTHER INFORMATION CONTACT: Robert Markey, Director, Tulsa Field Office, Office of Surface Mining, Room 3014, 333 West Fourth Street, Tulsa, Oklahoma 74103; Telephone: (918) 581–7927.

ADDRESS: Written comments should be mailed or hand delivered to Mr. Robert Markey, Director, Tulsa Field Office, Office of Surface Mining, Room 3014, 333 West Fourth Street, Tulsa, Oklahoma 74103.

Copies of the supplemental material submitted by Oklahoma and other relevant documents are available for review at the Tulsa Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Tulsa Field Office listed above.

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

Oklahoma Department of Mines, Suite 107, 4040 North Lincoln, Oklahoma City, Oklahoma 73105.

SUPPLEMENTARY INFORMATION: The general background on the permanent regulatory program, the State program approval process, the Oklahoma program and the conditional approval, can be found in the Secretary's Findings and conditional approval published in the January 19, 1981 **Federal Register** (46 FR 4910), in the April 2, 1982 **Federal Register** (47 FR 14152) and in the May 4, 1983 **Federal Register** (48 FR 20050). Additional information pertinent to the action taken by the Director, OSM, under the authority of 30 CFR Part 733 with regard to the status of Oklahoma's permanent regulatory program can be found in the April 12, 1984 **Federal Register** (49 FR 14674).

On July 8, 1983, Oklahoma submitted to OSM a program amendment proposing to revise sections 776, 815 and 816 of the Oklahoma surface mining regulations to require any person who intends to conduct coal exploration in which more than 250 tons of coal is to be removed to obtain written approval of the Oklahoma Department of Mines (DM), comply with certain public notification requirements and post a reclamation performance bond.

The August 16, 1984 **Federal Register** announced receipt of the modification by OSM as well as a public comment period. In that same notice, OSM announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On January 2, 1985, Oklahoma submitted additional material to further clarify the proposed coal exploration permitting system. Copies of the additional material are available in the OSM Administrative Record. OSM is reopening the comment period in order to allow the public an opportunity to review and comment on the additional material submitted to OSM by the State on January 2, 1985.

Specifically, OSM is seeking comment on whether the material submitted by Oklahoma on January 2, 1985, together with the proposed coal exploration amendment, satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17 and are no less effective than the Federal regulations.

List of Subjects in 30 CFR Part 936

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

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

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

January 29, 1985.

[FR Doc. 85–2947 Filed 2–5–85; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 327

Handicapped Special Studies Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations under Section 618 of Part B of the Education of the Handicapped Act, as amended by the Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199. This program provides support for data collection activities and studies, investigations, and evaluations to assess the impact and effectiveness of programs assisted under the Education of the Handicapped Act, and for the development, publication and dissemination of the annual report to the Congress required under Section 618 of the Act.

These proposed regulations include, among other things, information about the kinds of projects supported under

this program, the application requirements, and the selection criteria for judging applications.

DATES: Comments must be received on or before May 7, 1985.

ADDRESSES: Comments should be addressed to: Dr. Wendy M. Cullar, Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3088), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Sanchez. Telephone: (202) 732-1117.

SUPPLEMENTARY INFORMATION: The Handicapped Special Stuides program is authorized by Section 618 of Part B of the Education of the Handicapped Act, as amended by the Education of the Handicapped Act Amendments of 1983, Pub. L. 98-199 (20 U.S.C. 1418). Under this program, support is provided for the collection of data, as well as studies to evaluate State and local efforts to provide a free appropriate public education to handicapped children and youth. Section 618 of the Act requires that this information be included in the annual report submitted to the Congress by the Department. The activities conducted under this program are designed to provide Congress with information relevant to policymaking and to provide Federal, State, and local educational agencies with information relevant to program management, administration, and the effectiveness of their special education programs. Under section 618(c) of the Act, the Secretary is required, not later than July 1 of each year, to submit to the appropriate committees of each House of the Congress and to publish in the **Federal Register** proposed evaluation priorities for special studies to determine the impact of the Act for review and comment. A notice of proposed annual funding priorities for the Handicapped Special Studies program was published in the **Federal Register** on October 26, 1984 (49 FR 43090). Final priorities for grant awards will be published in the **Federal Register** after review and consideration of any comments received in response to that notice.

A smmary of the proposed regulations follows.

(a) *Subpart A—General.*

Section 327.1 contains the purpose for the Handicapped Special Studies program.

Section 327.2 provides that public or private agencies, institutions, organizations, or other appropriate parties are eligible for an award under this program. The Act identifies State educational agencies as the only applicants eligible to apply to enter into a cooperative agreement with the Secretary to conduct an evaluation study under Section 618(d) of the Act.

Section 327.3 lists the regulations that apply to the Handicapped Special Studies program, including Parts 74, 75, 77, 78, and 79 of the Education Department General Administrative Regulations (EDGAR).

The Department has available the full range of funding options (grants, contracts, or cooperative agreements) for use under Section 618 in conducting projects. These proposed regulations apply to both grants and cooperative agreements. Contract awards are governed by 48 CFR (Federal Acquisition Regulations), and, therefore, are not addressed in these proposed regulations.

Section 327.4 provides definitions that apply to the program. It incorporates certain EDGAR definitions as well as the definition of "handicapped children" used in the Assistance to States for Education of Handicapped Children program (34 CFR Part 300). This definition is adopted to ensure consistency among programs under the Act.

(b) *Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?*

Section 327.10 identifies the types of projects that the Secretary supports. This section identifies the activities authorized under Section 618 of the Act.

(c) *Subpart C—[Reserved].*

(d) *Subpart D—How Does the Secretary Make an Award?*

Section 327.30 describes the procedures used by the Secretary to select priorities for funding from among the types of projects authorized under Section 618 of the Act.

Section 327.31 contains the selection criteria the Secretary proposes weighted criteria that reflect the relative importance of the elements of an application in order to ensure that the most promising projects are selected.

(e) *Subpart E—What Conditions Must Be Met by a Grantee?*

Section 327.40 contains requirements that State educational agencies must meet if they enter into a cooperative agreement with the Secretary to conduct an evaluation study under Section 618(d) of the Act. These requirements include—(a) Payment of not less than 40 percent of the total cost of the study; and (b) consulting with the State advisory panel established under Part B of the Act and others, including the local educational agencies, involved in the education of handicapped children and youth in developing the study. See section 618(d)(2) of the Act.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary Certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The application procedures in the proposed regulations will not place undue burdens on small entities submitting applications under this program. The regulations do not impose other burdens that would have a significant economic impact on small entities participating in the program.

To the extent that the regulations affect States and State agencies, they will not have an impact on small entities. States and State agencies are not small entities under the Act.

Paperwork Reduction Act of 1980

Information collection requirements contained in these proposed regulations in § 327.31 have not been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 95-511).

A copy of comments that pertain *only* to information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and

review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3517, Switzer Building, 330 C Street SW., Washington, D.C., between the hours of 8:30 a.m and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reductin Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 327

Education, Education of handicapped, Education—research Grants program—education, Reporting and recordkeeping requirements, State educational agencies.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(20 U.S.C. 1418)

(Catalog of Federal Domestic Assistance No. 84.159; Handicapped Special Studies)

Dated: February 1, 1985.

Gary L. Jones,

Acting Secretary of Education.

The Secretary proposes to add a new Part 327 to Title 34 of the Code of Federal Regulations to read as follows:

PART 327—HANDICAPPED SPECIAL STUDIES PROGRAM

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make an Award?

Subpart E—What Conditions Must Be Met by a Grantee?

Authority: Sec. 618 of the Education of the Handicapped Act (20 U.S.C. 1418), unless otherwise noted.

Subpart A—General

§ 327.1 What is the Handicapped Special Studies Program?

The purpose of this program is to support the collection of data, studies, investigations, and evaluations to assess the impact and effectiveness of programs and projects assisted under the Education of the Handicapped Act, and related activities to provide the Congress and others with this information.

(20 U.S.C. 1418)

§ 327.2 Who is eligible to apply for an award under this program?

(a) The Secretary may make awards under this program to public or private agencies, institutions, organizations, and other appropriate parties for support of the kinds of projects described in § 327.10 (a)–(b), and (d)–(h).

(b) The Secretary may enter into cooperative agreements with State educational agencies to carry out the projects described in § 327.10(c).

(20 U.S.C. 1418)

§ 327.3 What regulations apply to this program?

The following regulations apply to grants and cooperative agreements under this program:

(a) The regulations in this Part 327.

(b) The Education Department General Administrative Regulations (EDGAR) in Title 34 of the Code of Federal Regulations in—

(1) Part 74 (Administration of Grants);

(2) Part 75 (Direct Grant Programs);

(3) Part 77 (Definitions that Apply to Department Regulations);

(4) Part 78 (Education Appeal Board); and

(5) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(20 U.S.C. 1418)

§ 327.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
EDGAR
Fiscal year
Grant
Grantee
Local educational agency
Project
Secretary
State educational agency.

(20 U.S.C. 1418)

(b) *Definition in 34 CFR Part 300.* The following term used in this part is defined in 34 CFR 300.5: Handicapped children.

(20 U.S.C. 1401(a)(1))

§§ 327.5–327.9 [Reserved]

Subpart B—What Kinds of Projects Does the Secretary Assist under This Program?

§ 327.10 What kinds of projects are authorized Under this part?

This program provides support for activities that include projects to—

(a) Collect data, and conduct studies, investigations, and evaluations, to assess progress in the implementation of the Act, the impact of the Act, and the effectiveness of State and local efforts to provide free appropriate public education to all handicapped children and youth;

(b) Obtain data, on at least an annual basis, about programs and projects assisted under the Act and under other Federal laws relating to the education of handicapped children and youth, as required under Section 618(b) of the Act;

(c) Assess the impact and effectiveness of programs assisted under the Act, in accordance with Section 618(d) (1) and (2) of the Act, through cooperative agreements with State educational agencies;

(d) Provide technical assistance to participating state educational agencies

in the implementation of the evaluation studies described under paragraph (c) of this section;

(e) Disseminate information from the studies assisted under paragraph (c) of this section to State educational agencies, and, as appropriate, others involved in or concerned with the education of handicapped children and youth;

(f) Conduct evaluation studies to determine the impact of the Act;

(g) Conduct evaluation studies, including—

(1) A longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, to examine their educational progress while in special education and their status (including their occupational, educational, and independent living status) after leaving secondary school; or

(2) Obtaining and compiling current information from State and local educational agencies and other service providers regarding States and local expenditures for educational services for handicapped children in order to calculate per pupil expenditures by handicapping condition; or

(h) Assist in the development, publication, and dissemination of the annual report to the Congress required under section 18(f) of the Act.

(20 U.S.C. 1418)

§§ 327.11-327.19 [Reserved]

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make an Award?

§ 327.30 How does the Secretary establish priorities for an award?

Not later than July 1 of each year the Secretary submits to the appropriate committee of each House of the Congress and publishes in the **Federal Register** proposed evaluation priorities for the program under this part for review and comment.

(20 U.S.C. 1418)

§ 327.31 What are the selection criteria for evaluating applications for awards?

The Secretary uses the criteria in this section to evaluate applications for awards. The maximum score for all of the criteria is 100 points.

(a) *Plan of operation.* (10 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons, and

(D) The elderly.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons, and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross Reference: 34 CFR 75.590, *Evaluation by the grantee.*

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quanitifiable.

(e) *Adequacy of resources.* (5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Importance.* (10 points).

(1) The Secretary reviews each application for information demonstrating that the proposed project addresses State and national concerns in light of the purposes of this part.

(2) The Secretary looks for information that shows—

(i) The significance of the issues to be addressed for both State and national audiences;

(ii) The importance of the proposed project in determining the impact and effectiveness or programs assisted under the Act;

(iii) The experiences of service providers related to the problem or issue; and

(iv) Previous research and evaluation findings related to the issues.

(g) *Usefulness.* (10 points).

The Secretary reviews each application for information that shows the usefulness of the proposed project findings in improving services to handicapped children and youth including—

(1) The contribution that the project findings or products will make to current knowledge or practice;

(2) The extent to which findings and reports will be useful in improving services for handicapped children and youth; and

(3) The extent to which findings and reports will be useful to both State and national audiences in understanding the impact and effectiveness of programs

assisted under the Education of the Handicapped Act.

(h) *Technical soundness.* (40 points).

The Secretary reviews each application for information demonstrating the technical soundness of the research or evaluation plan, including, where appropriate—

(1) The design;

(2) The proposed sample;

(3) Instrumentation;

(4) Data analysis procedures; and

(5) Procedures for the development of the project report.

(20 U.S.C. 1418)

§§ 327.32–327.39 [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 327.40 What are the requirements for conducting projects?

Each State educational agency receiving an award under Section 618(d) of the Act shall—

(a) Contribute an amount not less than 40 percent of the total cost of the study, which amount may be paid from a State's allocation of funds for State administration of Part B of the Act; and

(b) Develop the study in consultation with the State advisory panel established under the Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth.

(20 U.S.C. 1418 (c), (d)(2))

§§ 327.41–327.49 [Reserved]

[FR Doc. 85–2897 Filed 2–5–85; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 155

[OPP–250060; FRL–2769–1]

Registration Standards; Notification to the Secretary of Agriculture of a Proposed Regulation on Docket and Public Participation Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Transmittal of a Proposed Rule.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation that would establish procedures for public participation in the development of pesticide Registration Standards. The procedures would establish and provide for the maintenance of a docket for each Registration Standard, which would be indexed and made available to the public. The procedures would also provide for publication in the **Federal Register** of an annual schedule for the development of Registration Standards, as well as announcments of the availability of the public docket and Registration Standards. EPA believes that these procedures will promote public awareness of, and stimulate public participation in, the Agency's decisionmaking process for pesticide Registration Standards. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

Jean Frane, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding in the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register,** with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 30-day period.

As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Sec. 25, Pub. L. 92–516, 86 Stat. 973 as amended; (7 U.S.C. 136 et seq.)

Dated: January 24, 1985.

Anne Barton,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85–2559 Filed 2–5–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 799

[OPTS–42061A–TSH–FRL 2766–1]

Oleylamine; Proposed Test Rule; Extension of Comment Period

Correction

In FR Doc. 85–2169 beginning on page 3808 in the issue of Monday, January 28, 1985, make the following correction:

On page 3809, first column, insert the following after "Dated: January 8, 1985.":

Don Clay,

Director, Office of Toxic Substances.

BILLING CODE 1505–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6645]

Proposed Flood Elevation Determination, Alabama 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 this 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 Administration, 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 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 Insurace 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 § 60.3 of the program regulations, are the minimum that are required. They should not be construed to means 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 premium 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, Federal Insurance Administration, 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 base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated areas, Fayette County	Sipsey River	About 1.63 miles downstream of County Highway 35	*311
			About 5.4 miles upstream of U.S. Highway 43	*339
		Luxapallila Creek	About 3,050 feet downstream of County Highway 37	*321
			About 3,100 feet upstream of State Highway 18	*340
Maps available for inspection at the Fayette County Courthouse, P.O. Box 509, Fayette, Alabama 35555. Send comments to Honorable Ed Godfrey, Probate Judge, Fayette County Courthouse, P.O. Box 509, Fayette, Alabama 35555.				
Alabama	Town of Millport, Lamar County	Luxapallila Creek	About 2,00 feet downstream of confluence of Propst Creek.	*249
			Just upstream of State Highway 17	*259
			About 4,400 feet upstream of State Highway 17	*261
		Driver Creek	About 0.6 mile upstream of confluence with Luxapallila Creek.	*260
			Just upstream of State Highway 96	*275
			About 200 feet upstream of Darr Road	*280
		Propst Creek	At confluence with Luxapallila Creek	*249
			About 240 feet upstream of Norfolk Southern Railway	*260
Maps available for inspection at the Millport City Hall, P.O. Box M, Millport, Alabama. Send comments to Honorable Barbara Boho, Mayor, Town of Millport, City Hall, P.O. Box M, Millport, Alabama 35576.				
Alabama	City of Scottsboro, Jackson County	Tennessee River	About 10.0 miles downstream of Comer Bridge	*598
			About 1.7 miles upstream of Comer Bridge	*599
		Roseberry Creek	At mouth	*598
			Just downstream of U.S. Highway 72	*596
			Just upstream of U.S. Highway 72	*603
			Just downstream of Norfolk Southern Railway	*620
		Wacker Branch	Mouth at Roseberry Creek	*603
			Just downstream of Woods Cove Road	*618
		Tributary A	Mouth at Roseberry Creek	*604
			Just downstream of Tupelo Pike	*640
		Bynum Branch	Mouth at Roseberry Creek	*605
			Just downstream of Norfolk Southern Railway	*642
		College Branch	Mouth at Bynum Branch	*621
			Just downstream of Laurel Street	*639
Maps available for inspection at the City Hall, 916 South Broad Street, Scottsboro, Alabama. Send comments to Honorable Lonnie Crawford, Mayor, City of Scottsboro, City Hall, 916 South Broad Street, Scottsboro, Alabama 35768.				
Arizona	Gila County (unincorporated areas)	Cherry Creek	70 feet upstream from center of Cherry Creek Road	*5,075
		Christopher Creek	50 feet upstream from the center of State Highway 260.	*5,860
		Dripping Springs Wash	50 feet upstream of the center of State Highway 77	*2,128
		East Verde River (Near State Highway 87).	At confluence with Weber Creek	*4,620
		East Verde River At Whispering Pines.	Intersection of East Verde River and center of Scott Drive.	*5,205
		Gila River (At Hayden and Winkelman).	20 feet upstream of State Highway 77	*1,936
		Houston Creek	At the intersection of Mars Lane and Milky Way	*4,664
		M.O. Creek	40 feet upstream from center or State Highway 288	*5,151
		Pinal Creek	Intersection pf Pinal Creek and center of Wilbanks Drive Bridge.	*3,061
		Pine Creek	50 feet upstream from the center of State Highway 87	*5,371
		Pinto Creek	Intersection of Stage Coach Trail and Mallard Street	*2,242
		Strawberry Creek	Intersection of creek and State Highway 87	*5,880
		Strawberry Hollow	20 feet upstream from the center of Warren Drive	*5,423
		Thompson Draw	20 feet upstream from the center of Johnson Boulevard Bridge.	*5,731

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tonto Creek (At Bear Flat)	Intersection of Tonto Creek and center of County Highway 405.	*4,952
		Tonto Creek (At Gisela)	Intersection of Tonto Creek center of ford	*2,862
		Tonto Creek (At Kohls Ranch)	30 feet upstream from the center of State Highway 260.	*5,335
		Tonto Creek (At Roosevelt Gardens).	3,100 feet due east of the intersection of Tonto Creek Trail and State Highway 188.	*2,276
Maps available for inspection at the Engineering Department, 1400 East Ash Street, Globe, Arizona.				
Send comments to the Honorable Robert P. Casillas, 1400 East Ash Street, Globe, Arizona 85501.				
California	Cloverdale (city), Sonoma County	Russian River	Approximately 100 feet downstream of River Road	*302
Maps available for inspection at Public Works Department, 124 North Cloverdale Boulevard, Cloverdale, California.				
Send comments to the Honorable Stephen Congdon, P.O. Box 872, Cloverdable, California 95425.				
California	Danville (city), Contra Costa County	Green Valley Creek	30 feet upstream from centerline of George Lane	*410
		East Branch Green Valley Creek	At the intersection of Green Valley Road and Clydesdale Drive.	*430
		Sycamore Creek	70 feet upstream from the conterline of Sycamore Valley Road.	*420
Maps available for inspection at the Department of Public Works, 542 San Ramon Valley Boulevard, Danville, California.				
Send comments to the Honorable Beverly Lane, 542 San Ramon Valley Boulevard, Danville, California 94526.				
California	San Ramon (city), Contra Costa County	San Ramon Creek	50 feet upstream from center of San Ramon Valley Boulevard.	*486
Maps available for inspection at Planning Department, 2222 Camino Ramon, California.				
Send comments to the Honorable Rick Harmon, 2222 Camino Ramon, San Ramon, California 94583.				
California	Santa Barbara County (unincorporated areas)	Orcutt Creek	50 feet upstream from center of Solomon Road	*231
			50 feet upstream from center of Stillwell Road	*491
		Branch Canyon Wash	Intersection of Perkins Road and Cebrian Avenue	#1
		Salisbury Canyon Wash	Intersection of State Highway 166 and Hubbard Avenue.	#1
		San Antonio Creek	Intersection of State Highway 135 and Den Street	*559
		Los Alamos Interceptor Channel	450 feet southeast along State Highway 135 from its intersection with Foxen Lane.	#2
		Zaca Creek	200 feet upstream from center of Avenue of the Flags	*351
		Thumbelina Creek	100 feet upstream from center of State Highway 246	*362
		Alamo Pintado Creek	50 feet upstream from center of lower Alamo Pintado Road crossing.	*566
			200 feet upstream from center of State Highway 154	*830
		East Branch Alamo Pintado Creek	50 feet upstream from center of lower Quail Valley Road crossing.	*523
			200 feet upstream from center of Base Line Avenue	*706
		East Tributary to East Branch Alamo Pintado Creek.	100 feet upstream from center of Refugio Road	*630
		West Fork Zanja de Cota Creek	Intersection of Edison and Tivola Streets	*583
		East Fork Zanja de Cota Creek	100 feet upstream from center of State Highway 246 (Santa Barbara Avenue).	*589
		Bell Canyon Wash	100 feet upstream from center of Winchester Canyon Road.	*67
		Winchester Canyon Wash	50 feet upstream from center of Winchester Canyon Road.	*80
		Ellwood Canyon Wash	300 feet upstream from confluence with Winchester Canyon Wash.	#1
		Tecolote Canyon Creek	Intersection of Tecolote Canyon Creek and Vereda del Padre.	*40
		Santa Ynez River	Intersection of Sweeny Road and State Highway 246	*112
		San Miguelito Creek	25 feet upstream from center of Feed Store Bridge	*243
		East-West Channel	250 feet southeast from intersection of Central Avenue and North O Street.	*75
		Pacific Ocean	At mouth of El Estero Lagoon at Sand Point	*8
			At mouth of Romero Creek at Fernald Point	*8
			At mouth of Bell Canyon Wash	*7
Maps available for inspection at the Santa Barbara County Flood Control and Water Consolidation District, 123 East Anapamu Street, Santa Barbara, California.				
Send comments to the Honorable David Yager, Santa Barbara County Courthouse, Santa Barbara, California 93104.				
California	Shasta County (unincorporated areas)	Burney Creek	90 feet upstream from center of State Highway 299	*3127
		Burney Creek West Branch	Intersection of Superior Avenue and Hudson Street	*3121
		Churn Creek	Intersection of Churn Creek and center of State Highway 299.	*536
		Clover Creek	50 feet upstream from center of Old Forty Four Drive	*480
		Cow Creek (Near Millville)	200 feet upstream from center of Old Forty Four Drive	*503
		Cow Creek (Near Palo Cedro)	Intersection of Cow Creek and center of State Highway 44.	*442
		Dry Creek	100 feet upstream from center of State Highway 299	*529
		Little Cow Creek	10 feet upstream from center of Old Forty Four Drive	*447
		Sacramento River	Intersection of Sacramento River and center of Interstate Highway 5.	*413
		Tormey Drain	Intersection of Tormey Drain and center of Dodson Lane.	*405

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Shasta County Water District, 1508 West Street, Redding, California.				
Send comments to the Honorable John W. Strange, Shasta County Courthouse, Redding, California 96099.				
California	Ventura County (unincorporated areas)	Ventura River	25 feet upstream from the center of Shell Road	*129
			Intersection of Burnham and Chaparral Roads	*406
			25 feet upstream from the center of Camino Cielo Road.	*885
			50 feet east from the center of the northbound lane of the Ojai Freeway 2,300 feet south of its crossing of the Southern Pacific Railroad.	*130
		Ventura River (Without Consideration of Levee).	Intersection of Edison and Sycamore Drives	*262
		San Antonio Creek	60 feet upstream from the center of State Highway 33	*322
			130 feet upstream from the center of Grand Avenue	*815
			Intersection of Thacher and Ladera Roads	#2
		Thacher Creek	Intersection of Camino Del Arroyo and Avenida Del Recero.	*768
			Intersection of Grand Avenue and McAndrew Road	#1
		Reeves Creek	Intersection of McAndrew and Reeves Roads	*996
		Stewart Canyon Creek	35 feet upstream from the center of Creek Road	*646
		Happy Valley Drain	Center of Besant Road 50 feet east of its intersection with Lomita Avenue.	*729
		Miramonte Drain	30 feet upstream from the center of Loma Drive	*650
		Happy Valley Drain South	Center of Rice Road 120 feet north of its intersection with Baldwin Road.	*590
		Coyote Creek	130 feet upstream from the center of Camp Chaffee Road.	*249
		Santa Clara River	Intersection of river and the center of U.S. Highway 101.	*67
			25 feet upstream from the center of Torrey Canyon Road.	*627
		Piru Creek	Intersection of Creek and the center of Center Street	*683
		Sespe Creek	Center of Bridge Street 1,000 feet east of its intersection with Grand Avenue.	*549
		Santa Paula Creek	Intersection of creek and center of Steckel Park Road	*792
			Center of Telegraph Road 600 feet west of its intersection with Ferris Drive.	#1
		Conejo Creek	200 feet upstream from the center of Moorpark Road	*106
		Arroyo Santa Rosa	100 feet upstream from the center of Moorpark Road	*607
		Arroyo Santa Rosa Overflow	Center of Santa Rosa Road 1,100 feet east of its intersection with Penelope Place.	*310
			Center of Santa Rosa Road 100 feet west of its intersection with Penelope Place.	*300
		Arroyo Santa Rosa Tributary	Center of Santa Rosa Road 2,200 feet east of its intersection with Penelope Place.	*305
		Calleguas Creek-Arroyo Las	50 feet upstream from the center of Seminary Road	*220
		Posas-Arroyo Simi	Intersection of creek and center of Hitch Boulevard	*411
		Peach Hills Wash	650 feet east of the intersection of Citrus Drive and Hitch Boulevard.	*450
		Las Posas Estates Drain	50 feet upstream from the center of Central Avenue	*74
		South Branch Arroyo Conejo	Intersection of Henry and Michael Drives	*653
		Bell Canyon Creek	100 feet upstream from the center of East Bell Canyon Road.	*1071
		Santa Clara River Breakout	Intersection of Harbor Boulevard and Gonzales Road	*16
		Brown Barranca	60 feet downstream from the center of Telegraph Road.	*230
			200 feet north from the center of State Highway 126, 1,500 feet northeast of its intersection with Wells Road.	*180
		Harmon Barranca	200 feet southeast of the intersection of Norton Avenue and Harmon Drive.	*142
		Beardsley Wash	250 feet upstream from the center of Wright Road	*148
		Camarillo Hills Drain	2,100 feet south from the intersection of the Ventura Freeway and Central Avenue.	*61
		Pole Creek	20 feet upstream from the Southern Pacific Railroad	*480
		Santa Paula Creek Overflow Profile Base Line Number 1.	150 feet south from the center of Maple Street, 850 feet east of its intersection with Mariposa Drive.	*472
		Santa Paula Creek Overflow Profile Base Line Number 3.	125 feet south from the center of Maple Street, 775 feet east of its intersection with Mariposa Drive.	*472
		Santa Paula Creek Breakout	Center of Whipple Road, 200 feet south of its intersection with Telegraph Road.	#2
			Center of Ferris Drive, 50 feet north of its intersection with Telegraph Road.	*305
		El Rio Drain	2,300 feet south along Cortez Street from its intersection with Stroube Street.	#2
		Santa Clara Drain	200 feet west of the intersection of Santa Clara Avenue and Friedrich Road.	*78
		Nyland Drain	300 feet north from the center of U.S. Highway 101, 300 feet west of its crossing of Beardsley Wash.	#2
		Rice Avenue Drain	300 feet north of the Southern Pacific Railroad at a point 1,500 feet east of its intersection with Rose Avenue.	*52
		Mills Road Drain	Center of the Southern Pacific Railroad, 150 feet west of its intersection with U.S. Highway 101.	*66
		Sunset Hills Drain	800 feet east from the center of Moorpark Road 3,500 feet south of its intersection with Tierra Valley Road.	#2

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pacific Ocean	120 feet south from the intersection of Padre Juan Canyon Road and State Highway 1.	*9
			350 feet south from the intersection of Yerba Buena Road and the Pacific Coast Highway.	#11

Maps available for inspection at the Department of Public Works, 800 South Victoria Avenue, Ventura, California.

Send comments to the Honorable Susap K. Lacey, 800 South Victoria Avenue, Ventura, California 93009.

Colorado	El Paso County (unincorporated areas)	Fountain Creek	50 feet upstream from the centerline of Old Pueblo Road.	*5,360
		Upper Fountain Creek	10 feet upstream from the centerline of Manitou Avenue.	*6,564
		Cottonwood Creek	60 feet downstream from the centerline of Academy Boulevard.	*6,365
		Jimmy Camp Creek	Centerline of Peaceful Valley Road	*5,675
		East Tributary Jimmy Camp Creek	50 feet downstream from the centerline of Meridian Road.	*5,910
		Franceville Tributary to Jimmy Camp Creek.	Centerline of Drennan Road	*5,901
		Corral Tributary	25 feet upstream from the centerline of Drennan Road	*5,866
		Mines Subtributary to Corral Tributary.	Centerline of State Highway 94	*6,200
		Kettle Creek	Centerline of Old Ranch Road	*6,663
		Monument Creek	Centerline of Mount Herman Road	*6,869
		Pine Creek	Centerline of Burns Road	*6,397
		Pine Creek Overflow	200 feet upstream from the confluence with Pine Creek.	*6,341
		Sand Creek	50 feet upstream from the centerline of Las Vegas Street.	*5,820
		Sand Creek East Fork	Centerline of Peterson Boulevard	*6,291
		Sand Creek Center Tributary	50 feet upstream from the centerline of Terminal Avenue.	*5,216
		Sand Creek East Fork Subtributary	25 feet upstream from the centerline of the Chicago, Rock Island and Pacific Railroad.	*6,544
		Security Creek	Intersection of Bradley Street and Widefield Boulevard	*5,676
		Spring Creek	50 feet downstream from the centerline of the Denver and Rio Grande Western Railroad.	*5,854
		Templeton Gap Floodway	Intersection of Date Street and Lotus Street	*6,430
		Widefield Creek	Centerline of Harvard Street	*5,666
		Windmill Gulch	Centerline of Grand Boulevard	*5,736
		Peterson Field Drainage	Centerline of Las Vegas Street	*5,814
		Dry Creek	Centerline of Centennial Boulevard	*6,607

Maps available for inspection at Land Use Department, 20 East Vermijo Street, Colorado Springs, Colorado.

Send comments to the Honorable Terry Harris, 20 East Vermijo Street, Colorado Springs, Colorado 80903.

Colorado	Rangely (town), Rio Blanco County	White River	Intersection of East Rangely Avenue and Nichols Street.	*5,212
		Coal Mine Draw	Intersection of stream and center of County Highway 2	*5,244
		College Canyon Draw	60 feet upstream from center of Prospect Street	*5,221

Maps available for inspection at the Town Hall, 209 East Main, Rangely, Colorado.

Send comments to the Honorable E.W. Long, 209 East Main, Rangely, Colorado 81648.

Colorado	Ridgway (town), Ouray County	Uncompahgre River	60 feet upstream from center of State Highway 62 (Sherman Street).	*6,975

Maps available for inspection at Town Clerk's Office, Town Hall, Ridgway, Colorado.

Send comments to the Honorable Don Batchelder, P.O. Box 10, Ridgway, Colorado 81432.

Colorado	Rifle (city), Garfield County	Colorado River	90 feet upstream from the center of State Highway 13	*5,302
		Helmer Gulch	90 feet south from the center of the eastbound lane of Interstate Highway 70 approximately 3,600 feet west of its intersection with State Highway 13.	#1
		Ramsey Gulch	90 feet south from the center of the eastbound lane of Interstate Highway 70 approximately 1,900 feet east of its intersection with State Highway 13.	#1
		Rifle Creek	Intersection of stream and the center of 3rd Street	*5,314
			20 feet northeast along Acacia Avenue from the intersection of 26th Street and Acacia Avenue.	*5,316
		Rifle Creek Splitflow	20 feet upstream from the center of 30th Street	*5,449
		Hubbard Gluch	30 feet upstream from the center of 12th Street	*5,372
		Government Creek	120 feet upstream from the center of Highway 13	*5,411

Maps available for inspection at the Engineer and Planning Office, 202 Railroad Avenue, Rifle, Colorado.

Send comments to the Honorable George Mitchell, P.O. Box 1908, Rifle, Colorado 81650.

Colorado	Winter Park (town), Grand County	Fraser River	20 feet upstream from the center of Idlewild Road	*8,742
		Vasquez Creek	50 feet upstream from the center of U.S. Highway 40	*8,774
		Little Vasquez Creek	Intersection of stream and the center of Viking Drive	*8,945
		Mary Jane Creek	100 feet upstream from confluence with Fraser River	*9,162
		Cooper Creek	10 feet upstream from center of Lagoon Road	*8,989
		Leland Creek	90 feet downstream from the center of the Denver and Rio Grande Western Railroad.	*8,744

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Planning Department, 78 884 U.S. Highway 40, Winter Park, Colorado.				
Send comments to Honorable Nick Teverbaugh, 78 884 U.S. Highway 40, Winter Park Colorado 80482.				
Florida	Town of Cinco Bayou, Okaloosa County	Choctawhatchee Bay	Within community	*6
Maps available for inspection at Town Hall, 35 Kelly Avenue (Cinco Bayou), Fort Walton Beach, Florida.				
Send comments to Honorable May O. Usrey, Mayor, Town on Cinco Bayou, 35 Kelly Avenue, Fort Walton Beach, Florida 32548.				
Florida	Unincorporated areas, Flagler County	Atlantic Ocean	About 150 feet west of shoreline from southern to northern county boundary.	*9
			Along shoreline from southern to northern county boundary.	*13
		Intracoastal Waterway	Along shoreline from southern county boundary to about 4,700 feet north.	*4
			Along shoreline from about 4,800 feet north of confluence of St. Joe Canal to the northern county boundary.	*7
		Middle Haw Creek	Just upstream of State Road 11	*13
			About 1.55 miles upstream of confluence of Middle Haw Creek Tributary No. 2.	*29
		Middle Haw Creek Tributary No. 1	At confluence with Middle Haw Creek	*16
			Just downstream of State Road 11	*16
		Middle Haw Creek Tributary No. 2	At confluence with Middle Haw Creek	*26
			Just upstream of Hudson Road No. 2	*31
		Sixteenmile Creek	At country boundary	*14
			About 1.44 miles upstream of county boundary	*14
		Bulow Creek	At county boundary	*4
			Just downstream of Old Kings Road	*18
		Bulow Creek Tributary	At confluence with Bulow Creek	*12
			About 4,750 feet upstream of confluence with Bulow Creek.	*20
		Sweetwater Branch	Just upstream of State Road 304	*17
			About 1 mile upstream of Hudson Road No. 12	*27
		Black Branch	About 900 feet upstream of confluence with Haw Creek.	*10
			About 4,500 feet upstream of Old Haw Creek Road	*17
		Graham Swamp	At confluence with Bulow Creek	*7
			About 2,200 feet upstream of State Road 100	*13
Maps available for inspection at the County Engineer's Office, Courthouse Annex, P.O. Box 936, Bunnell, Florida 32010.				
Send comments to Honorable Thomas W. Durrance, Chairman, Flagler County Commission, Flagler County Courthouse, P.O. Box 787, Bunnell, Florida 32010.				
Florida	City of Flagler Beach, Flagler County	Atlantic Ocean	Along shoreline about 100 feet inland	*9
			Along shoreline	*13
		Intracoastal Waterway	Along northeast shoreline from about 1,200 feet south of Beachwood Drive to southern Flagler Country Boundary.	*4
			Along Flagler Avenue	*5
			About 200 feet west of North Daytona Avenue from 13th Street north to City of Flagler Beach northern corporate limits.	*5
Maps available for inspection at the City Hall, P.O. Box 758, Flagler Beach, Florida 32036.				
Send comments to Honorable Charles Session, Mayor, City of Flagler Beach, Florida, City Hall, P.O. Box 758, Flagler Beach, Florida 32036.				
Florida	City of Fort Walton Beach, Okaloosa County	Santa Rosa Sound	Along shoreline from about 600 feet south of intersection of Miramar Circle and Miracle Strip Parkway to about 500 feet southwest of intersection of Hood Avenue and Brooks Street.	*6
			At shoreline about 1,000 feet southwest of intersection of Driftwood Avenue and Miracle Strip Parkway.	*9
		Choctawhatchee Bay	About 400 feet south of intersection of Mooney Road and Unwood Road.	*5
			Along shoreline of Negro Bayou	*5
			Along shoreline of Cinco Bayou from Smack Point to about 300 feet east of Nebraska Avenue.	*5
			Along shoreline from east of intersection of Beach View Drive North East and Marshall Drive to about 2,000 feet southwest.	*5
			Along shoreline of Cinco Bayou west of Nebraska Avenue.	*6
			At intersection of Hughes Street North East and Walton Drive.	*6
			At intersection of Pryor Road and Brooks Street	*7
			Along shoreline from east of intersection of Marshall Drive and Beach View Drive North East to about 1,500 feet north.	*7
			Along shoreline from Smack Point to about 400 feet southeast of intersection of Brooks Street and Bay Drive.	*10
Maps available for inspection at Maps available for inspection at City Hall, P.O. Box 4009, Fort Walton Beach, Florida.				
Send comments to Honorable C.L. Engram, City Manager, City of Fort Walton Beach, City Hall, P.O. Box 4009, Fort Walton Beach, Florida 32549.				
Florida	City of Gulf Breeze, Santa Rosa County	Santa Rosa Sound	About 2,000 feet north of Deer Point	*6
			Along shoreline from Fair Point to State Road 399	*8

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Along shoreline from State Road 399 to the eastern corporate limits.	*9
		Pensacola Bay	Along shoreline from about 1,000 feet north-northeast of intersection of Highpoint Drive and Madrid Avenue to the eastern corporate limits.	*5
			Along shoreline from about 1,000 feet east of Fair Point to about 1,000 feet north-northeast of intersection of Highpoint Drive and Madrid Avenue.	*5
Maps available for inspection at City Hall, Gulf Breeze, Florida.				
Send comments to Honorable Jack Tuttle, City Manager, City of Gulf Breeze, City Hall, P.O. Box 640, Gulf Breeze, Florida 32561.				
Florida	City of Mary Esther, Okaloosa County	Santa Rosa Sound	About 400 feet southwest of intersection of west Miracle Strip Parkway and Cristobal Road.	*6
			About 200 feet north of shoreline along Magnolia Avenue.	*7
			Along western corporate limits from about 150 feet north of shoreline to U.S. Highway 98.	*7
			Along shoreline from western corporate limits to Magnolia Avenue.	*8
			Along shoreline from Magnolia Avenue to eastern corporate limits.	*9
Maps available for inspection at City Hall, 195 Christobal Road, North, Mary Esther, Florida.				
Send comments to Honorable Thomas Pryor, Mayor, City of Mary Esther, 195 Christobal Road, North, Mary Esther, Florida 32569.				
Florida	City of Sanibel, Lee County	Gulf of Mexico	Approximately 6,000 feet north of intersection of Gulf Pines Drive and White Ibis Drive.	*8
			Intersection of Lost Colony Road and Wulfort Road	*8
			Intersection of Dixie Beach Boulevard and Angel Drive	*9
			Approximately 2,500 feet north of intersection of Sanibel-Captiva Road and J.N. "Ding" Darling Memorial Wildlife Refuge Drive.	*9
			Intersection of Bay Drive and Bailey Road	*9
			Approximately 1,350 feet north of intersection of Sanibel-Captiva Road and Tarpon Bay Road.	*9
			Along south shoreline from southern end of Bowman's Beach Road to Rabbit Road.	*15
			Along south shoreline from Blind Pass to the southern end of Bowman's Beach Road.	*16
			Along south shoreline from Rabbit Road to Tarpon Bay Road.	*17
			Along south shoreline from Tarpon Bay Road to intersection of Lindgren Boulevard and Sand Dollar Drive.	*19
			Along south shoreline from intersection of Lindgren Boulevard and Sand Dollar Drive to east end of Sanibel Island at Point Ybel.	*20
Maps available for inspection at the City Hall, City of Sanibel, 800 Dunlop Road, Sanibel, Florida.				
Send comments to Honorable Bernard Murphy, Jr., City Manager, City of Sanibel, P.O. Drawer Q, Sanibel Florida 33957.				
Florida	Santa Rosa County	Blackwater River	Just downstream of Louisville and Nashville Railroad	*9
			About 14.3 miles upstream of U.S. Route 90	*39
		East Bay River	At mouth	*7
			At eastern county boundary	*16
		Escambia River	Just downstream of confluence of White River	*9
			About 15.6 miles upstream of State Road 184	*35
		Yellow River	About 3.7 miles downstream of State Road 87	*10
			About 15.3 miles upstream of State Road 87	*31
		Escambia Bay	At eastern shoreline of Escambia Bay about 2.0 miles south of mouth of Trout Bayou.	*6
			At mouth of Escambia River	*13
		East Bay	At southern shoreline of East Bay about 2 miles east of Redfish Point.	*4
			At mouth of Tom King Bayou	*11
		Gulf of Mexico	Along southern shoreline of Santa Rosa Island from about 2,500 feet west of eastern county boundary to eastern county boundary.	*7
			Along southern shoreline of Santa Rosa Island from about 3,500 feet east of intersection of State Road 399 and State Road 87 to about 2,500 feet west of eastern county boundary.	*9
		Blackwater Bay	At Grassy Point	*7
			At Marquis Basin	*9
			Just upstream of Interstate 10	*14
		Santa Rosa Sound	About 500 feet west of intersection of Southside Road and City Road 191.	*6
			Along northern shoreline of Santa Rosa Sound from the eastern end of Southside Road to the eastern county boundary.	*9
Maps available for inspection at the Santa Rosa Administrative Center, 1099 Bagdad Highway, Room 202, Milton, Florida.				
Send comments to Honorable Howard Barns, Chairman, Santa Rosa County Board of Commissioners, Room 107, 801 Caroline Street, S.E., Milton, Florida 32570.				
Florida	Unincorporated area of St. Johns County	Atlantic Ocean	About 150 feet west of shoreline from southern county boundary to about 2.3 miles south of intersection of State Road A1A and State Road 206.	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 200 feet west of shoreline from northern county boundary to St. Augustine Inlet.	*9
			About 300 feet west of shoreline from about 2.3 miles south of intersection of State Road A1A and State Road 206 to southern corporate limits of Town of St. Augustine Beach.	*9
			At intersection of State Road A1A and Ocean Avenue	*9
			At intersection of Barcelona Street and Asturias Street	*9
			About 300 feet west of intersection of Franciscan Way and Barcelona Avenue.	*9
			Along eastern shoreline of Salt Run	*10
			Along shoreline from about 5.5 miles south of intersection of County Highway 203 and State Road A1A to southern county boundary.	*13
			Along shoreline from northern county boundary to about 5.5 miles south of intersection of County Highway 203 and State Road A1A.	*14
		St. Johns River	Along shoreline	*6
		Mantanzas River/Intracoastal Waterway.	Along shoreline from about 2.3 miles south of State Road 206 to southern county boundary.	*7
			Along shoreline from State Road 312 to about 2.3 miles south of State Road 206.	*8
		Mantanzas River/San Sebastian River.	Along shoreline from State Road 312 to Lewis Speedway.	*9
		Shallow Flooding (Ponding from Guano River).	Along shoreline from Guano Lake to Lake Ponte Vedra.	*5
			About 400 feet west of County Highway 203 from State Road A1A to County Highway 201.	*6
			Along shoreline of Lake Vedra	*6
		Guano River	Along shoreline from mouth to Guano Lake	*8
		Tolomato River/Intracoastal Waterway.	Along shoreline from about 3,000 feet south of mouth of Smith Creek to northern county boundary.	*6
			Along shoreline from about 2,000 feet south of mouth of Tolomato River Tributary No. 1 to about 3,000 feet south of mouth of Smith Creek.	*7
		Tolomato River	Along shoreline from Carcaba Road to about 2,000 feet south of mouth of Tolomato River Tributary No. 1.	*8
			Along shoreline from Vilano Beach Bridge to Carcaba Road.	*9
		Shallow Flooding (Ponding behind road on Moultrie Creek Tributary No. 2).	From Vaill Point Road to Shores Boulevard	*13
			From Shores Boulevard to Deltona Boulevard	*19
			From Deltona Boulevard to about 3,000 feet upstream of Deltona Boulevard.	*21
		Cunningham Creek	At mouth	*6
			About 4,600 feet upstream of Unnamed Road crossing	*22
		Deep Creek	At confluence of West Run Cracker Branch	*8
			About 1,800 feet upstream of confluence of Sixteenmile Creek.	*10
		Durbin Creek	At confluence with Julington Creek	*6
			Just upstream of Race Track Road	*12
		Durbin Creek Tributary	A mouth	*6
			Just downstream of Race Track Road	*13
		Kendall Creek	At mouth	*6
			Just upstream of Dirt Road	*24
		Mill Creek	At mouth	*6
			Just downstream of Old Airport Road	*26
		Trout Creek	At mouth	*6
			Just downstream of County Highway 210	*13
		Moses Creek	At mouth	*8
			Just upstream of State Road 206	*29
		Moses Creek Tributary No. 1	At mouth	*8
			Just upstream of State Road 206	*20
		Moses Creek Tributary No. 2	At mouth	*11
			Just downstream of Dirt Road	*15
			Just upstream of Dirt Road	*20
			About 2,500 feet upstream of Shores Boulevard	*22
		Moses Creek Tributary No. 3	At mouth	*11
			About 2,400 feet upstream of mouth	*23
		Moses Creek Tributary No. 4	At mouth	*12
			About 0.65 mile upstream of mouth	*23
		Moses Creek Tributary No. 5	At mouth	*16
			About 0.75 mile upstream of mouth	*26
		Moses Creek Tributary No. 6	At mouth	*26
			About 0.7 mile upstream of mouth	*28
		Moultrie Creek	At mouth	*8
			Just upstream of County Highway 214	*33
		Moultrie Creek Tributary No. 1	At confluence with Moultrie Creek	*8
			Just uptream of Lewis Point Road	*25
		Moultrie Creek Tributary No. 3	About 1.1 miles upstream of mouth	*21
		Moultrie Creek Tributary No. 4	At mouth	*9
			Just upstream of State Road 207	*36
		Sixteenmile	AT mouth	*9
			At southern county boundary	*14
		St. Johns River Tributary No. 1	At mouth	*6
			Just downstream of State Road 13	*16

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of State Road 13	*22
		St. Johns River Tributary No. 2	At mouth	*6
			Just upstream of Dirt Road (about 0.7 mile upstream of mouth).	*12
		St. Johns River Tributary No. 3 Branch No. 1.	At mouth	*6
			About 0.5 mile upstream of State Road 13	*22
		St. Johns River Tributary No. 3 Branch No. 2.	At mouth	*13
			About 1,600 feet upstream of mouth	*24
		St Johns River Tributary No. 4	At mouth	*6
			About 0.55 mile upstream of State Road 13	*23
		St. Johns River Tributary No. 5	At mouth	*6
			About 0.7 mile upstream of State Road 13	*17
		Tolomato River Tributary No. 1	At mouth	*8
			Just downstream of U.S. Route 1	*20
		Tolomato River Tributary No. 2	At mouth	*9
			Just upstream of U.S. Route 1	*27
		Big Lige Branch	At mouth	*8
			About 0.6 mile upstream of mouth	*17
		Flora Branch	At mouth	*6
			About 1.1 miles upstream of Race Track Road	*18
		Kentucky Branch	At mouth	*6
			About 1.4 miles upstream of State Road 13	*24
		Kentucky Branch Tributary	At mouth	*8
			Just upstream of Old Airport Road	*19
		Orange Grove Branch	At mouth	*6
			Just downstream of State Road 13	*7
			Just upstream of State Road 13	*14
			About 1.85 miles upstream of State Road 13	*27
		Petty Branch	At mouth	*6
			Just downstream of State Road 13	*8
			Just upstream of State Road 13	*15
			About 2.0 miles upstream of State Road 13	*27
		Red House Branch	At mouth	*9
			Just upstream of Chicken Farm Road	*28
		West Run Cracker Branch	At mouth	*6
			At western county boundary	*11

Maps available for inspection at the Planning and Zoning Office, P.O. Drawer 349, St. Augustine, Florida 32084.

Send comments to Honorable Chester Benet, Chairman, St. Johns County Commission, P.O. Drawer 300, St. Augustine, Florida 32084.

Florida	City of Valparaiso, Okaloosa County	Turkey Creek	About 2,000 feet upstream of mouth	*6
			About 6,800 feet upstream of mouth	*10
		Choctawhatchee Bay	Along shoreline of Tom's Bayou	*5
			Along shoreline of Boggy Bayou from intersection of East View Avenue and Shore Drive to intersection of Mansfield Street and John Sims Parkway.	*5
			About 2,500 feet south of end of Grandview Avenue	*5
			At shoreline east of intersection of Georgia Avenue and Grand View Avenue.	*5
			At shoreline east of end of Grand View Avenue	*7
			At shoreline east of intersection of Southview Avenue and Bay Shore Drive.	*7

Maps available for inspection at the City Hall, P.O. Box 296, Valparaiso, Florida.

Send comments to Honorable John B. Arnold, Jr., Mayor, City of Valparaiso, P.O. Box 296, Valparaiso, Florida 32580.

Florida	City of Shalimar, Okaloosa County	Choctawhatchee Bay	About 550 feet west of intersection of Shalimar Drive and Richbourg Avenue.	*5
			About 300 feet northeast of intersection of Shalimar Drive and Tinney Trail.	*6
			Along shoreline of Garnier Bayou from about 400 feet south of State Road 85 to about 250 feet west of Old Ferry Road at corporate limits.	*7
			Along shoreline of Garnier Bayou from about 300 feet southwest of intersection of Shalimar Drive and 12th Street to State Road 85.	*7
			Along shoreline of Garnier Bayou from northern corporate limits to about 300 feet southwest of intersection of Shalimar Drive and 12th Street.	*8
			Along shoreline of Garnier Bayou from State Road 85 to about 400 feet south of State Road 85.	*9
			Along shoreline of Garnier Bayou from about 250 feet west of Old Ferry Road at corporate limits to southwest corporate limits.	*8

Maps available for inspection at City Hall, P.O. Box 815, Shalimar, Florida.

Send comments to Honorable Kathleen Bowman, Mayor, City of Shalimar, P.O. Box 815, Shalimar, Florida 32579.

Idaho	Gooding County (unincorporated areas)	Little Wood River	50 feet upstream of center of 7th Avenue	*3547
		Snake River	Intersection of U.S. Highway and Center of Snake River.	*2,881

Maps available for inspection of Gooding County Courthouse, Gooding, Idaho.

Send comments to the Honorable Will H. Thomas, County Courthouse, Gooding, Idaho 83330.

Idaho	Gooding (city), Gooding County	Little Wood River	Intersection of 7th Avenue and Idaho Street	*3,569

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at City Hall, 306 5th Avenue, West, Gooding, Idaho.				
Send comments to the Honorable Gene Heller, 306 5th Avenue, West, Gooding, Idaho.				
Idaho	Lincoln County (unincorporated areas)	Little Wood River (at Shoshone)	50 feet downstream from the center of North Grape Street.	*3,961
		Little Wood River (at Richfield)	300 feet downstream from center of Dietrich Main Canal diversion dam.	*4,274
Maps available for inspection at Lincoln County Corthouse, Shoshone, Idaho.				
Send comments to the Honorable Douglas Hansen, P.O. Box 625, Shoshone, Idaho 83352.				
Idaho	Malad City (city)	Deep Creek Oneida Couty	Interesection of Deep Creek and 90 South Street	*4,538
Maps available for inspection at Waster Office, 59 Bannock, Malad City, Idaho.				
Send comments to the Honorable Terrill Schwartz, 59 Bannock, Malad City, Idaho 83252.				
Idaho	Shoshone (city), Lincoln County	Little Wood River	Intersection of North Edith Street and East 6th Street	*3,969
Maps available for inspection at City Hall, 207 South Rail Street, West, Shoshone, Idaho.				
Send comments to the Honorable Reid Nowby, 207 South Street, West, Shoshone, Idaho 83352.				
Illinois	Uninocorporated areas of Brown County	Illinois River	At downstream County Boundary	*447
			At upstream County Boundary	*448
Maps available for inspection at the County Clerks Office, County Courthouse, Mt. Sterling, Illinois.				
Send comments to Honorable eugene Nelson, Chariman, Brown County Board, County Courthouse, Mt. Sterling, Illinois 62353.				
Illinois	Village of Gullport, Henderson County	Mississippi River	About 0.9 mile upstream of U.S. Highway 34	*535
			About 0.3 mile downstream of Burlington North Railroad.	*534
Maps available for inspection at the Village Hall, Rt. #1, Box G-62, Carman, Illioris.				
Send comments to Honorable Pauline Brown, Village President, Village of Gullport, Village Hall, Rt. #1, Box G-62, Carman, Illinois 61425.				
Illinois	Unincorporated areas, Mercer County	Mississippi River	At downstream county boundary	*543
			At upstream county boundary	*555
Maps available for inspection at the County Office, Mercer County Courthouse, Aledo, Illinois.				
Send comments to Honorable Fred Allen, Chairman, Mercer County Courthouse, Aledo, Illinois 61231.				
Illinois	Village of Pleasant Hill, Pike County	Mississippi River	About 1.2 miles upstream of Lock and Dam No. 24	*458
			About 2.3 miles upstream of Lock and Dam No. 24	*459
Maps available for inspection at the City Hall Building, 104 West Quincy Street, Pleasant Hill, Illinois.				
Send comments to Honorable David L. Windmiller, Village President, Village of Pleasant Hill, Village Hall, P.O. Box 167, Pleasant Hill, Illinois 62366.				
Illinois	Village of Sun River Terrance, Kankakee County	Kankakee River	Within community	*611
Maps available for inspection at the Kankakee County Regional Planning Commission, Courthouse Annex, Kankakee, Illinois.				
Send comments to Honorable Casey Wade, Jr., Village President, Village of Sun river Terrace, Rt. 6, P.O. Box 200A, St. Anne, Illinois 60964.				
IndianaDTown of Milltown, Crawford & Harrison Counties.	Blue River	About 0.51 mile downstream of Main Street.	*546	
		About 0.55 mile upstream of Norfolk Southern Railway.	*553	
Maps available for inspection at the Clerks Office, 330 Harrison Avenue, Milltown, Indiana.				
Send comments to Honorable Joyce Brisco, President, Town of Milltown, P.O. Box 96, Milltown Indiana 47145.				
Kansas	City of Wichita, Sedgwick County	Arkansas River	About 1.9 miles downstream of 47th Street South	*1,258
			About 0.4 mile upstream of State Highway 16	*1,330
		Little Arkansas River	Mouth at Arkansas River	*1,294
			Just downstream of Control Structure No. 1	*1,310
			Just upstream of Control Structure No. 1	*1,325
		Dry Creek	Mouth at Gypsum Creek	*1,290
			At confluence of East Branch Dry Creek	*1,339
		East Branch Dry Creek	At confluence with Dry Creek	*1,339
			Just downstream of Central Avenue	*1,365
		West Branch Dry Creek	At confluence with Dry Creek	*1,339
			Just upstream of 14th Street	*1,389
		Wichita Drainage Canal	Mouth at Arkansas River	*1,274
			At confluence of Center Drain Tributary	*1,305
		Center Drain Tributary	At confluence with Wichita Drainage Canal	*1,305
			Just downstream of Missouri Pacific Railroad	*1,308
		Center Drain East Tributary	Mouth of Storm Water Management Basin	*1,317
			About 6,100 feet upstream of mouth	*1,336
		East Fork Chisholm Creek	AT confluence with Wichita Drainage Canal	*1,304
			Just upstream of Hillside Avenue	*1,339
			Just downstream of Missouri Pacific Railroad	*1,368
			Just upstream of Missouri Pacific Railroad	*1,376
			About 0.36 mile upstream of Missouri Pacific Railroad	*1,377
		East Fork Chisholm Creek Tributary No. 3.	Mouth of East Fork Chisholm Creek	*1,340
			Just downstream of 37th Street North	*1,371
		East Fork Chisholm Creek Tributary No. 5.	Mouth at East Fork Chisholm Creek	*1,346
			Just upstream of Woodlawn Avenue	*1,359

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Fork Chisholm Tributary No. 7.	Mouth at East Fork Chisholm Creek	*1,362
			Just downstream of Missouri Pacific Railroad	*1,368
		Middle Fork Chisholm Creek	Mouth of Wichita-Valley Center Floodway	*1,325
			About 0.11 mile upstream of Atchison Topeka & Sanata Fe Railway.	*1,328
			Just upstream of Hydraulic Avenue	*1,338
			Just downstream of State Route 254	*1,343
		Main Fork Chisholm Creek	Within Community	*1,325
		Gypsum Creek	Mouth of Wichita Drainage Canal	*1,279
			At confluence of West Branch Gypsum Creek	*1,340
		West Branch Gypsum Creek	At confluence with Gypsum Creek	*1,340
			Just upstream of Farmview Drive	*1,381
		Middle Branch Gypsum Creek	At confluence with Gypsum Creek	*1,340
			Just downstream of 21st Street	*1,376
		East Branch Gypsum Creek	At confluence with Gypsum Creek	*1,335
			Justy downstream of Central Avenue	*1,346
		Armour Branch Gypsum Creek	Mouth at Gypsum Creek	*1,320
			Just downstream of Central Avenue	*1,371
		Fabrique Branch Gypsum Creek	Mouth at Gypsum Creek	*1,315
			About 100 feet upstream of Zimmerly Avenue	*1,325
		Rock Road South	At confluence with Gypsum Creek	*1,325
		Tributary Gypsum Creek	Just downstream of Harry Street	*1,325
			Just upstream of Harry Street	*1,330
			About 0.75 mile upstream of Harry Street	*1,344
		Hoover Street Drain-Dugan Tributary.	Just upstream of Control Structure	*1,304
			Just upstream of Ridge Road	*1,319
		Calfskin Creek	Mouth at Cowskin Creek	*1,314
			Just downstream of US Highway 54	*1,322
		North Fork Calfskin Creek	Just upstream of Maple Street	*1,321
			About 1,500 feet upstream of confluence of Middle Fork Calfskin Creek.	*1,326
		AMiddle Fork Calfskin Creek	Within community	*1,324
		Cowskin Creek	Just upstream of Tyler Road	*1,303
			About 0.6 mile upstream of 13th Street North	*1,339
		Westlink Tributary to Cowskin Creek.	Mouth at Cowskin Creek	*1,317
			About 1,800 feet upstream of 13th Street North	*1,341
		Third Street Drain	Mouth at Wichita Drainage Canal	*1,297
			About 250 feet upstream of Lorraine Street	*1,324
		Big Slough North	Mouth at Wichita-Valley Center Floodway	*1,310
			Just downstream of 13th Street North	*1,317
			About 1.5 miles upstream of 13th Street North	*1,322
		Big Slough South	Just upstream of Hydraulic Avenue	*1,264
			About 0.52 mile upstream of Meridian Avenue	*1,287
		Pleasant Valley Tributary	Just upstream of Control Structure	*1,323
			About 1,750 feet upstream of Interstate 235	*1,327
		Wichita-Valley Center Flood-Way—Little Arkansas River.	About 0.5 mile downstream of Atchison Topeka and Santa Fe Railway.	*1,296
			About 1.4 miles upstream of Interstate 235	*1,325
		Frisco Ditch	Within community	#1
		Chisholm Creek	Just south of Interstate 235	#1
			Just north of Interstate 235	#1
		Spring Branch Tributary No. 4	Within community	*1,332

Maps available for inspection at the Engineering Department, City Hall, 455 North Main Street, Wichita, Kansas.

Send comments to Honorable E. H. Denton, City Manager, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67203.

Kentucky	City of Elkhorn City, Pike County	Russell Fork	About 0.55 mile downstream of Chessie System	*770
			About 1.2 miles upstream of Center Street (east crossing).	*817

Maps available for inspection at City Hall, Elkhorn City, Kentucky.

Send comments to Honorable Johnny Moore, Mayor of Elkhorn City, City Hall, Elkhorn City, Kentucky 41522.

Kentucky	City of Salyersville, Magoffin County	Licking River	About 1.2 miles downstream of Licking Avenue	*852
			About 700 feet upstream of Mountain Parkway	862
		State Road Fork	Within community	*856
		Burning Fork	At mouth	*857
			About 740 feet upstream of Ward Road	*859

Maps available for inspection at City Hall, Salyersville, Kentucky.

Send comments to Honorable Jim Bostic, Mayor, City of Salyersville, City Hall, Salyersville, Kentucky 41465.

Louisiana	East Baton Rouge Parish	Indian Bayou	Approximately .73 mile downstream of Port Hudson-Pride Road.	*96
			Upstream side of Port Hudson-Pride Road	*102
			Approximately .73 mile upstream of Port Hudson-Pride Road.	*105
		Baker Canal	Upstream side of Kansas City Southern Railroad	*63
			At downstream City of Baker Corporate limits	*68
		Upper Cypress Bayou	At City of Baker corporate limits	*76
			At confluence of South Canal	*79
		South Canal	At confluence with Upper Cypress Bayou	*79
			At confluence of Upper White Bayou	*83
		Upper White Bayou	At confluence with South Canal	*83
			At downstream Zachary corporate limits	*92

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 75 feet downstream of Illinois Central Gulf Railroad.	*98
		Hub Bayou	At confluence with Amite River	*61
			Approximately 1.3 miles upstream of State Highway 37	*72
			Approximately 1.9 miles downstream of Hubbs Road	*78
		Shoe Creek Tributary No. 1	At confluence with Shoe Creek	*54
			Approximately 1,200 feet downstream of Hooper Road	*60
		Blackwater Bayou Tributary No. 1	At confluence with Blackwater Bayou	*62
			Upstream side of Core Lane	*71
			Upstream side of McCullough Road	*78
		Blackwater Bayou Tributary No. 2	At confluence with Blackwater Bayou	*69
			Upstream side of Blackwater Road	*74
			Approximately 1,100 feet upstream of Private Road	*76
		Amite River	At confluence with Comite River	*42
			Upstream side Morgan Road (extended	*47
			At confluence with Hub Bayou	*61
		Draughans Creek	At confluence with Comite River	*45
			Approximately 1,300 feet downstream of Greenwell Springs Road.	*47
			Approximately 100 feet upstream of Greenwell Springs Road.	*51
			Approximately 2 miles upstream of Greenwell Springs Road.	*62
		Beaver Bayou	At confluence with Comite River	*45
			Approximately 50 feet upstream of Greenwell Springs Road.	*53
			Approximately 25 feet upstream of Wax Road	*61
			Upstream side of Hubbs Road	*76
		Shoe Creek	At confluence with Comite River	*48
			At confluence of Shoe Creek Tributary No. 1	*54
			At Ben Dickey Drive (extended)	*59
		Monte Sano Bayou	Approximately 100 feet downstream of Illinois Central Gulf Railroad.	*48
			Upstream side of Interstate Route 110	*54
		Engineer Depot Canal	Downstream side of Sarasota Drive	*45
			Upstream side of Sherwood Forest Boulevard	*53
		Wards Creek	Upstream side of Government Street	*48
			Upstream side of North Street	*52
			Approximately 1,082 feet upstream of Fairfield Avenue	*54
		Robert Canal	At confluence with Robert Canal Tributary No. 1	*53
			Upstream side of Ford Avenue	*54
		Robert Canal Tributary No. 1	At confluence with Robert Canal	*53
			Approximately 1,200 feet upstream of Homewood Drive.	*55
		Bayou Duplantier/Corporation Canal.	Upstream side of Lee Drive	*27
			At Louisiana State University parking lot access road	*28
		Dawson Creek	Downstream side of College Drive	*29
			Upstream side of Acadian Thruway	*32
			Approximately 1,270 feet upstream of Clay Cut Road	*37
		Honey Cut Bayou	Approximately 250 feet upstream of O'Neal Lane	*41
			Approximately 100 feet upstream of Millerville Road	*42
		Bayou Fountain Tributary No. 1	Upstream side of Fulmer Skipwith Road	*17
			Approximately .9 mile upstream of Highland Road	*26

Maps available for inspection at the Parish Police Jury, Parish Courthouse, Baton Rouge, Louisiana.

Send comments to Honorable Pat Screen, P.O. Box 1471, Baton Rouge, Louisiana 70821.

Maine	Cumberland, town, Cumberland County	Casco Bay	Shoreline at Ebb Tide Drive (extended)	*10
			Shoreline at Town Landing Road (extended)	*12
			Shoreline at Pine Lane (extended)	*15
			Shoreline at Seacore Road (extended)	*13
			Shoreline at Stonaway Road (extended)	*13
			Enrire west shoreline of Great Chebeague Island	*10
			Shoreline at Newell Road (extended)	*12
			Shoreline at Central Landing	*11
			Shoreline at South Shore Road (extended)	*14
			Shoreline approximately 1,500 feet south of South Shore Road (extended).	*20
			Entire east shoreline of Sturdivant Island	*12
			Entire west shoreline of Sturdivant Island	*10
			Entire shoreline of Basket Island	*10
			Entire shoreline of Upper Green Islands	*10
			Entire shoreline of Crow Island (North)	*9
			Entire shoreline of Crow Island (South) within community.	*15
			Entire east shoreline of Hope Island	*13
			Entire west shoreline of Hope Island	*10
			Entire shoreline of Sand Island	*9
			Entire shoreline of Rogues Island	*9
			Entire shoreline of Bates Island	*9
			Entire shoreline of West Brown Cow Island	*9
			Northeast shoreline of Jewell Island	*15
			Shoreline at Punchbowl Cove of Jewell Island	*20
			Entire west shoreline of Jewell Island within community.	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available for inspection at the Office of Mr. Robert Littlefield, Code Enforcement Officer, Cumberland, Maine. Send comments to Honorable Robert Benson, Cumberland Town Manager, Cumberland Town Offices, P.O. Box 128, Cumberland, Maine 04021.				
Maine	Howland, town, Penobscot County	Penobscot River	Downstream corporate limits	*147
			At State Route 155	*150
			Upstream side of Stanford Dam	*162
			Approximately 2.23 miles upstream of Stanford Dam	*166
			Upstream corporate limits	*171
		Piscataquis River	At confluence with Penobscot River	*150
			Approximately .81 mile upstream of confluence with Penobscot River.	*160
			Upstream side of Interstate 95 (southbound)	*166
			At Seboeis Road (extended)	*170
			At upstream corporate limits	*175
Maps available for inspection at Town Manager's Office, Lincoln, Maine. Send comments to Honorable Glena Armor, Manager of the Town of Howland, Town Hall, 11 Lincoln Street, Howland, Maine 04448.				
Massachusetts	Beverly, town, Essex County	Massachusetts Bay	At intersection of Hale Street and eastern corporate limits.	*9
			At intersection of Boston and Maine Railroad and eastern corporate limits.	#1
			At eastern corporate limits	*13
			Shoreline 0.5 mile southwest of eastern corporate limits.	*20
			Approximately 1,000 feet east of intersection of Boston and Maine Railroad and West Street.	#2
			Approximately 500 feet southwest of intersection of Boston and Maine Railroad and West Street.	#2
			Approximately 250 feet northeast of end of Haven State Drive.	#1
			At end of Second Avenue	#1
			Shoreline at Second Avenue extended	*16
			Approximately 300 feet northeast of south end of Pickman Road Road.	*10
			Shoreline approximately 0.5 mile west of Paine Avenue extended.	*28
			Shoreline approximately 1,900 feet east of mouth of Centerville Creek.	*30
			Approximately 1,000 feet east of eastern intersection of Hale Street and Witch Lane.	#1
			Approximately 1,000 feet south of intersection of Hale and Prince Street.	*10
			Shoreline at Prince Street extended	*14
		Beverly Harbor	Shoreline at Hospital Point	*31
			Approximately 700 feet southwest along Lothrop Street from intersection with Hale Street.	*11
			Shoreline at Elm Top Lane extended	*15
		North Beverly Drainage Ditch	Approximately 50 feet upstream of Boston and Maine Railroad.	*19
			Upstream side of Russell Street	*21
		Chubbs Brook	Upstream side of Beach Street	*10
			Upstream side of Oak Street	*18
			Approximately 50 feet upstream of Hale Street	*25
		Centerville Creek	Approximately 110 feet downstream of Hale Street	*10
			Downstream side of Tall Tree Drive	*42
			Upstream side of Common Lane Street	*55
Maps available for inspection at the City Hall, Department of Public Works, Beverly, Massachusetts. Send comments to Honorable F. John Monahan, Mayor of the Town of Beverly, 191 Cabot Street, Beverly, Massachusetts 01915.				
Massachusetts	Hingham, town, Plymouth County	Weymouth Back River	Shoreline at Beal Cove	*12
			Shoreline at Foley Beach Road (extended)	*15
		Hingham Bay	Shoreline at Malcolm Street (extended)	*15
			West shoreline at Worlds End	*11
		Hingham Harbor	Shoreline at Ship Street (extended)	*14
			Shoreline at Cushing Way (extended)	*11
		Weir River	East shoreline at Worlds End	*14
			Shoreline at Gilford Road (extended)	*11
			At Rockland Street	*12
			Foundry Pond	*18
			Upstream side of State Route 228	*22
			Upstream side of Leavitt Street	*27
			Downstream side of Free Street	*29
			Upstream side of Free Street	*29
		Crooked Meadow River	Downstream side of Cushing Pond Dam	*44
		Plymouth River	Upstream side of Cushing Pond Dam	*49
			Downstream side of Cushing Street	*51
			Upstream side of Old Ward Street	*62
			Approximately 0.39 mile upstream of Old Ward Street	*65
		Town Brook	Upstream end of channel leading to culvert to Hingham Harbor.	*11
			Downstream side of South Street	*18
			Approximately 0.19 mile upstream Country Club entrance.	*22
		Accord Brook	Mast Hill Road (extended)	*108
			Upstream side of Prospect Street	*114

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 200 feet upstream of Main Street (State Route 28).	*125
		Eel River	Approximately 100 feet downstream of Cushing Street	*50
			Upstream side of Stagecoach Road	*56
			Approximately 600 feet upstream of Brewster Road	*100
		Turkey Hill Run	Upstream Rockland Street	*12
			Upstream side of Hull Street	*18
			Downstream side of CONRAIL	*35
			Approximately 100 feet upstream of East Street	*39
		Straits Pond	Entire shoreline within community	*12

Maps available for inspection at the Hingham Planning Board, Hingham, Massachusetts.

Send comments to Honorable Kate Mahony, Chairman of the Board of Selectmen for the Town of Hingham, Town Office Building, 7 East Street, Hingham, Massachusetts 02043.

Massachusetts	Newburyport, city, Essex County	Atlantic Ocean	Shoreline at southeastern corporate limits	*14
			At Woodbridge Island	*9
			Shoreline at Ocean Avenue extended	*12
			At approximately 400 feet east of Northern Boulevard on north side of Plum Island.	#1
		Merrimack River	Shoreline at Jefferson Street extended	*9
			At Deer Island Bridge	*10
			At confluence of Artichoke River	*13
			Lower Artichoke Reservoir shoreline within community	*13
		Upper Artichoke Reservoir	Entire shoreline within community	*14

Maps available for inspection at the Community Development Department, City Hall, Pleasant Street, Newburyport, Massachusetts.

Send comments to Honorable Richard Sullivan, Mayor of the City of Newburyport, Essex County, City Hall, Pleasant Street, Newburyport, Massachusetts 01950.

Massachusetts	Plymouth, town, Plymouth County	Massachusetts Bay	Shoreline of Saquish Neck at Duxbury-Plymouth corporate limits.	*17
			Shoreline of Saquish Neck approximately 2,200 feet south of Duxbury-Plymouth corporate limits.	*23
			Southern shoreline of Saquish Neck	*16
			Northern shoreline of Saquish Neck	*11
			Southeast shoreline of Clarks Island	*14
			Shoreline at Hedge Road (extended)	*15
			Shoreline at confluence of Town Brook	*12
			Shoreline of west side of Long Beach	*11
			Shoreline east of breakwater on Long Beach	*17
			Shoreline at Gate Road (extended)	*27
			Area along eastern shoreline of Saquish Neck	#2
			Area of Warren Avenue approximately 1,200 feet northwest of intersection with Clifford Road.	#2
			Shoreline approximately 1,800 feet east of Gate Road (extended).	*30
		Cape Cod Bay	Shoreline at Warrendale Road (extended)	*33
			Shoreline at Homer Avenue (extended)	*15
			Shoreline at Hiawatha Road (extended)	*19
			Shoreline at Indian Hill Road (extended)	*20
			Shoreline at George Street (extended)	*25
			Shallow flooding areas along shoreline	#2
		Bartlett Pond	Entire shoreline of Bartlett Pond	*11
		Ship Pond	Entire shoreline of Ship Pond	*14
		Eel River	At River Street	*11
			Upstream side Old Sandwich Road	*13
			Downstream side State Route 3 northbound	*26
			Upstream side of Russell Millpond Road	*31
			Approximately 350 feet upstream of Russell Millpond Road.	*58
		Buttermilk Bay	Red Brook at upstream side of Red Brook Lane	*15
		Town Brook	At Water Street	*11
			Upstream side Newfield Road	*35
			Downstream side Billington Street	*79
			Approximately 800 feet upstream of Little Pond Road	*83
		Branch of Eel River	Approximately 500 feet downstream of Clifford Road	*11
			Upstream side of Old Sandwich Road	*21
		Indian Brook	Downstream side of Seaview Drive	*19
			Downstream side State Route 3A	*29
		Beaver Dam Brook	Approximately 1,000 feet downstream of Brook Road	*11
			Approximately 2,750 feet upstream of State Route 3A	*20
		Kings Pond	Entire shoreline of Kings Pond	*123
		Billington Sea	Entire shoreline of Billington Sea	*83

Maps available for inspection at the Town Clerk's Office, Plymouth, Massachusetts.

Send comments to Honorable William Nolan, Chairman of the Board of Selectmen for the Town of Plymouth, Town Hall, Plymouth, Massachusetts 02360.

Massachusetts	Salisbury, town, Essex County	Merrimack River	At upstream corporate limits	*10
			Approximately 1 mile downstream of upstream corporate limits.	*9
		Atlantic Ocean	Shoreline at north corporate limits	*15
			At intersection of North End Boulevard and Beach Road.	*9
			Shoreline at Ocean Street (extended)	*16
			Shoreline west of Railroad Avenue and Atlantic Avenue intersection.	*15
			Shoreline at mouth of Merrimack River at south corporate limits.	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Shoreline of Merrimack River at confluence of Shad Creek.	*9
			At U.S. Route 1 crossing over Merrimack River	*9
		Shallow Flooding	Area west of intersection of 16th Street West and North End Boulevard.	#1
			Area approximately 150 feet southeast of intersection of Central Avenue and North End Boulevard.	#1
			Area northeast of Drift Way and Central Avenue intersection.	#1

Maps available for inspection at the Office of the Building Inspector's, Salisbury, Massachusetts.

Send comments to Honorable Alfred Sargent, Chairman of the Board of Selectmen for the Town of Salisbury, Town Hall, P.O. Box 72, Salisbury, Massachusetts 01950.

Massachusetts	Yarmouth, town, Barnstable County	Nantucket Sound	Shoreline at Bayview Street (extended)	*16
			Shoreline at Beach Road (extended)	*19
			Shoreline at Smith's Point	*10
			Shoreline at Point Gammon	*19
			Shoreline at Bass River Light	*15
		Cape Cod Bay	Shoreline at mouth of Lone Tree Creek	*15
			Shoreline at mouth of Chase Garden Creek	*17
		Bass River	Shoreline at Bass River Terrace (extended)	*13
			Shoreline at Highland Avenue (extended)	*9
			Shoreline at Oyster Cove Road (extended)	*7
			Entire Shoreline of Follins Pond	*5
		Parkers River	Shoreline at Compass Drive (extended)	*11
			South end of Niagra Lane	*13
			Entire shoreline of Swan Pond	*9

Maps available for inspection at the office of Mr. Ed Donnelly, Town Planner, Yarmouth Town Hall, South Yarmouth, Massachusetts.

Send Comments to Honorable Robert Lawton, Executive Secretary of the Board of Selectmen for the Town of Yarmouth, Yarmouth Town Hall, South Yarmouth, Massachusetts 02664.

New Jersey	Pequannock, township, Morris County	Pompton River	At downstream corporate limits	*181
			Approximately 200 feet upstream of State Route 23	*183
			At confluence with Pequannock River and Ramapo River.	*186
		Pequannock River	At confluence with Pompton River	*186
			At upstream corporate limits	*189
		Ramapo River	At confluence with Pompton River	*186
			At upstream corporate limits	*186
		East Ditch	At downstream corporate limits	*189
			Approximately 300 feet upstream of Sunset Road	*189
			At downstream side of Mountain Avenue	*198
		West Ditch	At downstream corporate limits	*193
			Downstream side of Sunset Road	*208
			At upstream corporate limits	*218
		Tributary to East Ditch	At confluence with East Ditch	*191
			Approximately 300 feet upstream of Mountain View Road.	*236

Maps available for inspection at the Pequannock Municipal Building, 530 Newark Pompton Turnpike, Pequannock, New Jersey.

Send comments to Honorable Harry Gerkan, Pequannock Township Manager, 530 Newark Pompton Turnpike, Pompton Plains, New Jersey 07444.

New Jersey	Pompton Lakes, borough, Passaic County	Pequannock River	At downstream corporate limits	*186
			At upstream side of Riverdale Road	190
			At upstream corporate limits	*214
		Ramapo River	At downstream corporate limits	*186
			At upstream side of Pompton Lakes Dam	*207
			At upstream corporate limits	*209
		Posts Brook	At confluence with Wanaque River	*203
			At upstream side of Broad Street	*207
			At breached dam below Lower Twin Lake	*211
		Acid Brook	At confluence with Ramapo River	*207
			Approximately 125 feet upstream of Lakeside Avenue	*213
			At upstream side of North Legion Street	*221
			Approximately 420 feet above Dupont Place	*224
		Lower Twin Lake	Entire shoreline within community	*211

Maps available for inspection at the Municipal Clerk's Office, Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, New Jersey.

Send Comments to Honorable Charles C. Romain, Jr., Mayor of the Borough of Pompton Lakes, Municipal Building, 25 Lenox Avenue, Pompton Lakes, New Jersey 07442.

New Jersey	South Brunswick, township of, Middlesex County	Lawrence Brook	Corporate limits at confluence of Ireland Brook	*55
			Upstream side of Davidsons Mill Road	*57
			Upstream side of Dam, located just upstream of Riva Avenue.	*65
			Upstream side of Pigeon Swamp Road	*67
			Upstream side of Georges Road	*72
			At CONRAIL crossing, just upstream of Dayton Road	*89
		Trib. To Lawrence Brook	At Confluence with Lawrence Brook	*72
			Downstream of Deans Lane	*83
		Great Ditch	At confluence with Lawrence Brook	*70
			Approximately 1270 feet upstream of confluence with Lawrence Brook.	*75
		Ireland Brook	At confluence with Lawrence Brook	*55
			Upstream side at Fresh Ponds Road	*71
			Upstream side of Beckman Road	*75
			Upstream corporate limits	*81
		Oakeys Brook	At confluence with Lawrence Brook	*55
			Upstream side of Davidson Mill Road	*83

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of U.S. Route 130	*90
			Upstream side of downstream crossing of CONRAIL	*93
			Upstream side of Dam	*100
			Upstream side of U.S. Route 1	*107
			Upstream side of Kroy Drive	*117
			Downstream side of Henderson Road	*131
		Trib. to Oakeys Brook	At confluence with Oakeys Brook	*105
			Upstream side of Black Horse Lane	*110
			Upstream side of Henderson Road	*129
			Approximately 970 feet upstream of Henderson Road	*133
		Cow Yard Brook	At confluence with Oakeys Brook	*93
			Upstream side of Black Horse Lane	*99
			Approximately 525 feet upstream of Deans Lane	*108
		Six Mile Run Branch	Downstream corporate limits	*148
			Upstream side of Langley Road	*161
			Upstream side of Stillwell Road (upstream crossing)	*179
			Approximately 1,213 feet upstream of Stillwell Road	*192
		Trib. to Six Mile Run Branch	At confluence with Six Mile Run Branch	*162
			Upstream side of Sand Hills Road	*179
			Approximately .4 mile upstream of Sand Hills Road	*204
		Millstone River	Upstream side of State Route 27 at downstream corporate limits.	*56
			Upstream corporate limits	*57
		Heathcote Brook	Upstream side of State Route 27 at corporate limits	*56
			Upstream side of Ridge Road	*61
			Upstream side of U.S. Route 1	*71
			At confluence of Switzgable Brook	*80
			Upstream side of New Road	*124
			Approximately 100 feet upstream of most upstream dam.	*181
		Switzgable Brook	At confluence with Heathcote	*80
			At New Road	*81
		Heathcote Brook Branch	At confluence with Heathcote Brook	*72
			At U.S. Route 1	*76
		Carters Brook	At confluence with Heathcote Brook	*63
			Upstream side of Raymond Road	*82
			Approximately .2 mile downstream of Old Road	*180
			Upstream corporate limits	*214
		Trib. to Carters Brook	At confluence with Carters Brook	*82
			At State Route 27	*113
		Trib. to Heathcote Brook	At confluence with Carters Brook	*63
			Upstream side of Brook Drive East	*89
			Upstream corporate limits	*97
		Devils Brook	Downstream corporate limits	*84
			Upstream side of Culver Road	*93
			Upstream side of Hay Press Road	*94
		Shallow Brook	Downstream corporate limits	*81
			Upstream side of Rowland Road	*85
			First upstream corporate limits at U.S. Route 130 crossing.	*108
			At second upstream corporate limits	*110
			At most upstream corporate limits	*126
		Ten Mile Run	At downstream corporate limits	*137
			Upstream side of New Road	*153
			Approximately 260 feet downstream of Hastings Road	*172
		Tribs. No. 1 to Ten Mile Run	At confluence with Ten Mile Run	*140
			Approximately 75 feet upstream of New Road	*156
			Upstream side of Allstone Road	*178
		Trib. No. 2 to Ten Mile Run	At confluence with Ten Mile Run	*148
			Upstream side of Rumson Road	*162
			Approximately 330 feet downstream of Kendall Road	*172

Maps are available for inspection at the Engineer's office, Municipal Building, Monmouth Junction, New Jersey.

Send comments to Honorabel Howard Bellizil, Mayor of the Township of South Brunswick, Municipal Building, Monmouth Junction, New Jersey 08852.

New York	Goshen, town, Orange County	Walkill River	At downstream corporate limits	*366
			Upstream side of New York Routes 6 and 17M	*376
			Upstream side of Maple Avenue	*382
		Rio Grande	Confluence with Walkill River	*368
			Upstream side of 6½ Station Road	*380
			At Village of Goshen corporate limits	*412
		Quaker Creek	Approximately 1,500 feet downstream of Pulaski Highway.	*384
			Downstream side of Pumpkin Swamp Road	*387
			At confluence of Brown Creek	*400
		Brown Creek	At confluence with Quaker Creek	*400
			Upstream side of First Private Drive	*422
			Approximately 0.8 mile upstream of New York Route 94.	*447
		Otter Kill	At downstream corporate limits	*366
			Upstream side of Craigville Road	*374
			Upstream side of Old Chester Road	*406
			Approximately 0.4 mile upstream of Maple Avenue	*435
		Otter Kill, Tributary 12	Confluence with Otter Kill	*368
			Upstream side of Coleman Road	*382
			Approximately 50 feet upstream of Craigville Road	*398
		Black Meadow Brook	Confluence with Otter Kill	*379
			Upstream side of Old Chester Road	*387
			At upstream corporate limits	*405

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available for inspection at the Clerk's office and the Building Inspector's office, Goshen Town Hall, Goshen, New York.				
Send comments to Honorable Myron Urbanski, Town Supervisor of Goshen, Town Hall, 41 Webster Avenue, Goshen, New York 10924.				
New York	Nyack, village, Rockland County	Hudson River	Entire shoreline within community	*8
Maps available for inspection at the Building Inspector's office and the Clerk's office, Village Hall, 12 North Broadway, Nyack, New York.				
Send comments to Honorable William Volk, Mayor of the Village of Nyack, Village Hall, 12 North Broadway, Nyack, New York 10960.				
North Dakota	Barnes (township), Cass County	Sheyenne River	Intersection of Sheyenne River and County Road 8	*908
Maps available for inspection at Barnes Township Supervisor's Home, Rural Route 1, Fargo, North Dakota.				
Send comments to the Honorable James Lee, Rural Route 1, Fargo, North Dakota 58102.				
North Dakota	Briarwood (city), Cass County	Red River of the North	At southern corporate limits of the City of Briarwood	*906
Maps available for inspection at the City Auditor's Office, 22 Briarwood, Briarwood, North Dakota.				
Send comments to the Honorable Aldon Foss, 10 Briarwood Place, Briarwood, North Dakota 58103.				
North Dakota	Fort Ransom (city), Ransom County	Sheyenne River	Intersection of Sheyenne River and center of County Highway 11.	*1,133
Maps available for inspection at Department of Planning and Zoning, Main Avenue, Fort Ransom, North Dakota.				
Send Comments to the Honorable Kenneth Goethe, Main Avenue, Fort Ransom, North Dakota 58033.				
North Dakota	Hillsboro (city), Traill County	Goose River	Intersection of Goose River and center of Burlington Northern Railroad.	*898
Maps available for inspection at the City Auditor's Office, South Main Street, Hillsboro, North Dakota.				
Send comments to the Honorable Winston Marsden, P.O. Box J, Hillsboro, North Dakota 58045.				
North Dakota	Horace (city), Cass County	Sheyenne River	Instersection of Wall Avenue and Sheyenne Drive	*915
Maps available for inspection at City Hall, Horace, North Dakota.				
Send comments to the Honorable Donald Goerger, P.O. Box 99, Horace, North Dakota 58047.				
North Dakota	Lisbon (city), Ransom County	Sheyenne River	Intersection of Fifth Avenue (State Highway 27) and Harris Street.	*1,088
Maps available for inspection at City Hall, 18 4th Avenue West, Lisbon, North Dakota.				
Send comments to the Honorable Cleive Cole, P.O. Box 591, Lisbon, North Dakota 58054.				
North Dakota	North River (city), Cass County	Red River of the North	100 feet east of the intersection of County Road No. 31 and Reed Drive.	*892
Maps available for inspection at the City Auditor's Office, City Hall, North River, North Dakota.				
Send comments to the Honorable Thomas Bersvth, Rural Route 2, Box 8CC, North River, North Dakota 58102.				
North Dakota	Prairie Rose (city), Cass County	Red River of the North	700 feet north of the intersection of Riverview Drive and County Highway 8, on Rose Coulee.	*903
Maps available for inspection at City Auditor's Office, City Hall, Prairie Rose, North Dakota.				
Send comments to the Honorable Dale Skjefte, Rural Route 1, Prairie Rose, North Dakota 58103.				
North Dakota	Ransom County (unincorporated areas)	Sheyenne River (at Lisbon)	Intersection of Sheyenne River and center of an unnamed road located in Sections 23 and 24 of Township 134 North and Range 58 West.	*1,081
		Sheyenne River (at Fort Ransom)	150 feet upstream from State Park Bridge	*1,141
Maps available for inspection at the County Auditor's Office, Ransom County Courthouse, Lisbon, North Dakota.				
Send comments to the Honorable Francis Archbald, P.O. Box 668, Lisbon, North Dakota 58054.				
North Dakota	Riverside (city), Cass County	Sheyenne River	Intersection of Sheyenne River and Burlington Northern Railroad.	*900
		County Drain 21	Intersection of County Drain 21 and Burlington Northern Railroad.	*900
Maps available for inspection at the Department of Planning and Zoning, 108 West Main Avenue, Riverside, North Dakota.				
Send comments to the Honorable Kim Simonsen, 108 West Main Avenue, Riverside, North Dakota 58078.				
North Dakota	West Fargo (city), Cass County	Sheyenne River	Intersection of 7th Avenue West and Sheyenne Street	*902
		County Drain 21	Intersection of County Highway 10 and County Highway 19.	*899
Maps available for inspection at the Engineer's Office, 800 4th Avenue East, West Fargo, North Dakota.				
Send comments to the Honorable Clayton A. Lodoen, 800 4th Avenue East, West Fargo, North Dakota 58078.				
Ohio	Village of Carey, Wyandot County	Spring Run	At confluence of Dry Run	*810
			Just upstream of Conrail (upstream crossing)	*826
		Dry Run	Just upstream of East Findlay Street	*810
			About 1,700 feet upstream of East Findlay Street	*814
		Brown Ditch	At confluence with Spring Run	*815
			About 1,475 feet upstream of North Vance Street	*819
		Shallow Flooding	Near crossing of Conrail and East North Street	#1

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Municipal Building, 127 North Vance, Carey, Ohio.				
Send comments to Honorable John Updegraff, Mayor, Village of Carey, 127 North Vance Street, Carey, Ohio 43316				
Oregon	Cottage Grove (city) Lane County	Coast Fork Willamette River	120 feet upstream from the center of State Highway 99.	*631
		Row River	1,350 feet northeast of the intersection of Davidson Avenue and Row River Cutoff Road.	*641
		Silk Creek	100 feet west along Anthony Avenue from its intersection with M Street.	*645
Maps available for inspection at the Planning Department, 400 Main Cottage Grove, Oregon.				
Send comments to the Honorable William Whiteman, 400 Main, Cottage Grove, Oregon 97424.				
Pennsylvania	Waynesboro, borough, Franklin County	West Branch Antietam Creek	Approximately 225 feet downstream of most downstream corporate limits.	*600
			At upstream side of West Main Street	*608
			Approximately 100 feet upstream of most upstream corporate limits.	*612
		East Branch Antietam Creek	At downstream side of South Welty Road	*599
			At upstream corporate limits	*603
			Approximately 1,275 feet upstream of upstream corporate limits.	*608
		Red Run	At confluence with East Branch Antietam Creek	*599
			At upstream side of Baer Road	*607
			Approximately 800 feet upstream of Baer Road	*610
Maps available for inspection at the Municipal Building, 57 East Main Street, Waynesboro, Pennsylvania.				
Send comments to Honorable Kinney Stouffer, Council President, Franklin County, P.O. Box 310, 57 East Street, Waynesboro, Pennsylvania 17268.				
Rhode Island	Jamestown, town, Newport County	Rhode Island Sound	Shoreline at Beavertail Point	*27
			Shoreline 1,000 feet north of Lion Head	*35
			Shoreline 100 feet north of Hope Street (extended)	*24
		Narragansett Bay	Shoreline at Hull Cove	*16
			Shoreline at Short Point	*30
			Shoreline 500 feet south of Fort Getty Road extended	*18
			Shoreline at Fort Getty Road extended	*14
			Shoreline 500 feet east of Southwest Point	*39
			Entire shoreline of Fort Cove	*15
			Shoreline at Newport Bridge	*16
			Shoreline of Sheffield Cove at Pierce Avenue extended.	*14
			Shoreline of Dutch Island at southernmost point	*17
			Shoreline at western end of Narragansett Boulevard extended.	*19
		Jamestown Brook	Upstream side Lower Jamestown Reservoir Dam	*17
			Upstream side of North Main Road	*25
			Downstream side of Eldred Avenue	*27
		Sheffield Cove Bay	Upstream Maple Avenue	*12
			Upstream side of Narragansett Avenue	*34
		Beacon Avenue Tributary	Approximately 80 feet downstream of Seaside Drive	*12
			Upstream side of Seaside Drive	*20
			Downstream side of Beach Avenue	*55
			Upstream Steamboat Street	*59
			Downstream side of Spiketing Street	*60
		Conanicut Brook	Approximately 440 feet downstream East Shore Road	*15
			Approximately 50 feet downstream East Shore Road	*26
			Approximately 200 feet upstream of Park Avenue	*45
Maps available for inspection at the Clerk's Office, Town Hall, Jamestown, Rhode Island.				
Send comments to Honorable Jerry L. McIntire, President of the Town Council of Jamestown, Town Hall, 30 Highland Drive, Jamestown, Rhode Island 02835.				
Texas	Baytown, city, Harris & Chambers Counties	Cedar Bayou (Q100-00-00)	At confluence with Galveston Bay (F200-00-00)	*12
			Approximately 2,000 feet downstream of State Route 146.	*14
			At upstream corporate limits	*16
		Cary Bayou (Q112-00-00)	At confluence with Cedar Bayou (Q100-00-00)	*15
			At furthest upstream corporate limits	*20
		Goose Creek (Q100-00-00)	At confluence with San Jacinto River (G103-00-00)	*12
			At confluence of East Fork Goose Creek (Q105-00-00).	*13
			Approximately 200 feet upstream of Baker Road	*21
			At upstream corporate limits	*28
		East Fork Goose Creek (0105-00-00).	At confluence with Goose Creek	*13
			Downtown side of Baker Road	*16
			Approximately 150 feet upstream of Lynchburg-Cedar Bayou Road.	*25
			Approximately 2,300 feet upstream of Lynchburg-Cedar Bayou Road.	*28
		Spring Gully (0200-00-00)	At confluence with San Jacinto River (G103-00-00)	*12
			Downstream side of Interstate Route 10	*15
			At upstream corporate limits	*31
		Burnett Bay	At confluence of Spring Gully	*15
			Southern side of Shreck Avenue at intersection with Bayshore Drive.	*16
		Crystal Bay	Shoreline at West Bayshore Drive (extended)	*16

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Southern side of Crow Avenue-approximately 250 feet east of intersection with Bayshore Drive.	*16
		Scott Bay	Shoreline on southeast side of Mapleton Avenue	*16
			Shoreline on southwest side of Bayway Drive approximately 1,500 southeast of intersection with Park Drive.	*15
		San Jacinto River	Shoreline at Oklahoma Avenue (extended)	*15
			At confluence of Goose Creek (0100-00-00)	*15
			Approximately 125 feet northeast of intersection of State Routes 146 and 201.	*12
		Black Duck Bay	Shoreline at intersection of Maryland and Missouri Streets.	*15
			Approximately 110 feet southwest of intersection of Missouri Street and State Route 201.	*12
		Tabbs Bay	Shoreline at confluence with Goose Creek	*15
			Approximately 625 feet west of Lee Drive (extended)	*13
		Galveston Bay	Shoreline at Cedar Bayou Lake Drive (extended)	*19
			At confluence of Cedar Bayou	*12
Maps available for inspection at the City Hall, Baytown, Texas.				
Send comments to Honorable Allan Cannon, Mayor of the City of Baytown, Harris and Chambers Counties, P.O. Box 424, Baytown, Texas 77520.				
Texas	Edgecliff, Village, Tarrant County	Edgecliff Branch	Approximately 100 feet upstream of Sycamore Creek Road.	*673
			Just upstream of FM 731 (Crowley Road)	*697
Maps available for inspection at the Edgecliff City Hall, 1605 Edgecliff Road, Fort Worth, Texas.				
Send comments to Honorable Tony Sims, Mayor of the Village of Edgecliff, 1605 Edgecliff Road, Fort Worth, Texas 76134.				
Texas	LaPorte, City, Harris County	Galveston Bay (F200-00-00)	Entire shoreline within community	*17
		San Jacinto River (G103-00-00)	Corporate limits located approximately 400 feet northeast of Marker Drive and corporate limits in northern section of community.	*12
			Shoreline of Upper San Jacinto Bay within community	*15
			Shoreline of Lower San Jacinto Bay within community	*13
		Taylors Bayou (A104-00-00)	At corporate limits	*11
			Approximately .53 mile upstream of corporate limits	*11
		Big Island Slough (B106-00-00)	Downstream corporate limits	*16
			Upstream side of Fairmont Parkway	*18
			Upstream side of Spencer Highway	*20
			At North P Street	*23
		Willow Springs Bayou (B112-00-00).	Downstream corporate limits	*21
			Upstream corporate limits	*23
		Tributary 1.78 to Willow Springs Bayou (B112-02-00).	Confluence with Willow Springs Bayou (B112-00-00)	*23
			At corporate limits	*25
		Little Cedar Bayou	At Old State Route 146	*13
			Downstream side of Fairmont Parkway	*15
			Approximately 900 feet upstream of East Main Street	*20
			Upstream side of Southern Pacific Railroad	*21
Maps available for inspection at the Building Official's Office, Fairmont Parkway, LaPorte, Texas.				
Send comments to Honorable Virginia Cline, Mayor of the City of LaPorte, Harris County P.O. Box 1115, LaPorte, Texas 77571.				
Texas	North Richland Hills, City, Tarrant County	Big Fossil Creek	Downstream side of Broadway Avenue	*512
			At Onysc Drive North (Extended)	*523
			At downstream side of St. Louis—Southwestern Railroad.	*540
		Stream PB-6	At downstream corporate limits	*524
			Approximately 150 feet upstream of upstream corporate limits, at limit of flooding affecting community.	549
		Stream BF-7	At confluence with Big Fossil Creek	*535
			Approximately 1,130 feet upstream of confluence with Big Fossil Creek.	*538
		Calloway Branch	Approximately 375 feet downstream of corporate limits at Glenview Drive, at limit of flooding affectiog community.	*555
			At upstream side of Interstate Route 820	*582
			At upstream side of Holiday Lane	*602
			At upstream side of Chapman Dirve	*625
			Approximately 50 feet downstream of Starnes Road	*658
		Stream CB-1	At confluence with Calloway Branch	*603
			Approximately 250 feet upstream of Hewitt Street	*656
		Sheet Flow Area	North of Bogart Drive	#1
		Stream CB-1 Diversion	At confluence with Calloway Branch	*608
			At confluence with Stream CB-1	613
		Stream CB-2	At confluence with Calloway Branch	*617
			Upstream side of Hightower Drive	*646
			Approximately 100 feet downstream of Starnes Road	*670
		Little Bear Creek	Corporate limits at Precinct Line Road	*612
			At upstream side of Davis Boulevard	*633
			At upstream corporate limits	*661
		Stream LB-1	At confluence with Little Bear Creek	*622
			At downstream side of Davis Boulevard	*648
		Stream LB-2	At confluence with Little Bear Creek	*629
			At downstream side of Shady Grove Road	*663
		Mackey Creek	At downstream side of State Route 26	*533
			At upstream side of Onysc Drive North	*558
			At upstream side of Glenview Drive	*583

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 100 feet downstream of Riviera Drive	*604
		Mackey Creek, Diversion North	At confluence with Big Fossil Creek	*513
			At confluence with Mackey Creek, Diversion South	*532
		Mackey Creek, Diversion South	Approximately 540 feet downstream of downstream corporate limits, at limit of flooding affecting community.	*513
			At confluence with Mackey Creek	*539
		Singing Hills Creek	Approximately 1,200 feet upstream of confluence with Big Fossil Creek, at limit of flooding affecting community.	*541
			At Old Mill Circle (Extended), at limit of flooding affecting community.	*581
		Walker Branch	At State Routes 121/183, at limit of flooding affecting community.	*567
			At upstream side of Cardinal Lane	*609
			Approximately 150 feet downstream of Hightower Drive.	*636
		Stream WKB-1	At confluence with Walker Branch	*607
			At upstream side of Cardinal Lane	*623

Maps available for inspection at the City Hall, 7301 Northeast Loop 820, North Richland Hills, Texas.

Send comments to Honorable Don Echols, Mayor of the City of North Richland Hills, P.O. Box 18609, North Richland Hills, Texas 76118.

Texas	Olney, City, Young County	Salt Creek	Approximately 800 feet upstream of confluence of Mud Creek.	*1,174
			Upstream side of State Route 199	*1,179
			Approximately 400 feet upstream of Avenue C	*1,187
		Mud Creek	Corporate limits located just downstream of State Route 79.	*1,175
			Approximately 150 feet upstream of Spring Creek Road.	*1,187
			Approximately 800 feet upstream of most upstream corporate limits.	*1,196

Maps available for inpection at City Hall, 201 East Main Street, Olney, Texas.

Send comments to Honorable Jack Northrup, City Administrator of Olney, 201 East Main Street, Olney, Texas 76374.

Texas	Pasadena, City, Harris County	Galveston Bay (F200-00-00)	Shoreline at El Jardin Drive (extended)	*18
			At confluence of Barge Canal with Boggy Bayou	*12
		Clear Creek (Clear Lake) (A100-00-00).	Shoreline at Denton Drive (extended)	*15
			Approximately 100 feet northeast of NASA Road at mouth of Forrest Lake.	*12
		Taylors Bayou (A104-00-00)	Downstream Corporate limits	*11
			Upstream corporate limits	*11
		Tributary 3.10 to Taylors Bayou (A104-04-00).	At confluence with Taylors Bayou (A104-00-00)	*11
			Approximately 0.65 mile upstream of confluence with Taylors Bayou (A104-00-00).	*11
		Tributary 3.36 to Taylors Bayou (A104-13-00).	At confluence with Taylors Bayou (A104-00-00)	*11
			Approximately 1,360 feet upstream of pipeline crossing	*11
		Tributary 3.93 to Taylors Bayou (A104-07-00).	At confluence with Taylors Bayou (A104-00-00)	*11
			Approximately 175 feet downstream of corporate limits	*11
		Forrest Lake-Armand Bayou (B100-00-00).	Approximately 550 feet upstream of NASA Road	*11
			At confluence of Horsepen Bayou (B104-00-00)	*11
			Approximately 0.47 mile upstream of confluence of Spring Gully (B109-00-00).	*15
			Upstream side of Genoa-Red Bluff Road	*20
			Approximately 600 feet upstream of Fairmont Parkway	*25
			Approximately 350 feet upstream of Dupont Street	*30
		Horsepen Bayou (B104-00-00)	At confluence with Armand Bayou (B100-00-00)	*11
			Approximately 1,500 feet upstream of Escuela Lane	*16
		Big Island Slough (B106-00-00)	At confluence with Armand Bayou (B100-00-00)	*12
			At upstream corporate limits	*17
		Spring Gully (B109-00-00)	At confluence with Armand Bayou (B100-00-00)	*15
			Approximately 1,050 feet downstream of corporate limits.	*19
		Tributary 9.40 to Armand Bayou (B110-00-00).	At confluence with Armand Bayou (B100-00-00)	*19
			Upstream corporate limits	*19
		Willow Springs Bayou (B112-00-00).	At confluence with Armand Bayou (B100-00-00)	*21
			Upstream Corporate limits	*21
		Tributary 10.46 to Armand Bayou (B113-00-00).	At confluence with Armand Bayou (B100-00-00)	*22
			Upstream side of Jana Lane	*27
			Approximately 0.51 mile upstream of Jana Lane	*29
		Tributary 12.18 to Armand Bayou (B115-00-00).	At confluence with Armand Bayou (B100-00-00)	*26
			Downstream side of Beltway 8 (southbound)	*30
		Buffalo Bayou (W100-00-00)	At confluence of Tributary 6.77 to Buffalo Bayou	*12
		Glenmore Ditch (G108-00-00)	At downstream corporate limits	*18
			Upstream side of Port Terminal Railroad	*23
			Approximately 500 feet upstream of State Route 225	*29
		Tributary 6.77 to Buffalo Bayou	At downstream corporate limits	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 780 feet upstream of downstream corporate limits.	*12
		Tributary 8.17 to Buffalo Bayou	At downstream corporate limits	*12
			Approximately 50 feet downstream of Port Terminal Railroad crossing.	*12
		Vince Bayou (I100-00-00)	At downstream corporate limits	*12
			At State Route 225	*14
			Approximately 300 feet downstream of West Harris Avenue.	*16
			At West Southmore Avenue	*24
			Upstream side of Queens Road	*29
			Approximately 1,500 feet upstream of Spencer Highway.	*33
			Approximately 100 feet upstream of Fairmont Parkway	*35
		Little Vince Bayou (I101-00-00)	At downstream corporate limits	*12
			Upstream side of West Shaw Avenue	*19
			At Jackson Avenue	*25
			At Jenkins Road	*28
			Upstream of Blake Avenue	*30
			Downstream side of Wichita Street	*33

Maps available for inspection at 1211 East Southmore, Pasadena, Texas.

Send comments to Honorable Johnny Isabel, Mayor of the City of Pasadena, Harris County, P.O. Box 672, Pasadena, Texas 77501.

Texas	South Houston, City, Harris County	Berry Bayou (C106-00-00)	At downstream corporate limits	*23
			Approximately 200 feet upstream of College Avenue	*25
			At confluence of Tributary 3.31	*29
			At upstream corporate limits	*33
		Tributary 20 to Berry Bayou (C106-03-00).	At downstream corporate limits	*32
			Approximately 900 feet upstream of Michigan Avenue	*33
			At upstream corporate limits	*34
		Tributary 3.31 to Berry Bayou (C106-06-00).	At confluence with Berry Bayou	*29
			At upstream corporate limits	*33
			Approximately .5 mile upstream of corporate limits	*36

Maps available for inspection at the City Hall, 1018 Dallas Street, South Houston, Texas.

Send comments to Honorable Lynn Brasher, Mayor of the City of South Houston, Harris County, P.O. Box 238, South Houston, Texas 77587.

Washington	Orting (City), Pierce County	Puyallup River—with consideration Levee.	110 feet upstream from the center of Orting-Kapowsin Highway.	*196
		Puyallup River—without consideration of levee.	At the intersection of Kansas Avenue and Ford Lane	*194
		Carbon River—with consideration of levee.	100 feet downstream from the southern corporate limits.	*200
		Carbon River—without consideration of levee.	100 feet East on Calistoga Avenue from the intersection of Calistoga Avenue and River Street.	*182

Maps available for inspection at City Hall, Orting, Washington.

Send Comments to Honorable W. Harman, P.O. Box 489, Orting, Washington 97360.

Washington	Pacific County (Unincorporated Areas	Pacific Ocean	2000 feet west of intersection of State Highway 105 and Cranberry Beach Extension County Road.	*24
		Shallow Flooding	1,300 feet west of intersection of Ocean Beach Highway and Pioneer Road.	#1

Maps available for inspection at Planning Department, 300 Memorial Avenue, South Bend, Washington.

Send Comments to Honorable Andrew Monson, P.O. Box 187, South Bend, Washington 98586.

Washington	Spokane County (Unincorporated Areas)	Chester Creek	Intersection of Chester Creek and center of Bowdish Road.	*2,005
		Country Homes Drainage	Intersection of Whitehouse and Barnes Street	*1,941
		Hangman Creek	260 feet upstream from center of Hatch Road	*1,844
		Little Spokane River	Intersection of Little Spokane River and center of Colbert Road.	*1,638
		Newman Lake	Along entire lake shoreline	*2,126
		Saltese Creek	30 feet upstream of center Barker Road	*2,038
		Saltese Flats	South of dike	*2,045

Maps available for inspection at the Public Works Department, Public Safety Building, West 1100 Mallon Avenue, Spokane, Washington.

Send Comments to Honorable T.F. Shepard, Public Safety Building, West 1100 Mallon Avenue, Spokane, Washington 99260.

Wisconsin	Village of Wilton, Monroe County	Kickapoo River	About 0.41 mile downstream of South Water Street	*955
			About 0.52 mile upstream of Walker Street	*979

Maps available for inspection at the Village President's Office, Village Hall, Main & Center, Wilton, Wisconsin.

Send Comments to Honorable Rudolph Polstin, President, Village of Wilton, Village Hall, Main & Center, Wilton, Wisconsin 54670.

(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 19867; and delegation of authority to the Administrator)

Issued: January 25, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85–2922 Filed 2–5–85; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6643]

Proposed Flood Elevation Determinations; Arkansas, 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 Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0700.

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 premium 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
Arkansas	Dardanelle, city, Yell County	Arkansas River	Entire area within community affected by 100-year flooding.	N/A	*320
		Town Ditch	Entire area within community affected by 100-year flooding.	N/A	*326
		Smiley Bayou	Downstream corporate limits	N/A	*324
			Upstream corporate limits	N/A	*329
Maps available for inspection at the Dardanelle City Hall, 120 North Front Street, Dardanelle, Arkansas.					
Send comments to Honorable Dana Merritt, Mayor of the City of Dardanelle, P.O. Box V, Dardanelle, Arkansas 72834.					
Arkansas	Dumas, city, Desha County	Canal No. 19	At State Route 54	N/A	*157
Maps available for inspection at the Dumas Municipal Building, 155 East Dumas, Arkansas.					
Send comments to Honorable Jesse Free, Mayor of the City of Dumas, Dumas Municipal Building, 155 East Waterman, Dumas, Arkansas 71639.					
Arkansas	Ola, city, Yell County	Keeland Creek	Approximately 240 feet downstream of downstream corporate limits.		*323
			Upstream side of State Highway 7 & 10		*348
			Approximately 880 feet upstream of confluence with Keeland Creek Tributary 1.		*369
		Keeland Creek Tributary 1	Confluence with Keeland Creek		*362
			Approximately 1,660 feet upstream of confluence with Keeland Creek.		*397
Maps available for inspection at the Ola City Hall, Fourche Avenue, Ola, Arkansas.					
Send comments to Honorable James O. Pennington, Mayor of the City of Ola, City Hall, P.O. Box 6, Ola, Arkansas 72853.					
California	Antioch (city), Contra Costa County.	East Antioch Creek	Downstream edge of East 18th Street	*11	*12

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
Maps available for inspection at the Planning Department, City Hall, Third and H Streets, Antioch, California.					
Send comments to the Honorable Verne Roberts, P.O. Box 130, Antioch, California 94509.					
California	Carpinteria (city), Santa Barbara County.	Pacific Ocean	At shoreline approximately 500 feet south of the intersection of Verde Street and Calle Pacifico.	(1)	*8
Maps available for inspection at City Hall, 5775 Carpinteria Avenue, Carpinteria, California.					
Send comments to the Honorable John K. Fukafawa, 5775 Carpinteria Avenue, Carpinteria, California 93013.					
California	Corona (city), Riverside County	Temescal Wash	Intersection of Cota Street and Harrison Street	*583	Zone B
			100 feet upstream from center of River Road	*591	*577
Maps available for inspection at Department of Public Works, 815 West Sixth Street, Corona, California.					
Send comments to the Honorable Richard Deininger, P.O. Box 940, Corona, California 91720.					
California	Laguna Beach (city), Orange County.	Pacific Ocean	Along shoreline at Diamond Street extended	(1)	*15
Maps available for inspection at City Hall, 505 Forest Avenue, Laguna Beach, California.					
Send comments to the Honorable Dan Kennedy, 505 Forest Avenue, Laguna Beach, California 92651.					
California	Porterville (city), Tulare County	Tule River	Upstream edge of State Highway 65 Crossing	*432	*434
			Upstream edge of Jaye Street Crossing	*441	*443
Maps available for inspection at Engineering Department, City Hall, Porterville, California.					
Send comments to the Honorable Steven Tree, P.O. Box 432, Porterville, California 93257.					
California	San Bernardino County (unincorporated areas).	Sheet Flow	Intersection of Wilson Avenue and Day Creek Channel	#3	#1
Maps available for inspection at Transportation and Flood Control Department, 825 East Third Street, San Bernardino, California.					
Send comments to the Honorable Cal McElwain, 175 West Fifth Street, 2nd Floor, San Bernardino, California 92415.					
California	Santa Paula (city), Ventura County.	Santa Clara River	Approximately 100 feet downstream of intersection of Montebello and Ojai Street.	*246	*251
		Santa Paula Creek (formerly Profile Base Line 3).	At High Street extended	*364 (Zone A)	#3 (Zone AE)
Maps available for inspection at the Public Works Department, 970 Ventura Street, Santa Paula, California.					
Send comments to the Honorable Carl Barringer, P.O. Box 569, Santa Paula, California 93060.					
California	Seal Beach (city), Orange County.	Pacific Ocean	At shoreline, approximately 200 feet southwest from intersection of Seal Way and Dolphin Avenue, along Dolphin Avenue extended.	(1)	*12
Maps available for inspection at the Public Work Department, 211 8th Street, Seal Beach, California.					
Send comments to the Honorable Oscar Brownell, 211 8th Street, Seal Beach, California 90740.					
California	Ukiah (city), Mendocino County	Orrs Creek	30 feet upstream of center or Orr Street	*610	*609
Maps available for inspection at Department of Planning, 203 South School Street, Ukiah, California.					
Send comments to the Honorable Charles G. Myers, 203 South School Street, Ukiah, California 95482.					
California	Visalia (city), Tulare County	Shallow Flooding (Mill Creek, Mill Creek Ditch, Evans Ditch, and Persian Ditch).	Intersection of Walnut Avenue and Heritage Drive	Zone B	Zone AH (*308)
		Shallow Flooding (Packwood Creek).	Intersection of Walnut Avenue and Tracy Court	Zone AO (#1)	Zone AH (*338)
		Shallow Flooding (Mill Creek and Persian Ditch).	At Visalia Municipal Airport	Zone AO (#1 and #2)	Zone AH (*292)
Maps available for inspection at City Department of Public Works, 707 W. Acequia Street, Visalia, California.					
Send comments to the Honorable Berkley Johnson, 707 W. Acequia Street, Visalia, California 93291.					
Colorado	Gunnison (city), Gunnison County.	Gunnison River	400 feet west of the intersection of Eighth Street and Denver Street.	*7,682	*7,685
Maps available for inspection at the Planning Department, 201 West Virginia, Gunnison, Colorado.					
Send comments to the Honorable Jessie Stone, P.O. Box 299, Gunnison, Colorado 81230.					
Connecticut	Norwich (city), New London County.	Trading Cove Brook	At confluence with Thames River	*13	*14
			Approximately 350 feet downstream of West Thames Street.	*13	*14
		Thames River	Downstream corporate limits	*13	*14
			Shipping Street (extended)	*14	*15
			Confluence with Yantic and Shetucket Rivers	*14	*15
		Yantic River	Confluence with Thames River	*14	*15
		Yantic River East Channel	Downstream confluence with Yantic River	N/A	*15
			Upstream confluence with Yantic River	N/A	*15
		Shetucket River	Confluence with Thames River	*14	*15
			Upstream of State Highway 2	*14	*15
		Spaulding Pond Brook	Confluence with Shetucket River	*14	*15
		Tributary F	Confluence with Thames River	*13	*15

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
Maps available for inspection at the City Hall, Norwich, Connecticut.					
Send comments to Honorable Charles Whitty, City Manager of Norwich, City Hall, Norwich, Connecticut 06360.					
Florida	Unincorporated areas of Monroe County.	Gulf of Mexico	Intersection of Watson Road and Matthews Road	None	*11
			Intersection of Sunset Road and Cardinal Lane	None	*10
			About 500 feet north of intersection of Minorca Drive and Coral Way.	None	*12
			About 250 feet east of intersection of Central Avenue and Geraldine Street.	None	*11
			Intersection of Key Deer Boulevard and Miami Avenue	None	*9
			About 250 feet west of intersection of Bittersweet Avenue and Geranium Drive.	None	*10
			Intersection of Cactus Street and Kyle Boulevard	None	*10
			Intersection of Donna Road and Kyle Boulevard	None	*11
		Atlantic Ocean	Entire shoreline of Cudjoe Key south of U.S. Route 1	*12	*12
			About 500 feet east of west coastline of Cudjoe Key south of U.S. Route 1.	*11	*8
Maps available for inspection at the Civil Defense Department, 310 Fleming Street, Key West, Florida.					
Send comments to Honorable Kermit Lewin, County Administrator, Monroe County, P.O. Box 93, Key West, Florida 33040.					
Florida	City of Palm Bay, Brevard County.	Indian River	Along entrie shoreline from about 400 feet north of Victoria to about 500 feet south of Frank Street.	*7	*9
			About 700 feet downstream of U.S. Highway 1 over Trukey Creek.	*7	*8
Maps available for inspection at City Hall, 2145 Palm Bay Road, N.E., Palm Bay, Florida.					
Send comments to Honorable Richard Diamond, Deputy City Manager, City of Palm Bay, 175 N.W. Palm Bay Road, Palm Bay, Florida 32905.					
Illinois	City of Crystal Lake, McHenry County.	Crystal Creek	About 4800 feet downstream of Dartmoor Drive	*852	*853
			Just downstream of Dartmoor Drive	*871	*874
			Just upstream of Dartmoor Drive	*872	*878
			Just downstream of Lake Avenue	*893	*893
Maps available for inspecton at the Planning Department, 240 Commerce Drive, Crystal Lake, Illinois.					
Send comments to Honorable Carl E. Wehde, Mayor, City of Crystal Lake, P.O. Box 597, Crystal Lake, Illinios 60014.					
Kansas	Kansas City (city), Wyandotte County.	Benner Heights Creek	About 550 feet upstream of Freeman Avenue	*825	*825
			Just downstream of Parallel avenue	*842	*843
			about 0.5 mile upstream of 59th Street	*876	*872
		Brenner Heights Creek Tributary	At confluence with Brenner Heights Creek	*763	*763
			About 500 feet upstream of confluence with Brenner Heights Creek.	*765	*763
			About 1350 feet upstream of confluence with Brenner Heights Creek.	*767	*767
Maps available for inspection at the Planning Department, 7th Floor, 701 North Seventh Street, Kansas City, Kansas 66101.					
Send comments to Honorable James Medin, City Administrator, City of Kansas City, Municipal Office Building, 701 North Seventh Street, Kansas City, Kansas 66101.					
Louisiana	Shreveport, city, Caddo County	Francis Shirley Lateral	Approximately 100 feet upstream of confluence with Industrial Park Lateral.	N/A	*207
			At Woolworth Road approximately 25 feet downstream of corporate limits.	N/A	*213
		Gilmer Bayou	Approximately 1,050 feet upstream of Colquitt Road	N/A	*172
			Approximately 1,160 feet downstream of confluence of Industrial Park Lateral at corporate limits.	N/A	*173
			Approximately 980 feet upstream of confluence of Industrial Park Lateral at corporate limits.	N/A	*173
		Industrial Park Lateral	At confluence with Gilmer Bayou	N/A	*173
			Approximately 1,010 feet upstream of confluence with Gilmer Bayou.	N/A	*173
		McCain Creek	Approximately 0.6 mile upstream of Cooper Road	N/A	*170
		Bayou Pierre	Corporate limits (extended) located approximately 300 feet upstream of Industrial Loop Expressway.	N/A	*161
			Downstream side of Texas and Pacific Railroad	N/A	*162
		Sand Beach Bayou	At Flournoy Lucas Road	N/A	*159
			At Texas and Pacific Railroad	N/A	*159
		Bickham Bayou	Approximately 1,200 feet downstream of Yontan Road	N/A	*199
			Approximately 280 feet downstream of Yontan Road	N/A	*202
		Cross Lake	Portion of lake just northeast of Lakeshore Drive	N/A	*176
Maps available for inspection at the Shreveport City Hall, 1234 Texas Avenue, Shreveport, Louisiana.					
Send comments to Honorable John B. Hussey, Mayor of the City of Shreveport, P.O. Box 31109, Shreveport, Louisiana 71130.					
Ohio	Village of Dublin, Franklin & Delaware Counties.	Scioto River	Just upstream of Hayden Run Road	None	*772
			Just upstream of U.S. Route 33	*774	*777
			At Interstate 270	*779	*780
			Just upstream of Tributary S3	*786	*788
			At corporate limit just upstream of Deer Run	None	*797
		Indian Run	At mouth at Scioto River	*777	*778
			Approximately 270 feet upstream of High Street	*778	*778
		Tributary S1	At mouth at Scioto River	*773	*776
			Approximately 600 feet upstream of mouth	*776	*776
		Tributary S2	At mouth at Scioto River	*781	*781
			Approximately 550 feet upstream of mouth	*780	*781

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
Maps available for inspection at 6665 Coffman Road, Dublin, Ohio 43017.					
Send comments to Honorable James E. Lewis, Mayor, Village of Dublin, 6665 Coffman Road, Dublin, Ohio 43017.					
Pennsylvania	Mount Carmel, Borough, Northumberland County.	Shamokin Creek	At upstream corporate limits	*1,074	*1,079
Maps available for inspection at the Borough Manager's Office, 100 North Vine Street, Mount Carmel, Pennsylvania.					
Send comments to Honorable Joseph K. Bass, Borough Manager of Mount Carmel, 100 North Vine Street, Mount Carmel, Pennsylvania 11951.					
Tennessee	City of Chattanooga, Hamilton County.	West Chickamauga Creek	At mouth	*677	*676
			At confluence of Spring Creek	*677	*676
		Spring Creek	At mouth	*677	*676
			About 690 feet upstream of Spring Creek Road	*678	*680
Maps available for inspection at the Planning Commission, City Hall, East Eleventh Street, Chattanooga, Tennessee.					
Send comments to Honorable Gene Roberts, Mayor, City of Chattanooga, City Hall, East Eleventh Street, Chattanooga, Tennessee 37402.					
Texas	Brookside Village, city, Brazoria County.	Clear Creek	Upstream of Mykawa Road at downstream corporate limits (extended)	*48	*47
			At upstream corporate limits (extended)	*51	*52
Maps available for inspection at the Brookside Village City Hall, 6200 Brookside Road, Brookside Village, Texas.					
Send comments to Honorable Phillip W. Rutter, Mayor of the City of Brookside Village, Route 3, Box 3440, Brookside Village, Texas 77581.					
Texas	Caldwell County	San Marcos River	1.36 miles upstream of State Route 142 extended in Martindale.	*536	*537
			2.56 miles upstream of State Route 142 extended in Martindale.	*546	*544
			Upstream side of County Road 21 at county boundary	*559	*558
Maps available for inspection at the Caldwell County Courthouse, Lockhart, Texas.					
Send comments to Honorable L. W. Scott, Caldwell County Judge, c/o Courthouse, Room 307, Lockhart, Texas 78644.					
Texas	Wichita Falls, city, Wichita County.	Wichita River	Approximately 1.5 miles downstream of most downstream corporate limits.	*939	*936
			Confluence of Holliday Creek	*941	*938
			Confluence of East Plum Creek	*942	*940
			Upstream side of Eastside Drive	*946	*944
			Upstream side of Scott Street	*947	*945
			Approximately 0.8 mile upstream of Red River Expressway.	*948	*948
			Approximately 0.8 mile upstream of most upstream corporate limits.	*953	*952
		East Plum Creek	Confluence with Wichita River	*942	*940
			Approximately 1,500 feet upstream of confluence with Wichita River.	*942	*941
			Approximately 40 feet upstream of F.M. Highway 171	*945	*946
Maps available for inspection at the Wichita Falls City Hall, 1300 Seventh Street, Wichita Falls, Texas.					
Send comments to Honorable Gary D. Cook, Mayor of the City of Wichita Falls, Texas 76307.					
Virginia	Loudoun County	South Fork Catoctin Creek	Upstream side of State Route 711	N/A	*464
			Approximately 1.2 miles upstream of State Route 711 (2nd crossing).	N/A	*635
		North Fork Catoctin Creek	Approximately 250 miles downstream of State Route 611.	N/A	*450
			Approximately 1.2 miles upstream of State Route 751	N/A	*598
		Quarter Branch	Approximately 1.4 miles upstream of confluence with Potomac River.	N/A	*277
			Approximately 2.6 miles upstream of State Route 663	N/A	*460
		Catoctin Creek	Downstream side of State Route 672	N/A	*242
			At confluence of North and South Forks Catoctin Creek.	N/A	*340
		Dutchman Creek	Downstream side of State Route 674	N/A	*271
			Approximately 300 feet downstream of Nicewarner Road.	N/A	*477
		Tributary to Dutchman Creek	At confluence with Dutchman Creek	N/A	*410
			Approximately 500 feet upstream of State Route 673 (2nd crossing).	N/A	*469
		Little River	At confluence with Goose Creek	N/A	*280
			Approximately 100 feet downstream of county boundary.	N/A	*388
		Pantherskin Creek	At confluence with Goose Creek	N/A	*362
			Approximately 400 feet downstream of county boundary.	N/A	*502
		Tributary to Pantherskin Creek	At confluence with Pantherskin Creek	N/A	*478
			Approximately 300 feet downstream of State Route 619.	N/A	*500
		North Fork Goose Creek	At confluence with Goose Creek	N/A	*292
			Approximately .3 mile upstream of State Route 782	N/A	*449
		Hungry Run	At confluence with Little River	N/A	*337
			Approximately 600 feet downstream of confluence with Little River.	N/A	*414
		Beaverdam Creek	At confluence with North Fork Goose Creek	N/A	*305
			Approximately .8 mile upstream of State Route 623	N/A	*507
		North Fork Beaverdam Creek	At Confluence with Beaverdam Creek	N/A	*334
			Approximately 200 feet downstream of State Route 719.	N/A	*443

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
		Simpsons Creek	Downstream side of State Route 719	N/A	*500
			At State Route 711	N/A	*684
		Crooked Run	At confluence with North Fork Goose Creek	N/A	*312
			Approximately .5 mile upstream of State Route 726	N/A	*372
		Goose Creek	At confluence with Potomac River	N/A	*214
			Upstream side of Old U.S. Route 50	N/A	*386
		Milltown Creek	At confluence with Catoctin Creek	N/A	*294
			Approximately .5 mile upstream of State Route 682	N/A	*569
		Cattail Branch	At State Route 773	N/A	*231
			Approximately .4 mile upstream of U.S. Route 15 Bypass.	N/A	*309
		Elklick Run	Downstream side of State Route 620	N/A	*252
			Approximately 1.2 miles upstream of State Route 621	N/A	*294
		Stallion Branch	Approximately 500 feet upstream of Dulles International Airport boundary.	N/A	*263
			Approximately .7 mile upstream of confluence with Tributary of Stallion Branch.	N/A	*285
		Tributary to Stallion Branch	At confluence with Stallion Branch	N/A	*271
			Approximately .3 mile upstream of confluence with Stallion Branch.	N/A	*276
		Limestone Branch	Approximately 500 feet upstream of confluence with Potomac River.	N/A	*226
			Approximately 3.6 miles upstream of confluence with Potomac River.	N/A	*497
		Tributary to Limestone Branch	At confluence with Limestone Branch	N/A	*235
			Upstream side of State Route 698	N/A	*402
		Piney Run	Approximately .8 mile upstream of confluence with Potomac River.	N/A	*363
			Approximately 1.3 miles upstream of State Route 687	N/A	*646
		Indian Creek	Approximately 275 feet upstream of Dulles International Airport boundary.	N/A	*263
			Approximately .5 mile upstream of Sterling Boulevard	N/A	*306
		Tributary to Indian Creek	At confluence with Indian Creek	N/A	*266
			Approximately 50 feet upstream of State Route 606	N/A	*275
Maps available for inspection at the County Planning Department, 18 North King Street, Leesburg, Virginia.					
Send comments to Honorable Philip Bolen, Loudoun County Administrator, 18 North King Street, Leesburg, Virginia 22075.					
Virginia	Roanoke County	Barnhardt Creek	Upstream side of Lakemont Drive	*1,065	*1,066
			Approximately 700 feet upstream Lakemont Drive	*1,073	*1,070
Maps available for inspection at the County Administrative Building, 3738 Brambleton Avenue, Roanoke, Virginia.					
Send comments to Honorable Donald R. Flanders, County Administrator of Roanoke County, P.O. Box 3800, Roanoke, Virginia 24015.					
West Virginia	Delbarton, town, Mingo County	Pigeon Creek	At downstream corporate limits	*724	*726
			Upstream Rockhouse Avenue	*743	*748
			Upstream U.S. Routes 52 and 119	*767	*769
			Approximately 200 feet upstream of upstream corporate limits.	*776	*776
		Rockhouse Fork	At confluence with Pigeon Creek	*743	*748
			Upstream Rockhouse Avenue	*747	*752
			Approximately 60 feet upstream of corporate limits	*766	*769
Maps available for inspection at the Delbarton Town Hall, Delbarton, West Virginia.					
Send comments to Honorable Don Robertson, Mayor of the Town of Delbarton, P.O. Box 739, Delbarton, West Virginia 25670.					
West Virginia	Gilbert, town, Mingo County	Guyandotte River	Upstream side of Elm Street	*807	*808
			At confluence of Stafford Branch	811	*814
			At confluence of Gilbert Creek	*816	*818
			At upstream corporate limits	None	*833
		Gilbert Creek	At confluence with Guyandotte River	*816	*818
			Upstream side of Warncliff Avenue	*822	*827
			At Hollywood Street (extended)	*844	*848
			Upstream corporate limits	*866	*872
		Stafford Branch	Upstream side of Conrail	*812	*814
Maps available for inspection at the Gilbert Town Hall, Gilbert, West Virginia.					
Send comments to Honorable Edgar Clay, Mayor of the Town of Gilbert, P.O. Box 188, Gilbert, West Virginia 25621.					
West Virginia	Kermit, Town, Mingo County	Tug Fork	Downstream corporate limits	*624	*625
			Upstream corporate limits	*626	*627
Maps available for inspection at the Kermit Town Hall, Kermit, West Virginia.					
Send comments to Honorable Callie Preece, Mayor of the Town of Kermit, P.O. Box 385, Kermit, West Virginia 25674.					
Wisconsin	Fond du Lac County	Taycheedah Creek	At mouth at Lake Winnebago	*750	*750
			Just upstream of County Highway T	*852	*850
			Just downstream of Old County Highway	*1,020	*1,018
		De Neveu Creek	About 0.67 mile downstream of County Highway V	None	*773
			About 0.7 mile upstream of U.S. Highway 45	None	*828

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
Maps available for inspection at the Engineering Department, P.O. Box 150, Fond du Lac, Wisconsin 54935-0150. Send comments to Honorable Daniel R. Thompson, City Manager, City of Fond du Lac. P.O. Box 150, Fond lu Lac, Wisconsin 54935-0150.					
Wisconsin	City of Milwaukee, Milwaukee and Washington Counties.	Lincoln Creek	At mouth	*622	*622
			Just downstream of West Green Tree Road	None	*699
Maps available for inspection at the Building Inspectors Office, Municipal Building, 841 N. Broadway, Room 1007, Milwaukee, Wisconsin. Send comments to Honorable Henry W. Maier, Mayor, City of Milwaukee, City Hall, 200 E. Wells Street, Room 201, Milwaukee, Wisconsin 53202.					

[1] Not previously shown.

(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: January 24, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-2923 Filed 2-5-85; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 50, No. 25
Wednesday, February 6, 1985

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 1, 1985.

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

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

• Food Safety and Inspection Service
Regulations Governing Poultry Inspection
112, 505, 514–2, 526, 528, 6800–2, –3, –4, –5, –8,
On occasion, Quarterly
Individuals or households; State or local govenments; Businesses or other for-profit; Small businesses or organizations; 339,154 responses; 37,776 hours; not applicable under 3504(h)
Roy Purdie, Jr. (202) 447–5372

Extension

• Food and Nutrition Service
WIC Monthly Financial and Program Status Report
FNS 498
Monthly
State or local government; 1,020 responses; 20,400 hours; not applicable under 3504(h)
Chris Lipsey (703) 756–3710
• Agricultural Marketing Service
Application for Plant Variety Protection Certificate and Objective Description of Variety
LS–470
On occasion
Individuals or households; State or local governments; Farms; Business or other for-profit; Federal agencies or employees; Small businesses or organizations; 278 responses; 494 hours; not applicable under 3504(h)
Kenneth H. Evans (301) 344–2518

Jane A. Benoit,
Department Clearance Officer.

[FR Doc. 85–2992 Filed 2–5–85; 8:45 am]
BILLING CODE 3410–01–M

COMMISSION ON CIVIL RIGHTS

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on February 25, 1985, at the Phillis Wheatley Community Center, 919 Freemont Avenue North, Minneapolis, Minnesota. The purpose of the meeting is to discuss the status of the Committee's project on civil rights issues in mental health care and future program plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Ruth Myers, or Clark Roberts of the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 31, 1985.

Bert Silver,
Assistant Staff Director for Regional Programs.

[FR Doc. 85–2945 Filed 2–5–85; 8:45 am]
BILLING CODE 6335–01–M

Tennessee Advisory Committee; Agenda and Notice of Public Meeting; Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Tennessee Advisory Committee to the Commission originally scheduled for February 15, 1985, at the Marriott Hotel, 1 Marriott Drive, Jackson Room, Nashville, Tennessee (FR Doc. 85–1904, on page 3582 has been cancelled).

Dated at Washington, D.C. February 1, 1985.

Bert Silver,
Assistant Staff Director for Regional Programs.

[FR Doc. 85–2946 Filed 2–5–85; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration
Title: Application for Technical Assistance from Government Applicants
Form number: Agency—ED–357; OMB—0610–0018

Type of request: Revision of a currently approved collection
Burden: 20 respondents; 200 reporting hours

Needs and uses: This application provides basic information from government organizations requesting technical assistance. The assistance will be used to reduce unemployment and raise income in distressed areas, enabling local areas to counteract internal and external factors causing economic distress.

Affected public: State or local governments
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Application for Technical Assistance from Non-Government Applicants
Form Number: Agency—ED–357 NG; OMB—0610–0024
Type of request: Reinstatement
Burden: 45 respondents; 450 reporting hours

Needs and uses: This application provides information from non-government organizations requesting technical assistance. The assistance will be used to reduce unemployment and raise income in distressed areas, enabling local areas to counteract internal and external factors causing economic distress.

Affected public: Individuals or households, businesses or other for-profit institutions, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Dealer Purchasers and Trip Interviews—Amendment I
Form number: Agency—N/A; OMB—0648–0013
Type of request: Revision of a currently approved collection
Burden: 4,547 respondents; 8,626 reporting hours

Needs and uses: Data is needed from commercial fishermen on tagged shrimp recovered by tow to determine the proportion of the US shrimp stock which migrates across the US-Mexico border from Texas estuaries during the peak migration period of June through October.

Affected public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: Each fishing trip
Respondent's obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: California Marine Recreational Fishery Economic Survey
Form number: Agency—N/A; OMB—N/A
Type of request: New Collection
Burden: 3,500 respondents; 670 reporting hours

Needs and uses: These data are needed to assess the economic impact of alternative National Marine Fisheries Service policy decisions on recreational fisheries in the San Francisco Bay and Ocean Area. Data are to be obtained from marine recreational fishermen in California.

Affected public: Individuals or households
Frequency: One-time
Respondent's obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 30, 1985.

Edward Michals,

Department Clearance Officer.

[FR Doc. 85–2939 Filed 2–5–85; 8:45 am]

BILLING CODE 3510-CW-M

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: Digital Computer Systems Parameters
Form Number Agency—ITA—6931P; OMB—0625–0038
Type of request: Revision of a currently approved collection
Burden: 4,000 respondents; 8,000 reporting hours

Needs and uses: This information is used to provide export licensing personnel with the information required for issuance of an export license to export computer systems to the Soviet Union, Eastern Europe and the People's Republic of China.

Affected public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit 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, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 31, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85–2996 Filed 2–5–85; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Marine Mammals; Modification No. 5 to Permit No. 288; Steven R. Morello

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 288 issued to Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070, on July 24, 1980 (45 FR 50621), as modified December 22, 1980 (45 FR 86524), January 21, 1983 (48 FR 2815), February 4, 1982 (47 FR 5283), and January 10, 1984 (49 FR 1266), is further modified to extend the period of authorized taking for three years.

Accordingly, Section B–5 is deleted and replaced by:

5. This Permit is valid with respect to the taking authorized herein until December 31, 1987.

This modification became effective January 1, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 31, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-2962 Filed 2-5-85; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

Meeting

The Commission on Executive, Legislative and Judicial Salaries will meet on February 14, 1985, from 9:00 a.m. until 12:00 p.m. at 722 Jackson Place NW., Washington, D.C.

It is anticipated that the meeting will be closed in accordance with section 10d of the Federal Advisory Committee Act and Title 5 U.S.C. 552b (c)(2) and (c)(9)(B). A request for determination as to the closing of the meeting has been presented to the Acting Administrator of the General Services Administration for approval in advance of the meeting. In the event that this request is denied in whole or in part, an open meeting will be held from 10:00 a.m. until 12:00 p.m. at the same location for background briefings.

Due to the Commission's interest in promptly addressing the issues before it, it was not feasible to delay the meeting or to give earlier notice.

For further information, contact Patsy Semple at (202) 377-3914.

Nicholas F. Brady,

Chairman.

[FR Doc. 85-3012 Filed 2-5-85; 8:45 am]

BILLING CODE 5510-BX-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Limit for Certain Man-Made Fiber Textiles Produced or Manufactured in Turkey; Correction

February 1, 1985.

On January 24, 1985 a notice was published in the **Federal Register** (50 FR 3376), which established a restraint limit for other man-made fiber yarn, wholly of noncontinuous filament, in Category 604 pt. (only TSUSA 310.5049), produced or manufactured in Turkey and exported during the twelve-month period which began on October 31, 1984 and extends through October 30, 1985. The limit cited in the notice document and in the letter to the Commissioner of Customs which followed that notice should have been 476,014 pounds, instead of 470,014 pounds.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-2995 Filed 2-5-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Chemical Warfare and Biological Defense; Advisory Committee Meetings

The Defense Science Board Task Force on Chemical Warfare and Biological Defense will meet in closed session on March 6, 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on March 6, 1985 the Task Force will continue its review of progress in chemical warfare and biological defense since the 1980 DSB Summer Study on Chemical Warfare and Changes in the chemical/biological threat environment.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Deparetment of Defense.

[FR Doc. 85-2990 Filed 2-5-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Software; Change in Meeting Date

AGENCY: Office of the Secretary, DOD.

ACTION: Change in Advisory Committee Meeting.

SUMMARY: The meeting of the Defense Science Board Task Force on Software scheduled for January 28, 1985 in the Pentagon, Arlington, Virginia as published in the **Federal Register** (Vol. 50, No. 7, Thursday, January 10, 1985, FR Doc. 85-699) has been changed to March 22, 1985. In all other requests the notice remains unchanged.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 4, 1985.

[FR Doc. 85-2989 Filed 2-5-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP85-227-000, et al.]

Columbia Gas Transmission, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP85-227-000]

January 30, 1985.

Take notice that on January 4, 1985, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-227-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authority to transport natural gas on behalf of CCX Industries Inc. (Hanover Wire Cloth Div. (CCX Industries-Hanover Wire Cloth)) under their certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in their request on file with the Commission and open to public inspection.

Specifically, Applicants propose to transport up to 300 million Btu equivalent of natural gas per day on behalf of CCX Industries-Hanover Wire Cloth through June 30, 1985. It is stated that the gas to be transported would be purchased from Exxon Company and would be used as boiler fuel. It is explained that Columbia Gulf would receive the quantities of gas at existing points of receipt in Louisiana and redeliver to Columbia Transmission which would redeliver to Columbia Gas of Pennsylvania, Inc. (CPA), the

distribution company serving CCX Industries-Hanover Wire Cloth.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Applicants will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Columbia Transmission states that it would charge rates set forth in its Rate Schedule TS-1; Columbia Gulf states that it would charge rates set forth in its Rate Schedule T-2. Further, Columbia Transmission states that it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas as set forth in Rate Schedule TS-1; Columbia Gulf states that it would retain the applicable percentage as set forth in Rate Schedule T-2.

Comment date: March 18, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP85-218-000]

January 30, 1985.

Take notice that on January 11, 1985, Columbia Gas Transmission Corporation (Columbia Transmission) 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-218-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas on behalf of Ashland Oil, Inc. (Ashland), through June 30, 1985, under their certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in their request on file with the Commission and open to public inspection.

Specifically, Applicants propose to transport up to 2.060 billion Btu equivalent of natural gas per day on behalf of Ashland through June 30, 1985. It is stated that the gas to be transported would be purchased from Exxon Corporation and would be used as boiler fuel in Ashland's plant in Findlay, Ohio. Columbia Gulf proposes to receive the quantities of gas at existing points of receipt in Louisiana and redeliver to Columbia Transmission which would redeliver to Columbia Gas of Ohio, Inc. (COH), the distribution company serving Ashland in Findlay, Ohio.

Columbia Transmission states that it would charge rates set forth in its Rate Schedule TS-1; Columbia Gulf states that it would charge rates set forth in its Rate Schedule T-2. Further, Columbia Transmission states that it would retain 2.43 percent of the total quantity of gas delivered into its system for company use and unaccounted-for gas as set forth in Rate Schedule TS-1; Columbia Gulf states that it would retain the applicable percentage as set forth in Rate Schedule T-2.

Comment date: March 18, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Company

[Docket No. CP85-199-000]

January 30, 1985.

Take notice that on December 31, 1984, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-199-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant proposes to exchange up to 25,000 Mcf per day with Northwest pursuant to a gas exchange agreement (Agreement) dated August 2, 1984. The exchange of gas would be from certain sources of Northwest's supply in Oklahoma as set forth in the Agreement. It is further stated that pursuant to the Agreement, Applicant would have the right during the period of November 1 through February 28 to retain temporarily up to 50 percent of the volumes it is obligated to deliver to Northwest. Applicant may use these retained volumes for its general system supply during this period but is obligated to deliver these volumes to Northwest prior to the succeeding November 1, it is explained.

Applicant states that no rates or charge would be levied by either Applicant or Northwest as compensation for the proposed exchange services, unless required either directly or indirectly by the Commission. If the Commission requires rates or charges, Applicant asserts that the provision of the Agreement for temporarily retaining volumes as described hereinbefore would be null and void.

Applicant states that no new facilities are required to effectuate the proposed exchange services. Applicant further states that it may be necessary from time to time to add new receipt and delivery points and facilities as may be required to connect new sources of supply or to provide new points of delivery and has requested authority to submit an annual tariff filing informing the Commission of any additions or deletions of receipt or delivery points.

Comment date: February 19, 1985, in accordance with standard Paragraph F at the end of this notice.

4. Zapata Gathering Company

[Docket No. CP85-201-000]

January 30, 1985.

Take notice that on December 31, 1984, Zapata Gathering Company (Zapata), P.O. Box 32999, San Antonio, Texas 78216, filed in Docket No. CP85-201-000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon by sale to Intrastate Gathering Corporation (IGC) its natural gas pipeline system consisting of approximately 129 miles of pipeline located in Zapata and Starr Counties, Texas, and to abandon the related gathering and transportation services performed by Zapata on behalf of its sole customer, Tennessee Gas Pipeline Company (Tennessee), through such system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Zapata proposes to abandon its pipeline system by sale to its intrastate pipeline affiliate, IGC. Upon abandonment, Zapata states that IGC would continue performing the transportation service for Tennessee currently performed by Zapata, under an existing transportation arrangement between IGC and Tennessee authorized pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Zapata states that IGC would pay Zapata the net book value for these facilities which, as of October 31, 1984, was valued at $728,109.

Zapata asserts that it is more economic to abandon the pipeline system and related service and have IGC transport the gas currently flowing through the line pursuant to an existing arrangement with Tennessee, than it is to maintain the pipeline system as a separate jurisdictional facility. Zapata

asserts that its sole customer, Tennessee, would benefit from the proposed abandonment because such abandonment would result in an overall reduction in Tennessee's transportation costs.

Zapata states that Zapata and IGC currently are authorized to charge a total amount of 39.57 cents per Mcf of gas. Upon abandonment, IGC proposes to charge a single rate of 31.23 cents per Mcf which, it is asserted, would be a cost-based rate to be authorized under section 311 of the NGPA and would represent a reduction of 8.34 cents per Mcf from the combined rates which Zapata and IGC are currently authorized to receive for the same transportation services.

Comment date: February 19, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Stingray Pipeline Company

[Docket No. CP85-194-000]

January 30, 1985.

Take notice that on December 21, 1984, Stingray Pipeline Company (Applicant), Post Office Box 1642, Houston, Texas 77001, filed in Docket No. CP85-194-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon in place certain pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon 3,250 feet of 8-inch pipeline in East Cameron, South Addition, Blocks 257 and 268, offshore Louisiana which connects a Chevron Oil Company (Chevron) production platform to Applicant's 20-inch lateral pipeline. Applicant states that the facilities were utilized to transport gas for Natural Gas Pipeline Company of America. Applicant asserts that Chevron has advised it that the gas wells are no longer producing and that it intends to remove the production platform. Applicant, therefore, proposes to abandon the subject facilities.

Comment date: February 19, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Trunkline Gas Company

[Docket No. CP85-207-000]

January 30, 1985.

Take notice that on January 7, 1985, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-207-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Bridgeline Gas Distribution Company (Bridgeline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement between Applicant and Bridgeline dated September 13, 1984, Applicant has agreed to transport up to 50,000 Mcf of natural gas per day on behalf of Bridgeline. Applicant proposes to receive volumes for Bridgeline's account at an existing point of interconnection with the Texaco Henry Plant in Vermilion Parish, Louisiana. Applicant further proposes to redeliver for Bridgeline's account at an existing point of interconnection with Riverway Gas Pipeline Company in St. Mary Parish, Louisiana. Bridgeline would pay a charge of 3.79 cents per Mcf of gas for the transportation service, it is explained. It is indicated that the proposed service is for an initial term extending to September 13, 1986.

Comment date: February 19, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Michigan Gas Storage Company

[Docket No. CP85-213-000]

January 30, 1985.

Take notice that on January 10, 1985 Michigan Gas Storage Company (Applicant) filed in the Docket No. CP85-213-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Motor Wheel Corporation (Motor Wheel) under the certificate issued in Docket No. CP84-451-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant requests authority to transport gas on behalf of Motor Wheel pursuant to a transportation agreement dated November 13, 1984, between Applicant and Motor Wheel. Pursuant to said transportation agreement, Applicant would receive gas for Motor Wheel from Panhandle Eastern Pipe Line Company (Panhandle) at various existing points of interconnection between Panhandle and Applicant (provided that such point(s) of interconnection is downstream from Applicant's South Lyon measuring station in Oakland County, Michigan) or such other point(s) as the parties may hereafter agree to. The gas would then be redelivered to Consumers Power Company (Consumers) for the account of Motor Wheel at existing interconnections between the facilities of Consumers and Applicant. Applicant proposes to transport up to 2,800 Mcf of gas per day on an interruptible basis.

Panhandle has released certain gas supplies of Argonaut Energy Corporation (Argonaut). It is stated that these supplies are subject to the ceiling price provisions of section 103 of the Natural Gas Policy Act of 1978. It is further indicated that Motor Wheel has purchased this released gas from Argonaut.

Applicant states that it would charge its Rate Schedule T-3 rate currently 3.68 cents per MMBtu of gas delivered by Applicant.

It is indicated that the term of the transportation agreement is for a period of 24 months.

Applicant also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested would apply only to points related to sources of gas supply, not to delivery points in the market area. Applicant would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: March 18, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company; ANR Pipeline Company; Southern Natural Gas Company

[Docket No. CP85-203-000]

January 31, 1985.

Take notice that on January 4, 1985, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314 Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan, 48243, and Southern Natural Gas Company (Southern), First National Southern Natural Building, Birmingham, Alabama 35203 (hereinafter referred to collectively as Applicants), filed in Docket No. CP85-203-000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas transportation and exchange services, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

Applicants propose to abandon the transportation and exchange of natural gas authorized by Commission order issued August 15, 1979, in Docket No. CP79–254–000 under a gas transportation agreement between Columbia Gas and Southern dated August 10, 1977. It is stated that Columbia Gas purchased natural gas from South Marsh Island Block 267 (SMI 267) which gas was transported by means of facilities constructed by Columbia Gulf from SMI 267 to Southern's receipt point in SMI 268. It is explained that Southern then transported the natural gas from the point of receipt in SMI 268 to a point of redelivery in St. Mary Parish, Louisiana. It is also stated that under a March 12, 1979, agreement between Applicants, Columbia Gulf received for Columbia Gas' account daily volumes of Southern's East Cameron Block 231 (EC 231) gas delivered for Southern's account by Sea Robin Pipeline Company at or near Erath, Vermilion Parish, Louisiana, and Southern received Columbia Gas' SMI 267 gas delivered by Trunkline Gas Company in St. Mary Parish, Louisiana. It is asserted that Columbia Gulf and Southern exchanged Southern's EC 231 gas for Columbia Gas' SMI 267 gas on a daily basis pursuant to an exchange agreement between Southern and Columbia Gulf provided, *inter alia*, that any imbalance in deliveries would be corrected at a point of interconnection between Columbia Gulf and Southern at Venice, Plaquemines Parish, Louisiana. Applicants also state that this exchange agreement further provided that ANR would assist Columbia Gulf and Southern, in the event a balance could not be achieved at Venice, by exchanging gas with Southern at a point of interconnection between ANR and Southern at Shadyside, St. Mary Parish, Louisiana, and with Columbia Gulf at the point of interconnection between Columbia Gulf and ANR at the Shell Oil Company Calumet plant in St. Mary Parish, Louisiana.

Applicants maintain that the well in SMI 267 from which Columbia Gas purchased gas was plugged in early June 1982, and the producers thereof have all received Commission authority to abandon the sale of gas from SMI 267 and their lease has expired. It is stated that Columbia Gulf requested permission and approval to abandon the facilities certificated in Docket No. CP79–179 which were required to facilitate the transportation and exchange proposed for abandonment herein, and such permission was granted by order of the Commission issued July 26, 1983, in Docket No. CP83–259–000.

Applicants propose the abandonment of the transportation agreement dated August 10, 1977, effective January 1, 1983, and the abandonment of the March 12, 1979, exchange agreement, effective on the date the Commission authorizes the abandonment of such exchange agreement. Applicants state that a transportation agreement is being finalized by and between Columbia Gulf and Southern for the transportation of Southern's EC 231 gas pursuant to Part 284 of the Regulations and Columbia Gulf's blanket certificate issued in Docket No. CP80–105–000. It is also stated that the effective date of this new transportation agreement would be dependent on the acceptance of authorization to abandon the transportation agreement dated August 10, 1977, and the exchange agreement dated March 12, 1979, as proposed herein.

Comment date: February 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Great Lakes Gas Transmission Company

[Docket Nos. CP79–462–004; CP66–110–033; and CP71–222–007]

January 31, 1985.

Take notice that on December 28, 1984, Great Lakes Gas Transmission Company (Petitioner), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP79–462–004, CP66–110–033 and CP71–222–007, a petition to amend the Commission's order issued June 10, 1981, 15 FERC ¶ 61,254, pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the term of certain transportation services, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it seeks authorization to render a transportation service for an additional year for Texas Eastern Transmission Corporation (TETCO) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), of volumes of natural gas to be purchased by TETCO and Tennessee from ProGas Limited.

Petitioner states that pursuant to the order of June 10, 1981, Petitioner has been transporting 75,000 Mcf of natural gas per day for each of TETCO and Tennessee. Under current authorization, it is stated, such transportation service for each of TETCO and Tennessee is 75,000 Mcf per day for the contract years prior to November 1, 1984, and an amount equal to 75 percent, 50 percent and 25 percent of 75,000 Mcf of gas per day during the contract years beginning November 1 of 1984, 1985 and 1986, respectively.

Petitioner states that it requests amendment of existing authroizations so as to extend the authorization to transport volumes for both TETCO and Tennessee to November 1, 1988, and to transport for each, 75,000 Mcf of gas per day for the contract year beginning November 1, 1984, and 75 percent, 50 percent and 25 percent of 75,000 Mcf during the contract years beginning November 1 of 1985, 1986 and 1987, respectively.

Additionally, Petitioner seeks authorization so that, subject to the notice requirements in the amended transportation service agreement with Tennessee, the term of the transportation service for Tennessee may be automatically extended on a year-to-year basis and, as of the 1985–86 contract year, contract quantity may remain at the 75,000 Mcf of gas per day rate.

Comment date: February 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

10. Columbia Gulf Transmission Company

[Docket No. CP73–5–002]

January 31, 1985.

Take notice that on January 2, 1985, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP73–5–002 a petition to amend the Commission's order issued October 13, 1972, in Docket No. CP73–5, as amended, pursuant to section 7(c) of the Natural Gas Act authorizing an additional receipt point for natural gas from Texas Gas Transmission Corporation (Texas Gas) to Columbia Gulf on the Blue Water Project, offshore Louisiana, and for balancing on a thermal rather than a volumetric basis, all as more fully set forth in the petition to amend on file with the Commission and open for public inspection.

The Commission, by said certificate, as amended, authorized Columbia Gulf to transport for Texas Gas a contract demand volume of 81,000 Mcf of gas per day from receipt points in Eugene Island Block 227, Vermilion Block 248, and Ship Shoal Block 198, offshore Louisiana, through the offshore header and western shore line of the Blue Water Project to the terminus of the western shore line at Egan, Louisiana.

Columbia Gulf proposes that in addition to the aforementioned receipt

points, that it be authorized to transport gas from a new receipt point in Vermilion Block 245, offshore Louisiana. Columbia Gulf further seeks authorization to convert the balancing of natural gas volumes transported to a thermal rather than a volumetric basis, if the Blue Water Project operations between Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., are balanced on a thermal basis. No change in the contract demand volume would be proposed.

Comment date: February 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

11. Natural Gas Pipeline Company of America

[Docket Nos. CP85-135-000 and CP85-135-001]

January 31, 1985

Take notice that on November 29, 1984, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-135-000 an application, as amended January 7, 1985, in Docket No. CP85-135-001, pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon a compressor unit and for a certificate of public convenience and necessity authorizing the installation, and operation of an additional 2,500 horsepower compressor at its compressor station No. 155 (Station 155) located in Wise County, Texas, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Applicant states that its Station 155 houses three 660 horsepower reciprocating compressors and two 1,040 horsepower turbine compressors which previously enabled it to maintain a pressure of 550 psig as contractually required at the outlet of the Mitchell Energy Production Corporation processing plant and to maintain the required standby compression to keep the station reliability. However, Applicant states that since the enactment of the Natural Gas Policy Act of 1978 producers have been delivering greater quantities of gas at the outlet of the Mitchell Processing plant, thus requiring Applicant to change its intermittent use of the turbines to essentially continual use in an effort to maintain the required pressure levels at the Mitchell processing plant.

Applicant further states that it has two 3,000 horsepower field compressors at its booster station No. 92 in Hemphill County, Texas, but that present and future deliverability at that station requires only one 3,000 horsepower compressor. Applicant is therefore proposing to abandon one of the 3,000 horsepower compressors at booster station No. 92 by removal and relocation to its mainline compressor station No. 155. Applicant states that this proposal would enable it to again use the turbines at station 155 for backup compression. Applicant states that it is also proposing to re-rate the 3,000 horsepower compressor unit to 2,500 horsepower.

Applicant asserts that his proposal would greatly reduce its maintenance and gas expenses because the turbine compressors would be able to function in the capacity for which they were purchased, stand-by.

Applicant has stated that it is estimated to cost $2,493,000 to relocate and install the proposed facilities, which it proposes to finance initially from funds on hand.

Comment date: February 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

12. Intrastate Gathering Corporation

[Docket No. CP83-318-001]

January 31, 1985.

Take notice that on December 31, 1984, Intrastate Gathering Corporation (Applicant), P.O. Box 32999, San Antonio, Texas 78216, filed in Docket No. CP83-318-001 a petition to amend the order of July 1, 1983, in Docket No. CP83-318-000 pursuant to section 311(a)(2) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations for authorization to continue the transportation of natural gas for Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states by order issued July 1, 1983, it was authorized to transport up to 75,000 Mcf of natural gas per day for a total of 54,750,000 Mcf of gas over a two-year extended period for Tennessee, pursuant to a transportation agreement dated July 5, 1979. It is stated that service under this agreement commenced on July 6, 1979, for an initial term of two years under the self-implementing provisions and was extended for a period of two years commencing July 6, 1981, pursuant to § 284.125 of the Commission's Regulations. It is further stated that service under this agreement was extended for an additional period of two years commencing July 5, 1983. Applicant now requests the Commission to issue an order authorizing a continuation of the transportation arrangement for a primary term of fifteen years.

Applicant indicates that it seeks this long term extension of the existing transportation arrangement in conjunction with a related application filed by Zapata Gathering Company (Zapata) in which Zapata seeks to abandon, by sale to Applicant, its natural gas pipeline system. Upon abandonment, Applicant proposes to continue performing the transportation service for Zapata's sole customer, Tennessee, currently performed by Zapata, under the existing section 311(a)(2) transportation arrangement between Applicant and Tennessee, it is stated. In order to assure the continuation of such service, Applicant requests authorization for the long-term extension of its transportation arrangement with Tennessee.

Applicant requests amendment of its current authorization to provide for the transportation of up to 125,000 Mcf of gas per day for Tennessee. Applicant states that it would transport volumes of gas purchased by Tennessee from various producers in Webb, Zapata, Starr, Hidalgo and Cameron Counties, Texas, to the Zim, Sullivan or O.W. Ward redelivery points in Starr or Hidalgo Counties, Texas, and other mutually agreeable point or points. An initial transportation rate not to exceed 31.23 cents per Mcf would be charged for gas transported to the redelivery points, it is stated.

Comment date: February 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

13. K N Energy, Inc., January 31, 1985

Docket No. CP85-200-000

Take notice that on December 31, 1984, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-200-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and for permission and approval to abandon facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes (1) to construct and operate approximately 46.5 miles of 16-inch pipeline to loop a portion of its existing 16-inch system in Wyoming, (2) to construct and operate approximately 118 miles of new 16-inch pipeline from Applicant's existing Big Springs

compressor station near Big Springs, Nebraska, to a proposed interconnection on its 12-inch pipeline located east of Atwood, Kansas, (3) to abandon by relocation its existing Cobby, Kansas, compressor station, consisting of 2040 horsepower to a location near Atwood, Kansas (Atwood compressor station), (4) to install 900 horsepower of additional, new compression at the proposed Atwood compressor station, (5) to make certain other facility modifications at the Big Springs and Scott City compressor stations, and (6) to construct and operate approximately 15.4 miles of 4-inch pipeline from near Oakley, Kansas, to Grinnel, Kansas.

Applicant estimates that the cost of facilities proposed herein would be $28,500,000.00 and proposes to finance the cost out of current working capital or from interim bank loans which at a later date may be funded through a security issue.

Applicant asserts that in the future it must rely more on west-end supplies due to declining peak-day deliverability from Applicant's historic flowing supply from south-end sources. Applicant states that the proposed abandonment and construction of facilities is an attempt to increase its west-end capacity and is a continuation of the efforts for increased capacity on its system as approved by the Commission's order issued September 30, 1982, in Docket No. CP81-430-000. Applicant further asserts that the proposed increase in west-end capacity would allow the company to transport additional volumes under an existing arrangement with Panhandle Eastern Pipe Line Company (Panhandle) [1] and to make sales to new and non-traditional customers such as the proposal to sell 15,000 Mcf of natural gas per day to Western Gas Corporation, presently pending with the Commission in Docket No. CP84-605-000.

The proposed facilities would allegedly affect the Btu content of Applicant's system gas; Applicant asserts that it would make a tariff filing prior to commencement of service through the proposed facilities to adjust its rates to affected jurisdictional sales customers.

Comment date: February 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-3013 Filed 2-5-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ID-1723-001, et al.]

Frank N. Bien, et al.; Interlocking Directorate Filings

January 30, 1985.

Comments are due on the following filings on or before February 22, 1985, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission:

1. Frank N. Bien

[Docket No. ID-1723-001]

Take notice that on December 31, 1984, Frank N. Bien (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
Vice President & Director.	AEP Generating Company	Electric Utility
Do	Appalachian Power Company.	Do.
Do	Cardinal Operating Company.	Do.
Do	Columbus and Southern Ohio Electric Company.	Do.
Do	Indiana & Michigan Electric Company.	Do.
Do	Kanawha Valley Power	Do.
Do	Kentucky Power Company	Do.
Do	Kingsport Power Company	Do.
Do	Michigan Power Company	Do.
Do	Ohio Power Company	Do.
Director	Ohio Valley Electric Corporation.	Do.
Vice President & Director.	Wheeling Electric Company	Do.
Vice President & Director.	Beech Bottom Power Company.	Do.

2. John E. Dolan

[Docket No. ID-1735-004]

Take notice that on December 31, 1984, John E. Dolan (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
Vice President & Director.	AEP Generating Company	Electric Utility.
Do	Appalachian Power Company.	Do.
Director	Cardinal Operating Company.	Do.
Vice President & Director.	Indiana & Michigan Electric Company.	Do.
Vice President & Director.	Kanawha Valley Power Company.	Do.
Vice President & Director.	Kentucky Power Company	Do.
Do	Kingsport Power Company	Do.
Do	Michigan Power Company	Do.
Do	Ohio Power Company	Do.
Do	Wheeling Electric Company	Do.

3. Bruce A. Richard

[Docket No. ID-2112-001]

Take notice that on January 16, 1985, Bruce A. Richard (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Position	Name of corporation
President	Northern States Power Company (Minnesota).
Director	Do.
Do	Northern States Power Company (Wisconsin).

4. Richard E. Disbrow

[Docket No. ID-1779-001]

Take notice that on December 31, 1984, Richard E. Disbrow (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
President & Director.	AEP Generating Company	Electric Utility.
Vice President & Director.	Appalachian Power Company.	Do.
Do	Columbus and Southern Ohio electric Company.	Do.
Do	Indiana & Michigan Electric Company.	Do.
Director	Kanawha Valley Power Company.	Do.
Vice President & Director.	Kentucky Power Company	Do.
Do	Kingsport Power Company	Do.
Do	Michigan Power Company	Do.
Do	Ohio Power Company	Do.
Do	Wheeling Electric Company	Do.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wasington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-3014 Filed 2-5-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-189-000, et al.]

Modular Generating System, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Application, etc.

Comments are due on the following filings on or before thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission:

1. Modular Generating Systems, Inc.

[Docket No. QF85-189-000]

January 30, 1985.

On January 14, 1985, Modular Generating Systems, Inc., (Applicant), of 5200 S. Quebec, Suite 506, Englewood, Colorado 80111 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the vicinity of Beckemeyer, Illinois. The facility will contain a series of reciprocating engines fired on methane gas. The engines will vary in size between 100 and 500 kW. The electric power production capacity of the facility will not exceed 30 MW. The primary energy source to be used by the facility will be methane gas from abandoned coal mines.

2. Kimberly-Clark Corporation

[Docket No. QF85-180-000]

January 30, 1985.

On January 8, 1985, Kimberly-Clark Cooperation (Applicant) of 401 North Lake Street, Neenah, Wisconsin 54956 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Spotswood Mill in Spotswood, New Jersey. The facility will contain an existing gas/oil-fired boiler, and a new non-condensing back pressure steam turbine generator. The exhaust steam from the turbine will be used in the Spotswood Mill's paper manufacturing process. The electric power production capacity of the facility will be 3,600 kW. The primary energy source will be natural gas. The expected date of installation of the facility is February 1, 1985.

3. Blue Mountain Forest Products, Inc.

Docket No QF85-174-000]

January 31, 1985.

On January 7, 1985, Blue Mountain Forest Products, Inc. (Applicant) of P.O. Box 1161, Pendleton, Oregon 97801 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility will be located in Long Creek, Oregon. The facility will consist of a waste wood fueled boiler driving a steam turbine/generator. The turbine/generator will have an electric power production capacity of 5 megawatts.

4. Don Northcutt

Docket No QF85-177-000]

January 31, 1985.

On January 2, 1985, Don Northcutt (Applicant) of Rt. 3, Box 103, Lexington, Oklahoma 73051 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 180 kilowatt wind facility is located 3 miles north and 1 mile east of Lexington, Oklahoma.

5. Northwest Grain Processors, Inc.

Docket No QF85-175-000]

January 31, 1985.

On January 7, 1985, Northwest Grain Processors, Inc. (Applicant) of Rt. 2 Box 3038, Vale, Oregon 97984, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Boise Meridian Canyon County, Idaho. The facility will consist of a combustion turbine generator, a heat recovery boiler and extraction/condensing steam turbine generator. The primary energy source will be natural gas. The electric power production capacity will be 14,492 kilowatts. The facility will produce 8,000,000 gallons of ethyl alcohol from grain with the excess heat from the generator.

6. Sandy Mac Food Company

[Docket No. QF85-45-000]

January 31, 1985.

On October 19, 1984, Sandy Mac Food Company (Applicant), of 9105 Burrough-Dover Lane, Pennsauken, New Jersey 08110 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. Additional information was filed by the Applicant on December 27, 1984. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Pennsauken, New Jersey. The primary energy source is natural gas. The electric power production facility is 370 kilo-watts. The facility consists of three internal combustion piston engines. Two units are induction generators and the third is a synchronious generator. In addition there is one Columbia boiler and reenergy heat exchange on each one of the three units used to reclaim waste heat from the engine exhaust and cooling jackets. Installation of the facility was completed on June 1, 1984.

7. Model of Longmont, Inc.

[Docket No. QF85-28-000]

January 31, 1985.

On October 16, 1984, Model of Longmont, Inc. (Applicant), of 245 Main Street, Longmont, Colorado 80501 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. Additional information was filed by the Applicant on December 26, 1984. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Longmont, Colorado. The electric power production capacity is 40 kilowatts. The primary energy source is natural gas. The natural gas is burned in an internal-combustion engine which powers a generator to produce electrcity. The excess heat removed by the engine coolant and exhaust is cycled through a heat exchanger to provide hot water for the Applicant's laundry washroom. Installation for the facility was completed April 18, 1984.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-3015 Filed 2-5-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50629; FRL-2769-3]

Issuance of Experimental Use Permits

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:

279-EUP-93. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 14,860 pounds of the herbicide 2-[2-chlorophenyl]methyl-4,4-dimethyl 3-isoxazolidinone on soybeans to evaluate the control of various grasses and broadleaf weeds. A total of 14,860 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Minnesota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from March 1, 1985 to March 1, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 251, CM#2, (703-557-1800))

10182-EUP-32. Issuance. ICI Americas Inc., Concord Pike & New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 15.2 pounds of the insecticide cypermethrin in or on buildings and structures and their immediate surroundings and on modes of transport to evaluate the control of cockroaches. A total of 32,000 square feet are involved; the program is authorized only in the States of California, Florida, Georgia, Illinois, Missouri, Ohio, New York, New Jersey, Texas, and Virginia. The experimental use permit is effective from November 19, 1984 to November 19, 1985. This permit is issued with the limitation that none of the material being tested will enter the food chain. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

51456-EUP-1. Issuance. Micro Gene Systems, Inc., 210 Frontage Rd., West Haven, CN 06516. This experimental use permit allows the use of 500 pounds of the larvicide codling moth granulosis virus on apples, pears, and walnuts to evaluate the control of various insects. A total of 1,579.4 acres are involved; the program is authorized only in the States of California, Oregon, and Washington. The experimental use permit is effective from June 18, 1984 to June 18, 1986. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on apples, pears, and walnuts, has been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

11273-EUP-38. Issuance. Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304. This experimental use permit allows the use of 28,000 BIUs of the insecticide *Bacillus thuringiensis*, Berliner on forests to evaluate the control of gypsy moths and spruce budworms. A total of 1,000 acres are involved; the program is authorized only in the States of Maine and Pennsylvania. (Timothy Gardner, PM 12, Rm. 207, CM#2, (703-557-2690))

11273-EUP-39. Issuance. Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304. This experimental use permit allows the use of 30,240 BIUs of the insecticide *Bacillus thuringiensis*, Berliner on forests to evaluate the

control of gypsy moths and spruce budworms. A total of 3,000 acres are involved; the program is authorized only in the States of Maine, New Jersey, Oregon, and Pennsylvania. This experimental use permit and the one above are effective from June 15, 1984 to June 15, 1985. Both permits are issued with the limitation that all treated crops are non-food use or are used for research purposes only. The permits will use the same active ingredient but different formulations. (Timothy Gardner, PM 12, 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 person 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: January 23, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-2562 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00194; FRL-2769-7]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to continue its discussions on several areas of EPA's responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

DATE: The meeting will take place on Wednesday, February 20, 1985, at 9:00 a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: Rm. M-2409, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-636, 401 M St., SW., Washington, D.C. 20460, (202-382-7801).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Dr. Sam Gusman, Chairperson for the APAC, and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. The Agency will provide follow-up reports to the Committee on several issues addressed at earlier meetings, and the Committee will complete its deliberations on these topics. Some of the issues which may be discussed are (1) improvements to the reregistration process, (2) the regulation of inert ingredients in pesticide products, (3) the special review process, (4) the section 6(a)(2) notification process, and (5) restricted use pesticides and certified applicator training.

The meeting will be open to the public, and time will be set aside for public comments on issues relevant to topics of discussion. Any member of the public wishing to present an oral or written statement relating to the Committee's topic of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: January 23, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-2632 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30241A; PH-FRL 2771-3]

Glyco, Inc.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Glyco, Inc. to register pesticide products Dantobrom™, Dantobrom™ RW, Dantochlor™, and Dantochlor™ RW, containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Arturo Castillo, Product Manager (PM) 32, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 244, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-3965).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of the June 6, 1984 (49 FR 23442), which announced that Glyco Inc., 51 Weaver St., PO Box 700, Greenwich, CT 06836, had submitted applications to register the following pesticide products Dantobrom™, Dantobrom™ RW, Dantochlor™, and Dantochlor™ RW, containing the active ingredient 1,3-dichloro-5-ethyl-5-methylhydantoin, and active ingredient not included in any previously registered product.

Products	Percent of active ingredient
Dantobrom™	10.6
Dantobrom™ RW	10.6
Dantochlor™	13
Dantochlor™ RW	13

The applications were approved on September 12, 1984 for Dantobrom™ (EPA Reg. No. 38906-14) and Dantochlor™ (EPA Reg. No. 38906-9) for the manufacturing or reformulating use only as a disinfectant and slimicide; and Dantobrom™ RW (EPA Reg. No. 38906-12) and Dantochlor™ RW (EPA Reg. No. 38906-7) as a disinfectant and slimicide in cooling tower and air washer water.

The Agency has considered the available data on the risks associated with the proposed uses of 1,3-dichloro-5-ethyl-methylhydantoin and information on the social, economic, and environmental benefits to be derived from such uses. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of 1,3-dichloro-5-ethyl-5-methylhydantoin, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on 1,3-dichloro-5-ethyl-5-methylhydantoin. A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

In accordance with section 3(c)(2) of FIFRA, copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460.

Such requests should:

(1) Identify the product's name and registration number and

(2) Specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: January 25, 1985.

Anne Barton,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-2852 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30249; PH-FRL 2771-5]

ICI Americas, Inc.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by ICI Americas Inc. to conditionally register the pesticide product Actellic 7E Insecticide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington D.C. 20460.

Office location and telephone number: Rm. 202, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA received an application from ICI Americas Inc., Agrochemical Div. Concord Pike and New Murphy Rd., Wilmington, DE 19897, to conditionally register the pesticide product Actellic 7E Insecticide containing the active ingredient pirimiphos-methyl (*O*-[2-(diethylamino)-6-methyl-4-pyrimidinyl]*O,O*-dimethyl phosphorothioate) at 74 percent; an active ingredient not included in any previously registered product. The product, EPA Registration No. 10182-87, was registered on September 25, 1984 for use on stored grain, corn, rice, wheat, and grain sorghum; and export only. Because the application to register the product was not published in the **Federal Register** as required by section 3(c)(4) of FIFRA, as amended, interested parties may submit comments within 30 days from the date of publication of this notice.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 162.11; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of pirimiphos-methyl and information on the social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of pirimiphos-methyl during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

This registration has been issued on the condition that a rat teratology study be submitted by September 25, 1985. This condition must be fulfilled by September 25, 1985. The rat teratology study that was previously submitted did not meet the Agency's guideline requirements.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on Actellic 7E Insecticide.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460.

Such requests should:

(1) Identify the product name and registration number and

(2) Specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: January 28, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-2853 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180663; PH-FRL 2772-6]

Emergency Exemptions; California, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 3 States as listed below, during the period of November 8, 1984 to November 14, 1984. Also listed are 1 crisis exemption initiated by Arkansas and 2 initiated by the U.S. Department of Agriculture (USDA). These

exemptions are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people. By mail: 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. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of oxyfluorfen on artichoke fields to control Bermuda buttercups; November 14, 1984 to March 31, 1985. (Jim Tompkins)

2. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds for export to France, Germany, Hungary, Italy, and Romania to control downy mildew; November 8, 1984 to April 30, 1985. (Jack E. Housenger)

3. North Dakota Department of Agriculture for the use of metalaxyl on sunflower seeds for export to Brazil, France, Germany, Hungary, Italy, Romania, Spain, and Turkey to control downy mildew; November 8, 1984 to April 30, 1985. (Jack E. Housenger)

Crisis exemptions were initiated by the:

1. Arkansas State Plant Board on November 16, 1984, for the use of temephos in Sulphur River to control Buffalo gnats. The need for this program has ended. (Jim Tompkins)

2. USDA on November 8, 1984, for the use of methyl bromide on cut, balled, and burlapped Christmas trees from Lane County, Oregon, going to California to control gypsy moth. The need for this program has ended. (Jack E. Housenger)

3. USDA on November 5, 1984, for the use of streptomycin sulfate on non-citrus ornamental plants to control the citrus canker. Since it was anticipated that this program would be needed for more than 15 days, USDA has requested a specific exemption to continue it. The need for this program is expected to last for 1 year. (Jack E. Housenger)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: January 28, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–2949 Filed 02–05–85; 8:45 am]

BILLING CODE 6560–50–M

[PF–403; FRL 27722]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number (PF–403) and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS–757C), Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
PM–12, Jay Ellenberger.	Rm. 202, CM#2 (703)–557–2386).	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
PM–21, Henry Jacoby.	Rm. 227, CM#2 (703)–557–1900).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions (PP) relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 5E3194.* Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the fungicide beta-([1,1'-Bipheny]-4-yloxy)-alpha-(1,1-dimethylethyl-1*H*-1,2,4-triazole-ethanol in or on the commodities as follows:

Commodities	Parts per million (ppm)
Beans, dry	0.05
Beans, green	0.1
Chickpeas, dry	0.05
Cotton seed	0.1

The proposed analytical method for determining residues is gas liquid chromatography with a Coulson nitrogen cell or a flame ion detector. (PM–21)

2. *PP 5F3187.* Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the insecticide aldoxycarb (2-methyl-2-(methylsulfonyl)propanol *O*-[(methylamino)carbonyl] oxime) in or on the commodities as follows:

Commodities	Parts per million (ppm)
Beans (cowpea, lima, and snap)	5.0
Carrot roots	1.5
Corn, sweet (k+c)	0.2
Eggplant	1.0
Lettuce, head	3.0
Potato tubers	2.0
Radish roots	10.0

The proposed analytical method for determining residues is gas chromatograph utilizing a Melpar flame-photometric detector. (PM–12)

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

Dated: January 23, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-2951 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59180A; FRL-27721]

Approval of Test Marketing Exemption; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-12. The test marketing conditions are described below.

EFFECTIVE DATE: January 25, 1985.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-609B, 401 M St. SW., Washington, DC. 20460 (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-12. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes must not exceed those specified in the application.

The following additional restrictions apply to TME-85-12. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity and concentrations of the TME substance imported, and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

4. The applicant must maintain records of persons who were impervious gloves, chemical safety goggles, and aprons during use of the TME substance.

5. The applicant must maintain records of determinations that the gloves are impervious to the TME substance.

6. The applicant must maintain copies of any Material Safety Data Sheet used.

TME 85-12

Date of Receipt: December 18, 1984.

Notice of Receipt: December 28, 1984 (49 FR 50447).

Applicant: Confidential.

Chemical: (G) Tetrafunctional silane.

Use: (G) Intermediate.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: Five months. *Commencing on:* (January 25, 1985).

Risk Assessment: Based on analogy to structurally related substances, EPA has determined that the TME substance may have adverse health effects. However, under the conditions and restrictions in this notice, the estimated worker exposure to the test market substance will not be significant. Therefore, the test market substance will not present any unreasonable risk of injury to human health. No significant environmental concerns were identified, and environmental releases of the test market substance are not expected to be significant. The test market substance will not present an unreasonable risk of injury to the environment.

Additional Restrictions: Workers are required to wear impervious gloves and chemical safety goggles during operations that involve use of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear impervious gloves, chemical safety goggles or equivalent eye protection, and aprons.

The gloves must be determined by the applicant to be impervious to the TME substance under the conditions of exposure, including the duration of exposure. The applicant shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation of the gloves by the TME substance and associated chemical substances.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 25, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-2958 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00195; PH-FRL #2771-2]

Administrator's Pesticide Advisory Committee, Subcommittee on Labeling; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) Subcommittee on Labeling will hold a meeting to discuss (1) from whom the Subcommittee should obtain information, (2) what the Subcommittee's final product to the Agency should be, (3) future agenda items which will enable completion of the final product, and (4) current communication systems and their effectiveness. The meeting will be open to the public.

DATE: The meeting will take place on Thursday, February 21, 1985, at 9 a.m. and adjourn by 3 p.m.

ADDRESS: The Subcommittee meeting will be held in: Environmental Protection Agency, Rm. 1112, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides

and Toxic Substances, Environmental Protection Agency, Rm. E–636, 401 M St., SW., Washington, D.C. 20460, (202–382–7801).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public and time will be set aside for public comments concerning the agenda items. Any member of the public wishing to present an oral or written statement relative to the Subcommittee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address of telephone number listed above. A complete agenda will be available at the meeting.

Dated: January 30, 1985.

Marcia E. Williams,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–2952 Filed 2–5–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50628; FRL–2761–6]

Issuance of Experimental Use Permits; BASF Wyandotte Corp., et al.

Correction

In FR Doc. 85–1684 beginning on page 3025 in the issue of Wednesday, January 23, 1985, make the following correction:

On page 3026, first column, in "SUPPLEMENTARY INFORMATION", fourth line, "70969" should have read "7969".

BILLING CODE 1505–01–M

[OPTS–53069; FRL–2772–3]

Premanufacture Notices; Monthly Status Report for December 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for December 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS–53069]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–613, 401 M Street, SW., Washington, DC 20460, (202–382–3752).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during December; (b) PMNs received previously and still under review at the end of December; (c) PMNs for which the notice review period has ended during December; (d) chemical substances for which EPA has received a notice of commencement to manufacture during December and (e) PMNs for which the review period has been suspended. Therefore, the December 1984 PMN Status Report is being published.

Dated: January 29, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, December 1984

I. 126 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
85–238	Generic name: Unsaturated polyester	49 FR 48801 (48802) (12–14–84)	Mar. 2, 1985.
85–239	Generic name: Substituted phenylazo tetra-substituted naphthalenesulfonamide	49 FR 48801 (48802) (12–14–84)	Do.
85–240	Generic name: Substituted phenylazo disubstituted naphthol	49 FR 48801 (48802) (12–14–84)	Do.
85–241	Generic name: Disubstituted benzenesulfonic acid derivative	49 FR 48801 (48802) (12–14–84)	Do.
85–242	Generic name: Tetrasubstituted phenylazo-naphthalene	49 FR 48801 (48802) (12–14–84)	Do.
85–243	Generic name: Linear saturated polyester resin containing hydroxyl groups	49 FR 48801 (48802) (12–14–84)	Do.
85–244	Generic name: Branched polyester resin containing hydroxy groups	49 FR 48801 (48802) (12–14–84)	Do.
85–245	Generic name: Modified hydrocarbon resin	49 FR 48801 (48802) (12–14–84)	Mar. 3, 1985.
85–246	Generic name: Tetra-substituted-biphenol	49 FR 48801 (48803) (12–14–84)	Do.
85–247	Generic name: Bis-imidazolium dibromide	49 FR 48801 (48803) (12–14–84)	Do.
85–248	Generic name: Quinone-imine dye	49 FR 48801 (48803) (12–14–84)	Do.
85–249	Generic name: Isobenzofuranone	49 FR 48801 (48803) (12–14–84)	Do.
85–250	Generic name: Polyoxymethylene co-polymer	49 FR 48801 (48803) (12–14–84)	Do.
85–251	Generic name: Reaction product of poly-alkylene oxide polyol, isocyanate and diol	49 FR 48801 (48803) (12–14–84)	Do.
85–252	Generic name: Polyurethane polymer	49 FR 48801 (48803) (12–14–84)	Mar. 4, 1985.
85–253	Generic name: Polyester resin	49 FR 48801 (48803) (12–14–84)	Do.
85–254	Generic name: Amine salt of mono-, di-, and tri-substituted heterocyclic compound	49 FR 48801 (48803) (12–14–84)	Do.
85–255	Generic name: Sulfonamide of mono-, di-, tri-, and tetra-substituted heterocyclic compound	49 FR 48801 (48803) (12–14–84)	Do.
85–256	Generic name: Alcohol ether sulfate, ammonium salt	49 FR 48801 (48803) (12–14–84)	Mar. 5, 1985.
85–257	Generic name: Acrylic copolymer	49 FR 48801 (48803) (12–14–84)	Do.
85–258	Generic name: Substituted phenylazo substituted carbopolycycle-carboxylic acid, salt	49 FR 48801 (48803) (12–14–84)	Do.
85–259	Generic name: Substituted phenylazo substituted heteropolycycle	49 FR 48801 (48803) (12–14–84)	Do.
85–260	Generic name: Substituted phenylazo substituted carbopolycycle	49 FR 48801 (48803) (12–14–84)	Do.
85–261	Generic name: Heteropolycycle azo substituted heteromonocycle	49 FR 48801 (48804) (12–14–84)	Do.
85–262	Generic name: Substituted terpene resin	49 FR 49895 (49896) (12–24–84)	Mar. 6, 1985.
85–263	Generic name: Substituted terpene resin	49 FR 49895 (49896) (12–24–84)	Do.
85–264	Generic name: Substituted terpene resin	49 FR 49895 (49896) (12–24–84)	Do.
85–265	Amines, tri(C$_{...}$-iso-C$_{...}$-rich)	49 FR 49895 (49896) (12–24–84)	Do.
85–266	Acryamide-methyl chloride quaternary of dimethylaminoethyl acrylate copolymer	49 FR 49895 (49896) (12–24–84)	Do.
85–267	Generic name: Unsaturated etherfied melamine formaldehyde resin	49 FR 49895 (49896) (12–24–84)	Mar. 9, 1985.
85–268	Generic name: Substituted furanone	49 FR 49895 (49896) (12–24–84)	Do.
85–269	Generic name: Substituted furanone	49 FR 49895 (49896) (12–24–84)	Do.
85–270	Generic name: Substituted furanone	49 FR 49895 (49896) (12–24–84)	Do.
85–271	Generic name: Substituted furanone	49 FR 49895 (49896) (12–24–84)	Do.
85–272	Generic name: Substituted aliphatic-terminated poly(dimethylsiloxane)	49 FR 49895 (49896) (12–24–84)	Do.
85–273	Generic name: Polyester urethane acrylate blocked	49 FR 49895 (49896) (12–24–84)	Do.
85–274	Generic name: Substituted phenylazo naphthalene sulfonic acid, salt	49 FR 49895 (49896) (12–24–84)	Do.

I. 126 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
85-275	Generic name: Substituted naphthylazo naphthalene sulfonic acid	49 FR 49895 (49896) (12-24-84)	Do.
85-276	Generic name: Substituted phenylazo substituted naphthalene sulfonic acid, salt	49 FR 49895 (49897) (12-24-84)	Do.
85-277	Generic name: Substituted phenylazo substituted naphthalene sulfonic acid, salt	49 FR 49895 (49897) (12-24-84)	Do.
85-278	Generic name: Functionalized polyacrylic acid derivative	49 FR 49895 (49897) (12-24-84)	Do.
85-279	Generic name: Vinyl modified terpene resin	49 FR 49895 (49897) (12-24-84)	Do.
85-280	Generic name: Disubstituted naphthalene sulfonic acid derivative	49 FR 49895 (49897) (12-24-84)	Do.
85-281	Generic name: Disubstituted naphthalene sulfonic acid derivative salt	49 FR 49895 (49897) (12-24-84)	Do.
85-282	Generic name: Substituted benzoic acid derivative	49 FR 49895 (49897) (12-24-84)	Do.
85-283	Generic name: Disubstituted naphthol	49 FR 49895 (49897) (12-24-84)	Do.
85-284	Generic name: Substituted phenylazo disubstituted naphthol	49 FR 49895 (49897) (12-24-84)	Do.
85-285	Generic name: Polyhydroxy ether phosphate	49 FR 49895 (49897) (12-24-84)	Mar. 10, 1985.
85-286	Generic name: Polyhydroxy ether phosphate	49 FR 49895 (49897) (12-24-84)	Do.
85-287	Generic name: Alkali metal dicarboxylate	49 FR 49895 (49897) (12-24-84)	Do.
85-288	Generic name: Alkyl oxirane reacted with polyalkylene glycol	49 FR 49895 (49897) (12-24-84)	Do.
85-289	2,5,8,10-tetraoxatridec-12-enoic acid, 9-oxo-, propenyl ester, polymer with vinyl acetate	49 FR 49895 (49898) (12-24-84)	Do.
85-290	2,5,8,10-tetraoxatridec-12-enoic acid, 9-oxo-, 2-propenyl ester homopolymer	49 FR 49895 (49898) (12-24-84)	Do.
85-291	2,5,8,10-tetraoxatridec-12-enoic acid, 9-oxo-, 2-propenyl ester, polymer with methyl 2-methyl-2-propenyl ester polymer with methyl 2-methyl-2-propenoate.	49 FR 49895 (49898) (12-24-84)	Do.
85-292	Generic name: Organofunctional polysiloxane	49 FR 49895 (49898) (12-24-84)	Do.
85-293	Generic name: Chloroetherketone	49 FR 49895 (49898) (12-24-84)	Do.
85-294	Generic name: Etherketone	49 FR 49895 (49898) (12-24-84)	Do.
85-295	Generic name: Modified acrylic polymer	49 FR 49895 (49898) (12-24-84)	Do.
85-296	Generic name: Silicone ester polyacrylate	49 FR 49895 (49898) (12-24-84)	Mar. 11, 1985.
85-297	Generic name: Isophorone di isocyanate adduct of a polyether glycol, an alkanediol, and a substituted alkanol.	49 FR 49895 (49898) (12-24-84)	Do.
85-298	Generic name: Amino acrylate monomer	49 FR 49895 (49898) (12-24-84)	Mar. 12, 1985.
85-299	Generic name: Polyester resin	49 FR 49895 (49898) (12-24-84)	Do.
85-300	Generic name: Bis-arylmethylene aminobutene, nickel complex	49 FR 49895 (49898) (12-24-84)	Do.
85-302	Generic name: Polyol acetal	49 FR 50444 (12-28-84)	Mar. 14, 1985.
85-303	Generic name: Aliphatic polyester urethane	49 FR 50444 (12-28-84)	Do.
85-304	Generic name: Alkyl diol, toluene di isocyanate, alkene ester, adipic acid resin	49 FR 50444 (12-28-84)	Do.
85-305	Generic name: Substituted silyl epoxide	49 FR 50444 (12-28-84)	Do.
85-306	Generic name: Substituted silyl epoxide	49 FR 50444 (12-28-84)	Do.
85-307	Generic name: Substituted alkyl silyl urea	49 FR 50444 (12-28-84)	Do.
85-308	Generic name: Substituted alkyl silyl urea	49 FR 50444 (12-28-84)	Do.
85-309	Generic name: Di-substituted phenol	49 FR 50444 (50445) (12-28-84)	Mar. 17, 1985.
85-310	Generic name: Tri-substituted phenol	49 FR 50444 (50445) (12-28-84)	Do.
85-311	Generic name: Polyurethane	49 FR 50444 (50445) (12-28-84)	Do.
85-312	Generic name: Complex polyether-amine	49 FR 50444 (50445) (12-28-84)	Do.
85-313	Generic name: Substituted alkanol adduct of a long chain di isocyanate	49 FR 50444 (50445) (12-28-84)	Do.
85-314	Generic name: Fatty acid amide	50 FR 543 (544) (1-4-85)	Do.
85-315	Generic name: Substituted benzotriazole	49 FR 50444 (50445) (12-28-84)	Do.
85-316	Generic name: Aryl alkenyl aryl nitrile	49 FR 50444 (50445) (12-28-84)	Do.
85-317	Phosphine oxide, diphenyl(2,4,6-trimethyl-benzoyl)-	49 FR 50444 (50445) (12-28-84)	Do.
85-318	1-isopropylthio-beta-D-galactopyranoside	49 FR 50444 (50445) (12-28-84)	Do.
85-319	Pentaacetyl-beta-D-galactopyranoside	49 FR 50444 (50445) (12-28-84)	Do.
85-320	Generic name: Polyamide	49 FR 50444 (50445) (12-28-84)	Do.
85-321	Generic name: Substituted phenol/formaldehyde resin	49 FR 50444 (50445) (12-28-84)	Do.
85-322	2-Propanamine, N-(1-methylethyl)-, lithium salt	49 FR 50444 (50445) (12-28-84)	Do.
85-323	Generic name: Bis(substitutedalkyl) disulfide	49 FR 50444 (50445) (12-28-84)	Do.
85-324	Generic name: Substituted heteromonocyclic	49 FR 50444 (50446) (12-28-84)	Do.
85-325	Cobaltate(1-) (N-[8[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-7-hydroxy-1-naphthalenyl] acetamidato(2-)-[3-[4,5-dihydro-4-[(2-hydroxy-5-nitrophenyl)azo]-3-methyl-5-oxo-1H-pyrazol-1-yl]benzene-sulfonamidato(2-)]-, sodium (9Cl).	49 FR 50444 (50446) (12-28-84)	Mar. 18, 1985.
85-326	Chromate(1-),[3-[4,5-dihydro-4-[(2-hydroxy-5-nitrophenyl)azo]-3-methyl-5-oxo-1H-pyrazol-1-yl]benzene-sulfonamidato(2)] [4-hydroxy-3-[(2-hydroxy-1-naphthalenyl)azo] benzensulfon-amidato(2-)]-hydrogen (9Cl).	49 FR 50444 (50446) (12-28-84)	Do.
85-327	Generic name: Isocyanate terminated polyether prepolymer	49 FR 50444 (50446) (12-28-84)	Do.
85-328	Generic name: Substituted paracyclophane	49 FR 50444 (50446) (12-28-84)	Do.
85-329	Generic name: Silylated amino ester	49 FR 50444 (50446) (12-28-84)	Do.
85-330	Alkyl aryl ethoxylate sulfate, sodium salt	49 FR 50444 (50446) (12-28-84)	Mar. 17, 1985.
85-331	Generic name: Acrylic polymer imine reaction product	49 FR 50444 (50446) (12-28-84)	Mar. 19, 1985.
85-332	Generic name: Acrylic copolymer	49 FR 50444 (50446) (12-28-84)	Do.
85-333	Generic name: Polyurethane acrylate	49 FR 50444 (50446) (12-28-84)	Do.
85-334	Generic name: Aromatic dinitro compound	49 FR 50444 (50446) (12-28-84)	Do.
85-335	Generic name: Aromatic diamine	49 FR 50444 (50446) (12-28-84)	Do.
85-336	Generic name: Polyimide precursor	49 FR 50444 (50446) (12-28-84)	Do.
85-337	Generic name: Fiber reinforcad polyimide	49 FR 50444 (50447) (12-28-84)	Do.
85-338	Generic name: Cyanoacrylate ester	50 FR 543 (544) (1-4-85)	Mar. 20, 1985.
85-339	Generic name: Coconut alkyd resin	50 FR 543 (544) (1-4-85)	Mar. 23, 1985.
85-340	Generic name: Organofunctional polysiloxane	50 FR 543 (544) (1-4-85)	Do.
85-341	Generic name: Substituted xanthene	50 FR 543 (544) (1-4-85)	Mar. 25, 1985.
85-342	Generic name: Polyester resin	50 FR 543 (544) (1-4-85)	Do.
85-343	Alpha, alpha, alpha tribromomethyl phenyl sulfone	50 FR 543 (544) (1-4-85)	Do.
85-344	Benzoic acid, 2-(3-(1,3-benzodioxole-5-yl)-2 methyl propylidene)amino, methyl ester	50 FR 543 (544) (1-4-85)	Do.
85-345	Generic name: Phenolic resin	50 FR 543 (544) (1-4-85)	Mar. 25, 1985.
85-346	Generic name: Alkyd resin	50 FR 543 (544) (1-4-85)	Do.
85-347	Generic name: Modified phenolic resin	50 FR 543 (544) (1-4-85)	Do.
85-348	Generic name: Alkyd resin	50 FR 543 (544) (1-4-85)	Do.
85-349	Generic name: Acrylated alkyd resin	50 FR 543 (544) (1-4-85)	Do.
85-350	Generic name: Modified phenolic resin	50 FR 543 (544) (1-4-85)	Do.
85-351	2,6-Naphthalenee dicarboxylic acid	50 FR 543 (544) (1-4-85)	Mar. 26, 1985.
85-352	Generic name: MDI adduct with a polyether glycol and a hydroxy methacrylate	50 FR 543 (544) (1-4-85)	Do.
85-353	Generic name: Polymer of aliphatic di isocyanate, aliphatic glycols, aliphatic diacid, aromatic anhydride and alkylene oxides.	50 FR 543 (545) (1-4-85)	Do.
85-354	Generic name: Polymer of aliphatic di isocyanate, aliphatic diacids, aromatic diacid, aliphatic diol, aliphatic epoxides.	50 FR 543 (545) (1-4-85)	Do.
85-355	Generic name: Polyhalogenated alkyl phenol	50 FR 1630 (1-11-85)	Mar. 27, 1985.
85-356	Generic name: Alcohol sulfate, lithium salt	50 FR 1630 (1-11-85)	Do.
85-357	Polymer of ester diol 204, trimethylol propane, adipic acid, Desmodur-W, isocyanato ethyl methacrylate and butyl methyacrylate.	50 FR 1630 (1-11-85)	Do.

I. 126 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
85-358	Polymer of 2,2 dimethyl-3-hydroxypropyl-1,2 dimethyl-3-hydroxypropionate, methylene bis (4-cyclohexyl isocyanate), polycaprolactone triol, adipic acid, E-caprolactone.	50 FR 1630 (1631) (1-11-85)	Do.
85-359	Generic name: Advancement product of triglycidyl ether of tri(hydroxyphenyl) methane	50 FR 1630 (1631) (1-11-85)	Do.
85-360	Generic name: Partial metal complex of aminomethylene phosphonic acid	50 FR 1630 (1631) (1-11-85)	Do.
85-361	Generic name: Polymer of aliphatic di isocyanate, aliphatic diacid, aromatic diacid, aliphatic diol, aliphatic epoxide, urea, and formaldehyde	50 FR 1630 (1631) (1-11-85)	Do.
85-362	Polymer of mercaptobenzimidazole and ethylene oxide	50 FR 1630 (1631) (1-11-85)	Do.
85-363	Generic name: Alkyl substituted cyclo-pentanol acetate	50 FR 1630 (1631) (1-11-85)	Mar. 30, 1985.
85-364	Generic name: Hydrochloride salt of a substituted dialkyl amine	50 FR 1630 (1631) (1-11-85)	Do.

II. 126 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
85-103	Generic name: Thermoplastic saturated polyester	49 FR 44676 (44678) (11-8-84)	Jan. 29, 1985.
85-104	Generic name: Alkenyl substituted carbomonocyclic ether	49 FR 44676 (44678) (11-8-84)	Do.
85-105	Generic name: Poly alkenyl substituted carbomonocyclic alkenyl ether	49 FR 44676 (44678) (11-8-84)	Do.
85-106	Generic name: Alkenyl substituted carbomonocyclic alcohol	49 FR 44676 (44678) (11-8-84)	Do.
85-107	Generic name: Polyurethane resin	49 FR 45657 (11-19-84)	Jan. 30, 1985.
85-108	Generic name: Acrylic copolymer	49 FR 45657 (11-19-84)	Do.
85-109	Generic name: Arylthiodialkanoylhydrazide	49 FR 45657 (11-19-84)	Do.
85-110	Generic name: Polysulfide polymer	49 FR 45657 (11-19-84)	Feb. 2, 1985.
85-111	Generic name: Polymer of disubstituted polysiloxane, substituted phenol and substituted alkanoyl halide.	49 FR 45657 (45658) (11-19-84)	Do.
85-112	Generic name: Alkanediol-maleic anhydride copolymer	49 FR 45657 (45658) (11-19-84)	Feb. 3, 1985.
85-113	Generic name: Terephthalic acid, polymer with (poly oxyalkylene) bis(N-aryl trimellitimide) and butanediol.	49 FR 45657 (45658) (11-19-84)	Do.
85-114	Generic name: Blocked aromatic isocyanate prepolymer	49 FR 45657 (45658) (11-19-84)	Do.
85-115	Generic name: Aromatic polyisocyanate adduct	49 FR 45657 (45658) (11-19-84)	Do.
85-116	7,9-dimethylspiro (5.5) undecan-3-one	49 FR 45657 (45658) (11-19-84)	Do.
85-117	Generic name: Hydroxy resin	49 FR 45657 (45658) (11-19-84)	Do.
85-118	Generic name: Polyurethane	49 FR 45657 (45658) (11-19-84)	Do.
85-119	Generic name: Hydroxy resin	49 FR 45657 (45658) (11-19-84)	Do.
85-120	Generic name: Hydroxy acrylic resin	49 FR 45657 (45658) (11-19-84)	Do.
85-121	Generic name: Acrylic copolymer	49 FR 45657 (45658) (11-19-84)	Do.
85-122	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45658) (11-19-84)	Do.
85-123	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45658) (11-19-84)	Do.
85-124	Generic name: Copolymer of vinyl amides and organic acid salts	49 FR 45657 (45658) (11-19-84)	Do.
85-125	Generic name: Copolymer of vinyl amides and organic acid salts	49 FR 45657 (45659) (11-19-84)	Do.
85-126	Generic name: Unsaturated polyester	49 FR 45657 (45659) (11-19-84)	Feb. 4, 1985.
85-127	Generic name: Butanamide, N-substituted alkyl	49 FR 45657 (45659) (11-19-84)	Do.
85-128	Generic name: Butanamide, N-substituted alkyl	49 FR 45657 (45659) (11-19-84)	Do.
85-129	Generic name: Styrene, acrylate polymer	49 FR 45657 (45659) (11-19-84)	Do.
85-130	Generic name: Tetrabromobisphenol A-aromatic tertiary amine salt	49 FR 46582 (11-26-84)	Feb. 6, 1985.
85-131	Generic name: Tetrabromobisphenol A-aromatic tertiary amine salt	49 FR 46582 (11-26-84)	Do.
85-132	Generic name: Organosilicone copolymer	49 FR 46582 (11-26-84)	Do.
85-133	Generic name: Aliphatic olefin	49 FR 46582 (11-26-84)	Do.
85-134	Generic name: Intermolecularly rearranged triglycerides	49 FR 46852 (11-26-84)	Feb. 10, 1985.
85-135	Generic name: Substituted cyclopentadiene	49 FR 46852 (11-26-84)	Feb. 11, 1985.
85-136	Generic name: Substituted aliphatic terminated poly(dimethylsiloxane)	49 FR 46852 (11-26-84)	Do.
85-137	Generic name: Polyamic acid ester	49 FR 46852 (11-26-84)	Do.
85-138	Generic name: Substituted titanocene	49 FR 46852 (11-26-84)	Do.
85-139	Generic name: Complex polyester	49 FR 46852 (11-26-84)	Do.
85-140	Generic name: Functional copolymer of styrene with acrylate and methacrylate monomers	49 FR 46852 (46853) (11-26-84)	Do.
85-141	Generic name: Polyester acrylate	49 FR 46852 (46853) (11-26-84)	Feb. 12, 1985.
85-142	Generic name: Aromatic epoxy ester	49 FR 46852 (46853) (11-26-84)	Do.
85-143	Generic name: Iron complex of a substituted phenyl azo	49 FR 46852 (46853) (11-26-84)	Do.
85-144	Generic name: Salt of substituted butyl acetate	49 FR 46852 (46853) (11-26-84)	Do.
85-145	Generic name: Substituted pyridinium salt	49 FR 46852 (46853) (11-26-84)	Do.
85-146	Generic name: Biphenyl, 3,3'-dichloro-4-(substituted azo)-4'-((((phenylamino) carbonyl)2-oxoprop-1-yl)azo-.	49 FR 46852 (46853) (11-26-84)	Do.
85-147	Generic name: Biphenyl, 3,3'-dichloro-4-(substituted azo)-4'-((((phenylamino)) carbonyl)2-oxoprop-1-yl)azo)-.	49 FR 46852 (46853) (11-26-84)	Do.
85-148	Generic name: Modified acrylic copolymer	49 FR 47108 (11-30-84)	Feb. 13, 1985.
85-149	Generic name: Epoxy acrylic copolymer	49 FR 47108 (11-30-84)	Do.
85-150	Generic name: Fluoranthenamine-substituted-aminoanthraquinone	49 FR 47108 (11-30-84)	Do.
85-151	Generic name: Fluoranthenediamine-bis-(substituted aminoanthraquinone)derivative	49 FR 47108 (11-30-84)	Do.
85-152	Generic name: Reacted epoxy resin	49 FR 47108 (47109) (11-30-84)	Do.
85-153	Generic name: Reacted epoxy resin	49 FR 47108 (47109) (11-30-84)	Do.
85-154	Generic name: Benzoid diester of acetic acid	49 FR 47108 (47109) (11-30-84)	Do.
85-155	Generic name: Halogenated aromatic sulfamide	49 FR 47108 (47109) (11-30-84)	Do.
85-156	Generic name: Disubstituted carbopolycyclesulfonic acid salt	49 FR 47108 (47109) (11-30-84)	Do.
85-157	Generic name: Disubstituted carbopolycyclesulfonic acid	49 FR 47108 (47109) (11-30-84)	Do.
85-158	Generic name: Aromatic diol	49 FR 47108 (47109) (11-30-84)	Feb. 16, 1985.
85-159	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
85-160	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
85-161	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
85-162	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
85-163	Generic name: Cyanoacetate ester	49 FR 47106 (47109) (11-30-84)	Do.
85-164	Generic name: Unsaturated polyester	49 FR 47108 (47109) (11-30-84)	Do.
85-165	Polymer of dehydrated castor-oil fatty acids, pentaerithritol, isophthalic acid, linseed oil, dehydrated castor oil, dimethylethanolamine, isononanoic acid and maleic anhydride.	49 FR 47108 (47109) (11-30-84)	Do.
85-166	Generic name: Aromatic polycyanate resin	49 FR 47106 (47110) (11-30-84)	Feb. 17, 1985.
85-167	Generic name: Organo sulfur compound	49 FR 47108 (47110) (11-30-84)	Do.
85-168	Generic name: Functional polyether	49 FR 47108 (47110) (11-30-84)	Do.
85-169	Generic name: Polyester polyurethane	49 FR 47108 (47110) (11-30-84)	Do.
85-170	Generic name: Fatty ester	49 FR 47108 (47110) (11-30-84)	Do.
85-171	Generic name: Fatty ester	49 FR 47108 (47110) (11-30-84)	Do.

II. 126 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
85-172	Generic name: Fatty ester	49 FR 47108 (47110) (11-30-84)	Do.
85-173	Generic name: Cyanoacetate ester	49 FR 47108 (47110) (11-30-84)	Do.
85-174	Generic name: Alkenyl substituted carbomonocyclic alkenyl ether	49 FR 47108 (47110) (11-30-84)	Do.
85-175	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
85-176	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
85-177	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
85-178	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
85-179	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
85-180	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47111) (11-30-84)	Do.
85-181	1-(2-methoxyethoxy)-4-methylbenzene	49 FR 47108 (47111) (11-30-84)	Do.
85-182	Generic name: Alkyl ester	49 FR 47108 (47111) (11-30-84)	Do.
85-183	4,5-dihydro-5-ethyl-2-methyl-3-furancarboxylic acid ethyl ester	49 FR 47108 (47111) (11-30-84)	Do.
85-184	Generic name: Naphthoquinone diazide-sulphonic acid ester in formulation with phenol formaldehyde resin.	49 FR 47108 (47111) (11-30-84)	Do.
85-185	Generic name: Substituted phenyl salt	49 FR 47108 (47111) (11-30-84)	Do.
85-186	Generic name: Polyalkyleneoxy alkyl, aryl alkyl, alkyl silicone	49 FR 47108 (47111) (11-30-84)	Feb. 18, 1985.
85-187	Generic name: Arylalkyl hydrogen alkyl silicone	49 FR 47108 (47111) (11-30-84)	Do.
85-188	Generic name: Polyester diol	49 FR 47108 (47111) (11-30-84)	Do.
85-189	Generic name: Alkyl alkoxy siloxane	49 FR 47108 (47111) (11-30-84)	Do.
85-190	N,N-dimethyl-2-nitrobenzenesulfonamide	49 FR 47921 (12-7-84)	Feb. 20, 1985.
85-191	Phenyl 4-methoxy-3-nitrobenzenesulfonate	49 FR 47921 (12-7-84)	Do.
85-192	2-amino-N,N-dimethylbenzenesulfonamide	49 FR 47921 (12-7-84)	Do.
85-193	Phenyl 3-amino-4-methoxybenzeensulfonate	49 FR 47921 (12-7-84)	Do.
85-194	Generic name: Acid amide salt	49 FR 47921 (12-7-84)	Do.
85-195	Generic name: Substituted silyl epoxide	49 FR 47921 (47922) (12-7-84)	Do.
85-196	Generic name: Substituted alkyl silyl urea	49 FR 47921 (47922) (12-7-84)	Do.
85-197	Melamine cyanurate	49 FR 47921 (47922) (12-7-84)	Do.
85-198	Generic name: Alkylated aromatic diamine	49 FR 47921 (47922) (12-7-84)	Feb. 23, 1985.
85-199	Generic name: Hydrocarbon resin	49 FR 47921 (47922) (12-7-84)	Do.
85-200	Generic name: Cyanoacrylate ester	49 FR 47921 (47922) (12-7-84)	Do.
85-201	Generic name: Substituted dioxazine	49 FR 47921 (47922) (12-7-84)	Do.
85-202	Generic name: Substituted dioxazine	49 FR 47921 (47922) (12-7-84)	Do.
85-203	Generic name: Sulfur-containing polyalkylene oxides	49 FR 47921 (47922) (12-7-84)	Do.
85-213	Generic name: Aromatic polyurethane prepolymer containing tertiary amine	49 FR 47921 (47922) (12-7-84)	Do.
85-214	Generic name: Aromatic polyurethane prepolymer containing polyether	49 FR 47921 (47922) (12-7-84)	Do.
85-215	Generic name: Polyester polyol	49 FR 47921 (47922) (12-7-84)	Do.
85-216	Generic name: Substituted pyridine	49 FR 47921 (47922) (12-7-84)	Do.
85-217	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) (12-7-84)	Feb. 24, 1985.
85-218	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) (12-7-84)	Do.
85-219	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) (12-7-84)	Do.
85-220	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) (12-7-84)	Do.
85-221	Generic name: Polymer of diisocyanate	49 FR 47921 (47923) (12-7-84)	Do.
85-222	Generic name: Polymer of diisocyanate	49 FR 47921 (47923) (12-7-84)	Do.
85-223	Generic name: Polyester diol	49 FR 47921 (47923) (12-7-84)	Do.
85-224	Generic name: Polyester polyol	49 FR 47921 (47923) (12-7-84)	Do.
85-225	2-n-butoxyethyl 4-(dimethylamino)benzoate	49 FR 47921 (47923) (12-7-84)	Do.
85-226	Generic name: Substituted succinic acid	49 FR 47921 (47923) (12-7-84)	Do.
85-227	Generic name: Acrylic acid ester	49 FR 47921 (47923) (12-7-84)	Do.
85-228	Generic name: Disubstituted pyridinium bromide	49 FR 47921 (47923) (12-7-84)	Do.
85-229	Generic name: Epoxy polyester	49 FR 47921 (47923) (12-7-84)	Do.
85-230	Generic name: Acrylated alkyd resin	49 FR 47921 (47923) (12-7-84)	Do.
85-231	Generic name: Polyester base	49 FR 47921 (47924) (12-7-84)	Do.
85-232	Chromate (2-), [2-[[1-(3-chlorophenyl)-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfobenzoato-(2)] [2-[4,5-dihydro-5-oxo-1,3-diphenyl-1H-pyrazol-4-yl)azo]benzoato(2-)]-, sodium hydrogen (9Cl).	49 FR 47921 (47924) (12-7-84)	Do.
85-233	Benzeneamine, 4-[(dichloro-1,3-benzothiazol-2-yl)azo]-N-methyl-N-(3-phenylpropyl)-	49 FR 47921 (47924) (12-7-84)	Do.
85-234	Generic name: Disubstituted sulfide	49 FR 47921 (47924) (12-7-84)	Feb. 26, 1985.
85-235	Generic name: Vegetable oil polymer with alkane diols	49 FR 47921 (47924) (12-7-84)	Do.
85-236	Generic name: Substituted pyridine	49 FR 48801 (48802) (12-14-84)	Feb. 27, 1985.
85-237	Strontium, calcium, barium chloride phosphate; europium activated	49 FR 48801 (48802) (12-14-84)	Do.

Note.—PMN's 85-204 through 85-212 have been consolidated into PMN 85-203.

III. 103 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity/generic name	FR citation	Expiration date
84-341	Poly[oxy(l-oxo-l,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethyl-propanoate (2:1), di-2-propenoate.	49 FR 3523(3525) (1-27-84)	Dec. 4, 1984.
84-342	Poly[oxy(l-oxo-l,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-	49 FR 3523(3525) (1-27-84)	Do.
84-343	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydroxy-omega-hydroxy-, ester with 2,2'[oxybis-(methylene)]bis[2-(hydroxymethyl)-1,3-propane-diol 2-propenoate.	49 FR 3523(3525) (1-27-84)	Do.
84-344	2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl)oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester.	49 FR 3523(3525)(1-27-84)	Do.
84-425	Generic name: Alkyl arylphosphonium salt	49 FR 7654(7655) (3-1-84)	Dec. 27, 1984.
84-558	Generic name: Carboxylated alkane diol	49 FR 14802(14803) (4-13-84)	Dec. 19, 1984.
84-820	Generic name: Phosphonium salt	49 FR 24782(24784) (6-15-84)	Dec. 17, 1984.
84-860	Generic name: Disubstituted nitrobenzene	49 FR 26800(26801) (6-29-84)	Dec. 27, 1984.
84-885	Generic name: Carboxylic acid chloride	49 FR 28614(28615) (7-13-84)	Dec. 24, 1984.
84-916	Generic name: Mixed chromium complexes of substituted hydroxyphenyl azo hydroxy-naphthalenes, amine salts.	49 FR 29451 (7-20-84)	Dec. 25, 1984.
84-951	Generic name: Substituted aminobenzoic acid ester	49 FR 30238(30239) (7-27-84)	Dec. 27, 1984.
84-1052	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	49 FR 33718(33720) (8-24-84)	Dec. 23, 1984.
84-1138	Generic name: Sulfonated vinylic homopolymer salt	49 FR 36151(36152) (9-14-84)	Dec. 2, 1984.
84-1139	Generic name: Cellulosic ether	49 FR 36151(36152) (9-14-84)	Do.
84-1140	Generic name: Monobasic acid—modified alkyd resin	49 FR 36151(36152) (9-14-84)	Do.
84-1141	Generic name: Phenylene bis[benzothiazoyl-oxoalkyamide] [methylimidazole] derivative, mixed salts.	49 FR 36151(36152) (9-14-84)	Do.

III. 103 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-1142	Generic name: Aliphatic polyester	49 FR 36151(36152) (9-14-84)	Do.
84-1143	Generic name: 2,4,6-trisubstituted phenol	49 FR 36151(36152) (9-14-84)	Do.
84-1146	Generic name: Substituted polyethylene glycol succinate	49 FR 36151(36153) (9-14-84)	Do.
84-1147	Generic name: Polyether polyol	49 FR 36151(36153) (9-14-84)	Dec. 4, 1984.
84-1148	Generic name: Polyether polyol	49 FR 36151(36153) (9-14-84)	Dp.
84-1149	Generic name: Disubstituted carbopolycycle, salt	49 FR 37458 (9-24-84)	Dec. 8, 1984.
84-1150	2,2'-Thio-bis-[4,6-bis(1,1-dimethylethyl)]-1,3-benzenediol	49 FR 37458 (9-24-84)	Do.
84-1151	2,2'-Methylene-bis-[4,6-bis(1,1-dimethylethyl)]-1,3-benzenediol	49 FR 37458 (9-24-84)	Do.
84-1152	Generic name: Copper complex of a substituted phenyl azo	49 FR 37458 (9-24-84)	Do.
84-1153	Generic name: Aromatic substituted urea	49 FR 37458(37459) (9-24-84)	Do.
84-1154	Generic name: Aromatic substituted urea	49 FR 37456(37459) (9-24-84)	Do.
84-1155	Generic name: Quaternary polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1156	Generic name: Quaternary ammonium chloride of an oxyalkylated polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1157	Generic name: Oxyalkylated phenolic ester	49 FR 37458(37459) (9-24-84)	Do.
84-1158	Generic name: Quaternary ammonium chloride of an oxyalkylated polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1159	Generic name: Oxyalkylated tetrol 2-butenedioic acid ester	49 FR 37458(37459) (9-24-84)	Do.
84-1160	Generic name: Propoxylated imidazoline	49 FR 37458(37459) (9-24-84)	Do.
84-1161	Generic name: 4-substituted benzoic acid	49 FR 37458(37459) (9-24-84)	Do.
84-1162	Generic name: Fatty acids, esters with polyols	49 FR 37458(37459) (9-24-84)	Dec. 9, 1984.
84-1163	Generic name: Perfluoroalkyl substituted polyurethane	49 FR 37458(37458) (9-24-84)	Do.
84-1164	Generic name: Disubstituted benzoic acid ester	49 FR 37458(37459) (9-24-84)	Do.
84-1165	Generic name: Substituted benzotriazole	49 FR 37458(37459) (9-24-84)	Do.
84-1166	Generic name: Functionally modified polyurethane	49 FR 37458(37459) (9-24-84)	Do.
84-1168	Generic name: Polysubstituted urethane	49 FR 37458(37460) (9-24-84)	Do.
84-1169	Generic name: Phenol, benzylic ether	49 FR 37458(37460) (9-24-84)	Do.
84-1170	Generic name: Rhodium carboxylate	49 FR 37458(37460) (9-24-84)	Do.
84-1171	Generic name: Perfluoroalkyl substituted polyurethane	49 FR 37458(37460) (9-24-84)	Do.
84-1172	1-Dodecanamine sulfate, mixture of mono-and di- amine salts	49 FR 37458(37460) (9-24-84)	Dec. 10, 1984.
84-1173	1-Octanamine hydrogen sulfate, mixture of mono- and di- amine salts	49 FR 37458(37460) (9-24-84)	Do.
84-1174	Tricyclo [3.3.1.1^{3,7}] decan-1-amine sulfate, mixture of mono- and di- amine salts	49 FR 37458(37460) (9-24-84)	Do.
84-1175	Generic name: Polyester polyol	49 FR 38356 (9-28-84)	Dec. 1, 1984.
84-1176	Generic name: Alkyl alicyclic alcohol	49 FR 38356 (9-28-84)	Do.
84-1177	Generic name: Metal salt of azonaphthoic acid	49 FR 38356 (9-28-84)	Do.
84-1178	Generic name: Phenolic modified rosin ester	49 FR 38356(38357) (9-28-84)	Do.
84-1179	Generic name: Phenolic modified rosin ester	49 FR 38356(38357) (9-28-84)	Do.
84-1180	Generic name: Aminopolyamide resin	49 FR 38356(38357) (9-28-84)	Do.
84-1181	Generic name: Aminopolyamide resin	49 FR 38356(38357) (9-28-84)	Do.
84-1182	Generic name: Aminopolyamide-epichloro-hydrin resin	49 FR 38356(38357) (9-28-84)	Do.
84-1183	Generic name: Aminopolyamide-epichlorohydrin polymer	49 FR 38356(38357) (9-28-84)	Do.
84-1185	Generic name: Alkali metal salt of an unsaturated carboxylic acid	49 FR 38356(38357) (9-28-84)	Dec. 15, 1984.
84-1186	Generic name: Polyester of carbomonocyclic ester and alkylene glycols	49 FR 38356(38357) (9-28-84)	Do.
84-1187	Generic name: Polyester of carbomonocyclic acid and alkylene glycols	49 FR 38356(38357) (9-28-84)	Do.
84-1191	1,4-pentadiene-3-one, 1,5-bis[4-(dimethyl-amino phenyl]-	49 FR 38356(38358) (9-28-84)	Do.
84-1192	Generic name: Functional aromatic polyether	49 FR 38356(38358) (9-28-84)	Dec. 16, 1984.
84-1193	Generic name: Functional polyester	49 FR 38356(38358) (9-28-84)	Do.
84-1194	Generic name: Acrylated polyester	49 FR 38356(38358) (9-28-84)	Do.
84-1195	Generic name: Type I anion exchange resin, sulfate form	49 FR 38356(38358) (9-28-84)	Do.
84-1196	Generic name: Type II anion exchange resin, sulfate form	49 FR 38356(38358) (9-28-84)	Do.
84-1197	Generic name: Type II anion exchange resin, bicarbonate/carbonate form	49 FR 38356(38358) (9-28-84)	Do.
84-1198	Generic name: Substituted phenol formaldehyde resin	49 FR 38356(38358) (9-28-84)	Do.
84-1199	Generic name: Polyester urethane polymer	49 FR 38356(38358) (9-28-84)	Do.
84-1200	Generic name: Hydrocarbon rosin phenolic resin	49 FR 38356(38358) (9-28-84)	Do.
84-1201	Generic name: Polyamine amide imide	49 FR 38356(38358) (9-28-84)	Do.
84-1202	Generic name: Modified cellulosic	49 FR 38356(38359) (9-28-84)	Dec. 17, 1984.
84-1203	Generic name: Substituted amino benzoic acid derivative	49 FR 38356(38359) (9-28-84)	Do.
84-1205	Benzeneamine, 2-hydroxy-5-[(2-sulfooxy-ethyl)sulfonyl]-	49 FR 39379(39380) (10-5-84)	Dec. 19, 1984.
84-1206	Benzenamethanamine, 3-methoxy-	49 FR 39379(39380) (10-5-84)	Do.
84-1207	Generic name: Titanium zirconium lignosulfonate	49 FR 39379(39380) (10-5-84)	Do.
84-1208	Generic name: Copolymer from poly(alkylene carbomonocyclic dicarboxylate) and disubstituted carbomonocycle.	49 FR 39379(39380) (10-5-84)	Dec. 23, 1984.
84-1209	Polymer of hydroxy ethyl acrylate, Desmodur W, Duracarb 140-600 and glycerine	49 FR 39379(39380) (10-5-84)	Do.
84-1210	Polymer of maleic anhydride and jeffamine M-600	49 FR 39379(39380) (10-5-84)	Do.
84-1211	Generic name: Reaction product of alkyl-diamine and excess formaldehyde	49 FR 39379(39380) (10-5-84)	Do.
84-1212	Generic name: Alkyl diamino polyacetonitrile	49 FR 39379(39380) (10-5-84)	Do.
84-1213	Generic name: Sodium salt of alkydiamino-polycarboxylic acid	49 FR 39379(39380) (10-5-84)	Do.
84-1214	Generic name: Acrylic copolymer	49 FR 39379(39380) (10-5-84)	Do.
84-1215	Generic name: Alkyd copolymer	49 FR 39379(39380) (10-5-84)	Do.
84-1216	Generic name: Acrylic copolymer	49 FR 39379(39380) (10-5-84)	Do.
84-1217	Generic name: Alkyd base for an alkyd modified acrylic copolymer	49 FR 39379(39380) (10-5-84)	Do.
84-1218	Generic name: Polymer of aliphatic diamine and unsubstituted aromatic and aliphatic acids	49 FR 39379(39380) (10-5-84)	Do.
84-1220	Generic name: Disubstituted piperazine	49 FR 39379(39381) (10-5-84)	Dec. 25, 1984.
84-1221	Generic name: Disubstituted benzothiazole salt	49 FR 39379(39381) (10-5-84)	Do.
84-1222	Generic name: Polymer of substituted methacrylic acid and polydimethyl siloxane	49 FR 39379(39381) (10-5-84)	Do.
84-1223	Generic name: Aliphatic ester	49 FR 39379(39381) (10-5-84)	Do.
84-1224	Generic name: Aliphatic polyester	49 FR 39379(39381) (10-5-84)	Do.
84-1225	Generic name: Aliphatic polyester	49 FR 39379(39381) (10-5-84)	Do.
84-1226	Generic name: Substituted amine-boron compound	49 FR 39379(39381) (10-5-84)	Do.
84-1227	Generic name: Halogenated aromatic substituted alkane	49 FR 39379(39381) (10-5-84)	Do.
84-1228	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Do.
84-1229	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Do.
84-1230	Generic name: Methyl sulfate, quaternized polyurethane	49 FR 41100 (10-19-84)	Dec. 26, 1984.
85-1	Generic name: Aromatic oxime	49 FR 41100 (10-19-84)	Dec. 29, 1984.
85-3	Generic name: Polyurethane polymer	49 FR 41100(41101) (10-19-84)	Dec. 30, 1984.
85-4	Generic name: Substituted phenol	49 FR 41100(41101) (10-19-84)	Do.
85-5	Adipic acid, azelaic azic, and phthalic anhydride with ethylene glycol terminated with 2-Ethyl hexanol.	49 FR 41100(41101) (10-19-84)	Do.
85-6	Generic name: Alkyl phosphate potassium salt	49 FR 41100(41101) (10-19-84)	Do.
85-7	Generic name: Spiro[sobenzofuran xanthene]	49 FR 41100(41101) (10-19-84)	Do.
85-9	Generic name: Fatty alcohol, ethoxylated, propoxylated, fatty acid ester	49 FR 41100(41101) (10-19-84)	Dec. 31, 1984.

IV. 40 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR Citation	Date of commencement
83-252	Generic name: Alkyl amino-amide salt	47 FR 54537 (12-3-82)	Oct. 12, 1984.
83-286	Generic name: 1,1-dimethyl ethyl peroxyester	47 FR 57332 (57334) (12-23-82)	Dec. 6, 1984.
83-313	Generic name: Polymer of alkane polyols, alkane dioic acid and aromatic acid	47 FR 57336 (57337 (12-23-82)	On or about Dec. 3, 1984.
83-339	5-[4-chloro-6-[3-[2-(hydroxysulfonyloxy) ethyl sulfonyl]anilino]-1,3,5-triazin-2-ylamino]-3-(1,5-disulfo-2-naphthylazo)-4-hydroxy-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 862 (1-7-83)	Oct. 8, 1984.
83-341	7-[4-[4-chloro-6[3-[2-(hdroxysulfonyloxy) ethyl sulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 862 (1-7-83)	Do.
83-343	4-amino-6-[5-[4-chloro-6-[3-[2-(hydroxysulfonyloxy)ethyl sulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-sulfophyenylazo]-5-hydroxy-3-(4-sulfonphenylazo)-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 862 (1-7-83)	Do.
83-1051	Thiomolybdic acid, diammonium salt	48 FR 38689 (38690) (8-26-83)	Dec. 12, 1984.
84-179	Generic name: Substituted-penyl-N-substituted-sulfophenylazo-benzylidene-hydrazino substituted amino monochlorotrazinylamino sulfobenzoate-copper sulfate, sodium salt.	48 FR 50944 (50950) (11-4-83)	Oct. 8, 1984.
84-326	Generic name: Bis(polyalkyaminetriphenyl)-bis(aminoalkyl)benzene	49 FR 2526 (2527) (1-20-84)	Dec. 3, 1984.
84-510	Generic name: Halogenated aromatic ester	49 FR 13746 (13747) (4-6-84)	Dec. 11, 1984.
84-593	Generic name: Diazotization product of substituted benzaminde and substituted pyridine	49 FR 16833 (16835) (4-20-84)	Nov. 29, 1984.
84-666	Generic name: Starch, 2 diethylaminoethylene hydrechloride 2 acetamido-N-(2-substituted alkyl-)N-methylether.	49 FR 20060 (20061) (5-11-84)	Nov. 7, 1984.
84-795	Generic name: Carbomonocyclic, carbopolycyclic polyester	49 FR 24782 (6-15-84)	Dec. 3, 1984.
84-798	N-[4-(ethylamino)phenyl]urethanesulfonamide	49 FR 24782 (24783) (6-15-84)	Nov. 7, 1984.
84-826	Generic name: Polymer of aliphatic polyamines, dihaloalkane, aliphatic diacid	49 FR 25676 (6-22-84)	Dec. 14, 1984.
84-827	Generic name: Polymer of aliphatic polamines, dihaloalkane, organic diamine	49 FR 25676 (25677) (6-22-84)	Do.
84-828	Generic name: Polymer of substituted polyalkylene polyamine and substituted alkane	49 FR 25676 (25677) (6-22-84)	Do.
84-865	Generic name: ((Alkyl)(alkyl)amino) polyalkoxy ether sulfate halfester	49 FR 26800 (26802) (6-29-84)	Nov. 29, 1984.
84-869	4-(acetylamino)-3-nitrobenzoic acid	49 FR 26800 (26802) (6-29-84)	Dec. 4, 1984.
84-888	Generic name: Substituted styrene	49 FR 28614 (28615) (7-13-84)	Nov. 15, 1984.
84-948	Oxidase alcohol	49 FR 30238 (30239) (7-27-84)	Dec. 18, 1984.
84-969	Generic name: Modified sodium polyacrylate	49 FR 30238 (30240) (9-27-84)	Nov. 15, 1984.
84-974	Generic name: Acrylic ester terpolymer	49 FR 30238 (30241) (7-27-84)	Dec. 10, 1984.
84-981	Generic name: Polyether polyol oligomer	49 FR 30238 (30241) (7-27-84)	Mar. 1, 1985.
84-1009	Generic name: Aliphatic polycarbonate urethane	49 FR 32110 (8-10-84)	Nov. 26, 1984.
84-1010	Generic name: Aliphatic polycarbonate urethane	49 FR 32110 (8-10-84)	Nov. 7, 1984.
84-1011	Generic name: Aliphatic polyester urethane	49 FR 32110 (8-10-84)	Nov. 15, 1984.
84-1012	Generic name: Aliphatic polyester urethane	49 FR 32110 (8-10-84)	Nov. 6, 1984.
84-1014	Generic name: Aliphatic polyether urethane	49 FR 32110 (32111) (8-10-84)	Nov. 8, 1984.
84-1018	Generic name: Urethane adduct	49 FR 32110 (32111) (8-10-84)	Oct. 31, 1984.
84-1034	Generic name: Mercaptocarboxylic acid ester reaction product with olefin	49 FR 32110 (32112) (8-10-84)	Dec. 1, 1984.
84-1059	Generic name: Fluoropolyester modified toluene diisocyanate polymer	49 FR 33721 (8-24-84)	Nov. 27, 1984.
84-1099	4-anilino-4'-hydroxy azo benzene	49 FR 34572 (34574) (8-31-84)	Dec. 12, 1984.
84-1107	Generic name: Copper complex of a substituted biphenyl sulfonated salt	49 FR 35414 (35415) (9-7-84)	Nov. 26, 1984.
84-1115	Generic name: Phenolic modified rosin ester	49 FR 35414 (35416) (9-7-84)	Dec. 7, 1984.
84-1123	Generic name: Substituted sulfonated naphthalene	49 FR 35414 (35416) (9-7-84)	Nov. 29, 1984.
84-1140	Generic name: Monobasic acid-modified alkyd resin	49 FR 36151 (36152) (9-14-84)	Dec. 4, 1984.
84-1142	Generic name Aliphatic polyester	49 FR 36151 (36152) (9-14-84)	Dec. 5, 1984.
84-1169	Generic name: Phenol, benzylic ether	49 FR 37458 (37460) (9-24-84)	Dec. 21, 1984.
84-1201	Generic name: Polyamine amide imide	49 FR 38356 (38358) (9-28-84)	Dec. 21, 1984.

V. 105. PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citation	Date suspended
83-1	Generic name: Polyhalogenated aromatic alklated hydrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1983.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 72(73) (1-3-83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenyl-azo	48 FR 5304 (2-4-83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazosulfonaphthaleneazo		
83-461	Generic name: substituted alkoxy silane	48 FR 7299 (7300) (2-18-83)	Apr. 25, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR FR 17385 (4-22-83)	July 5, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5-6-83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20490 (20491) (5-6-83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6-3-83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylaminoformimidphenol with sulfonaphthylazosulfonaphthol.	48 FR 24967 (24968) (6-3-83)	Do.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983.
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino[-3-chlorobenzene	48 FR 31460 (31462) (7-8-83)	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32381 (32383) (7-15-83)	Oct. 1, 1983.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted) (substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36647(36648) (8-12-83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium saltsd	48 FR 36647 (36648) (8-12-83)	Do.
83-1012	Generic name: Bis(sulfophenylchlorotriazineaminosulfophenylazo) hydroxyaminodisulfonaphthalene.	48 FR 36647 (36648) (8-12-83)	Oct. 24, 1983.
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative.	48 FR 36647 (36649) (8-12-83)	Do.
83-1033	Generic name: C_{4-8} carboxylic acid	48 FR 37699 (37700) (8-19-83)	Dec. 8, 1983.
83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983.
84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Jan. 3, 1984.
84-17	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Mar. 1, 1984.
84-18	1(1,1dimethylethoxy)-propan-2-ol	48 FR 48863 (48864) (10-21-83)	Jan. 6, 1984.
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Mar. 1, 1984.
84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50951 (50952) (11-4-83)	Do.

V. 105. PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
84-54	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50951(59053) (11-4-83)	Jan. 5, 1984.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50944 (50945) (11-4-83)	Mar. 3, 1984.
84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Mar. 1, 1984.
84-306	Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984.
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 930 (932) (1-6-84)	Do.
84-358	Generic name: Polyaromatic urethane poly (unsaturated) ester	49 FR 6991 (2-24-84)	Apr. 26, 1984.
84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	May 11, 1984.
84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	Do.
84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino]]1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-napahthalene-disulfonato(7-)], pentasodium.	49 FR 6160(6162) (2-17-84)	Apr. 27, 1984.
84-392	Generic name: Alkoxylated cycloaliphatic diamine	49 FR 6160 (6162) (2-17-84)	Do.
84-416	Dimethylbis(N-ethylacetamido)silane	49 FR 6991 (6993) (2-24-84)	May 11, 1984.
84-485	Generic name: Poly(oxy-1,2-ethanediyl)alpha-acyl-w-alkyl	49 FR 11009 (11010) (3-23-84)	June 4, 1984.
84-490	Generic name: Substituted aminofluorane	49 FR 11009 (11010) (3-23-84)	Aug. 16, 1984.
84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16833 (16835) (4-20-84)	July 5, 1984.
84-597	Generic name: Blocked aliphatic polyisocyanate	49 FR 16833 (16835) (4-20-84)	July 19, 1984.
84-649	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984.
84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	49 FR 19110 (19113) (5-4-84)	Do.
84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato)sodium	49 FR 19110 (19113) (5-4-84)	Do.
84-664	Generic name: Chromate, (substituted substituted phenolato) (substituted substituted substituted substituted phenolato)sodium.	49 FR 20060 (20061) (5-11-84)	Do.
84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	49 FR 20060 (20061) (5-11-84)	Do.
84-669	Oleic, linoleic, palmitic acid ester of ethoxylated $C_{12}C_{14}$ alcohols	49 FR 20060 (20061) (5-11-84)	July 18, 1984
84-673	Generic name: Chromate (substituted naphthalenolato) (substituted substituted naphthalenolato) inorganic salts.	49 FR 20060 (20061) (5-11-84)	July 20, 1984.
84-698	Generic name: 9,10-Anthrscenedione sulfonic acid, sodium salt	49 FR 22129 (22129) (5-25-84)	July 25, 1984.
84-703	Oxo-octyl acetate	49 FR 22128 (22130) (5-25-84)	Aug. 9, 1984.
84-713	Generic name: Acrylated alkoxylated aliphatic polyol	49 FR 22128 (22130) (5-25-84)	Aug. 3, 1984.
84-737	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Aug. 15, 1984.
84-738	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Do.
84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	July 23, 1984.
84-780	Generic name: Aliphatic diacrylate	49 FR 23916 (23919) (6-8-84)	Aug. 22, 1984.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23916 (23920) (6-8-84)	Do.
84-796	Generic name: Polyfunctional aziridine	49 FR 24782 (6-15-84)	Aug. 17, 1984.
84-814	Generic name: Polysubstituted polyol	49 FR 24782 (24784) (6-15-84)	Aug. 27, 1984.
84-824	Generic name: Brominated aromatic	49 FR 25676 (6-22-84)	Aug. 29, 1984.
84-839	Generic name: Polyfunctional aziridine	49 FR 25676 (25677) (6-22-84)	Aug. 27, 1984.
84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26800 (26801) (6-29-84)	Aug. 31, 1984.
84-860	Generic name: Modified melamine formaldehyde polymer	49 FR 28614 (7-13-84)	Aug. 22, 1984.
84-861	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614 (28615) (7-13-84)	Aug. 30, 1984.
84-888	Generic name: Triazine derivative	49 FR 28614 (28615) (7-13-84)	Oct. 22, 1984.
84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted substituted naphthalenedisulfonic acid, sodium salt.	49 FR 28614 (28616) (7-13-84)	Sept. 19, 1984.
84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-triona, 1,3,5-tris (2,3-dibromopropyl)	49 FR 28616 (28617) (7-13-84)	Sept. 28, 1984.
84-901	Bis(tetrabromobispheno A)Bis(tribromophenyl)ethylenetetracarbonate	49 FR 28616 (28617) (7-13-84)	Sept. 21, 1984.
84-902	Hexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
84-903	N-methylhexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
84-910	Phenol, *p*-allyl	49 FR 28616 (28617) (7-13-84)	Sept. 26, 1984.
84-913	Generic name: N,N'-bis(2-(2-(3-alkyl)thiasoline)vinyl)-1,4-phenylene diamine double salt	49 FR 28616 (28618) (7-13-84)	Do.
84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29451 (29452) (7-20-84)	Do.
84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	49 FR 29451 (29453) (7-20-84)	Oct. 1, 1984.
84-954	Generic name: Substituted aromatic	49 FR 30238 (30239) (7-27-84)	Oct. 10, 1984.
84-963	6-Nitro-2(3H)-benzoxazolone	49 FR 30238 (30240) (7-27-84)	Oct. 11, 1984.
84-968	Generic name: Modified sodium polyacrylate	49 FR 30238 (30240) (7-27-84)	Dec. 14, 1984.
84-969	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chioro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenylazo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxid, hexasodium.	49 FR 31136 (31137) (8-3-84)	Oct. 16, 1984.
84-1005	Generic name: Alkyl amine derivative	49 FR 32100 (8-10-84)	Oct. 24, 1984.
84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	49 FR 32110 (8-10-84)	Oct. 5, 1984.
84-1042	Methylammonium *n*-methyldithiocarbamate	49 FR 33718 (33719) (8-24-84)	Oct. 31, 1984.
84-1051	Generic name: Halogenated aromatic substituted olefin	49 FR 33718 (33720) (8-24-84)	Oct. 30, 1984.
84-1053	Generic name: Ethoxylated vegetable fatty acids, end-capped	49 FR 33718 (33720) (8-24-84)	Oct. 26, 1984.
84-1062	Methyl vinyl sulfone	49 FR 33718 (33721) (8-24-84)	Nov. 6, 1984.
84-1066	N-dimethylthiocarbamylthio-N'-phenyl urea	49 FR 33718 (33722) (8-24-84)	Nov. 5, 1984.
84-1074	Generic name: Polyurethane polymer	49 FR 34572 (8-31-84)	Nov. 9, 1984.
84-1079	Generic name: Alkylated diphenyl oxide	49 FR 34572 (34573) (8-31-84)	Nov. 26, 1984.
84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	49 FR 35414 (35416) (9-7-84)	Nov. 19, 1984.
84-1126	Generic name: Isoalkyleneoxy alkanol	49 FR 35414 (35417) (9-7-84)	Nov. 26, 1984.
84-1129	Acetic acid, ester with C_9-C_{11} iso alcohols, C_{10}-rich	49 FR 35414 (35417) (9-7-84)	Nov. 21, 1984.
84-1130	Acetic acid, ester with C_9-C_{11} alcohols, C_9-rich	49 FR 35414 (35417) (9-7-84)	Do.
84-1131	Acetic acid, ester with C_{11}-C14 iso alcohols, C_{12}-rich	49 FR 35414 (35417) (9-7-84)	Do.
84-1136	Generic name: Substituted aromatic amide	49 FR 36151 (36152) (9-14-84)	Nov. 20, 1984.
84-1137	Generic name: Cycloaliphatic epoxide	49 FR 36151 (36152) (9-14-84)	Do.
84-1144	Generic name: Isoalkyleneoxy alkanoate	49 FR 36151 (36152) (9-14-84)	Nov. 28, 1984.
84-1145	Generic name: Alkyltrialkoxysilane	49 FR 36151 (36152) (9-14-84)	Nov. 27, 1984.
84-1167	Generic name: Epoxy ester	49 FR 37458 (37460) (9-24-84)	Nov. 30, 1984.
84-1184	Generic name: Polychlorofluoro aromatic alkylated hydrocarbon	49 FR 38356 (38357) (9-28-84)	Dec. 5, 1984.
84-1188	Generic name: Modified acrylamide polymer	49 FR 38356 (38357) (9-28-84)	Dec. 7, 1984.
84-1189	Generic name: Modified acrylamide polymer	49 FR 38356 (38357) (9-28-84)	Do.
84-1190	Generic name: Modified acrylamide polymer	49 FR 38356 (38358) (9-28-84)	Do.
84-1204	Generic name: Substituted, sulfonated naphthylazo sodium salt	49 FR 38356 (38359) (9-28-84)	Dec. 17, 1984.
84-1219	Generic name: Substituted pyridine	49 FR 39379 (39380) (10-5-84)	Dec. 19, 1984.
85-2	Generic name: Nitro alcohol	49 FR 41100 (41101) (10-19-84)	Do.
85-8	Generic name: Polyether polyester urethane	49 FR 41100 (41101) (10-19-84)	Dec. 17, 1984.
85-301	Generic name: Urethane acrylate	49 FR 50444 (12-28-84)	Dec. 20, 1984.

[FR Doc. 85-2953 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OARM-FRL-2772-5]

Renewal of Two Advisory Committees; National Air Pollution Control Techniques Advisory Committee and Management Advisory Group to the Construction Grants Program

The U.S. Environmental Protection Agency announces the renewal of the National Air Pollution Control Techniques Advisory Committee and the Management Advisory Group to the Construction Grants Program. EPA has determined that renewal of these advisory committees is in the public interest in connection with the performance of duties imposed on the Agency by law. The charters which continue these two advisory committees until December 1, 1986, unless otherwise sooner terminated, have been filed with the appropriate Congressional Committees and the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Frances J. Hanavan, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-382-5036.

Dated: January 22, 1985.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

[FR Doc. 85-2963 Filed 2-5-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-401; FRL-2758-2]

Certain Companies; Pesticide Tolerance Petitions; Dow Chemical Co., et al.

Correction

In FR Doc. 85-1434 beginning on page 3023 in the issue of Wednesday, January 23, 1985, make the following correction:

On page 3024, first column, under "II. Amended Petitions", in the eleventh line, insert a "-" in the place of each "/".

BILLING CODE 1505-01-M

FEDERAL ELECTION COMMISSION

[Notice 1985-22]

Filing Dates for Louisiana Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Louisiana Special Election.

SUMMARY: Committees required to file reports in connection with the special primary election to be held on March 30, 1985, must file a 12-day pre-election report by March 18, 1985, and if there is a majority winner, a 30-day post-election report by April 29, 1985. In the event no candidate achieves a majority vote in the special primary election, committees required to file reports in connection with the special general election must file a 12-day pre-election report by April 22, 1985, and a 30-day post-election report by June 3, 1985.

After filing these reports, committees should resume filing reports on a semiannual basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, NW., Washington, D.C. 20463, Telephone: (202) 523-4068, Toll free: (800) 424-9530.

Notice of Filing Dates for Special Election, 8th Congressional District, Louisiana

The State of Louisiana has scheduled a special primary election in the 8th Congressional District for March 30, 1985. If no candidate receives a majority of the vote in that election, a special general election will be held on May 4, 1985.

All principal campaign committees of candidates in the special primary election and all other political committees not filing monthly, which support candidates in the special primary election shall file a 12-day pre-election report due on March 18, 1985, with coverage dates from date of candidacy, or last report filed, through March 10, 1985. If a candidate receives a majority vote in the primary election, a 30-day post-election report is due on April 29, 1985, with coverage dates from March 11, 1985, through April 19, 1985.

In the event that no candidate achieves a majority vote in the special primary election, a special general election will be held on May 4, 1985. Committees not involved in the special general election should return to filing on a semiannual basis.

All principal campaign committees of candidates and all other political committees not filing monthly, which support candidates in the special general election shall file a 12-day pre-election report due on April 22, 1985, with coverage dates from March 11, 1985, through April 14, 1985, and a post-election report due on June 3, 1985, with coverage dates from April 15, 1985, through May 24, 1985.

After filing these reports, committees should resume filing reports on a semiannual basis.

Dated: February 1, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 85-2965 Filed 2-5-85; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009548-026.

Title: North Atlantic Mediterranean Freight Conference.

Parties:

Constellation Lines S.A.

Farrell Lines, Inc.

Prudential Lines, Inc.

Synopsis: The proposed amendment would modify the agreement (1) to eliminate Italian, French, and Romanian ports from the geographic scope of the agreement; (2) insert mandatory provisions required by the Shipping Act of 1984 including independent action on two business days notice; (3) eliminate initiation fees and reduce financial guarantees; (4) modify voting provisions and authorize certain chartering activities among the members; (5) clarify agreement authority over contracts; (6) modify conference rate committee scopes and authority; (7) provide for certain agreements concerning foreign inland matters; (8) modify existing provisions governing alternate port service, and would modify the agreement to conform with the format requirements of the Commission's regulations.

Agreement No.: 202-010025-003.

Title: Red Sea Rate Agreement.

Parties:

Barber Blue Sea Line

Maersk Line

Nedlloyd Lijnen, B.V.

Sea-Land Service, Inc.

Synopsis: The proposed amendment would modify the agreement to (1) set forth the agreement's authority regarding U.S. and foreign intermodal movements; and (2) establish common tariffs, credit rules, forwarder compensation, service contracts, vessel charters and sailings, and alternate port service. It would modify the agreement to provide for administrative and procedural matters such as sharing of agreement costs, voting, and financial guarantees. It would also modify the agreement to conform with the format requirements of the Commission's regulations and incorporate mandatory provisions required by the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: February 1, 1985.

Francis C. Hurney,

Secretary.

[FR Doc. 85-2983 Filed 2-5-85; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 85-3]

Matson Navigation Company, Inc.; Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports; Dissenting Opinion

Attached is the dissenting opinion of Commissioner Robert Setrakian in connection with the Commission's January 24, 1985, Order of Investigation and Hearing in this proceeding, which appeared in the **Federal Register** on January 29, 1985 (50 FR 3972).

Francis C. Hurney,

Secretary.

Commissioner Setrakian, Dissenting

The record before the Commission does not support the initiation of an investigation and hearing, and accordingly, I dissent from the issuance of the attached Order as well as concur with the dissenting opinion of Commissioner Moakley.

The majority's decision to proceed with an investigation relies entirely on a difference of opinion between Matson's witness Benderly and the Commission's Office of Policy Planning and International Affairs in implementing the methodology for computing a rate of return pursuant to Commission regulations at 46 CFR 512.6(d)(2). These calculations are purely and admittedly subjective, as evidenced in this instance by the disagreements between Matson and Office of Policy Planning and International Affairs, noted in the majority's Order, in current trends in rates of return, interest rates, and selection of a time period for estimating risk based upon the variation in earnings analysis.

While a rate of return computed pursuant to 46 CFR 512.6(d)(2) may be informative in evaluating the reasonableness of a carrier's rates, it is not the end-all, singular criterion specified by the Commission's regulations:

Section 512.1 Purpose.

* * * * *

(b) The methodology employed in each case will depend on the *nature of the relevant carrier's operations and financial structure.* In evaluating the reasonableness of a VOCC's overall level of rates, the Commission will use return on rate base as its primary standard. *However, the Commission may also employ other financial methodologies in order to achieve a fair and reasonable result.*

(c) *In evaluating the reasonableness of a carrier's rates, the Commission may consider,* in addition to the rate of return of the filing carrier, *the effect which approval or disapproval of the rates will have on other carriers in the Trade.*

(d) *The Commission reserves to itself the right to employ other bases for allocation and calculation and to consider other operational factors in any instance where it is deemed necessary to achieve a fair and reasonable result.*

(Emphasis added.)

Application of these other criteria to the Matson rate increase produces sound, persuasive considerations which dictate *against* initiation of the subject investigation. This is Matson's first rate increase in two years, and although the Consumer Price Index has risen by approximately nine percent over the same period, Matson has limited its across-the-board rate increase to a nominal 2.5%. The effect to the rate increase on other carriers in the trade, current or prospective, can only be positive, for the rate increase will provide incentive for entry of additional service into the trade. There is also a conspicious and resounding absence of protests to the limited increase from shippers, consignees, other carriers, or governmental entities, other than a letter from the Chrysler Corporation complaining that the cost increase to it "undermines [its] effort to be competitive." Contrary to the majority's characterization, the Chrysler letter is hardly a "protest" in the usual agency parlance, which contemplates advancing arguments or raising material issues of fact. Chrysler makes not one single argument that Matson's increase is unreasonable or unfair.

The majority's Order is understandably silent as to what OPPIA proposes as a reasonable rate of return for Matson in this historically unpredictable trade, for the difference in the rate effected by Matson and the rate proposed as reasonable by OPPIA is so microscopic as to render unjustified the majority's reliance on that difference when the figures are so obviously and unavoidably the result of subjective, fallible and inexact prognostications. Moreover, the majority's Order regrettably fails to reflect that any consideration was given, in spite of the clear and unmistakable instructions in section 512.1, to other operational factors, other financial methodologies, and the effect of the rate increase on other carriers in this unique trade.

The public interest is not well served when practical and tangible information is completely ignored and regulatory actions are instead grounded upon strict bureaucratic adherence to subjective forecasts and divinations. The majority's insistence upon initiating, in this instance, a very costly and burdensome regulatory proceeding, with the express purpose being the "establishment of a just and reasonable rate," contravenes the mandate of the Administration and Congress to reduce unnecessary government spending, the Commission's own regulations, and the philosophy underlying those regulations, to encourage, promote and advance free and competitive enterprise, and allow marketplace pricing, not governmental intrusion. I therefore respectfully dissent.

[FR Doc. 85-2984 Filed 2-5-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankamerica Corp., 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 indicated or the offices of the Board of Governors not later than February 27, 1985.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California, and Seafirst Corporation, Seattle, Washington; to engage *de novo* through its subsidiary, Seafirst Insurance Corporation ("SIC"), Seattle, Washington, to expand SIC's activities to now include the sale of involuntary unemployment insurance on a group basis in connection with extensions of credit of Seafirst Corporation and its subsidiaries to bank card and installment loan borrowers pursuant to Section 225.25(b)(8)(i)(A) of Regulation Y and Section 601(A) of Title VI of the Garn-St Germain Depository Institutions Act of 1982.

2. *Davis County Bancorporation and Grant S. Clark Investment Co.*, Salt Lake City, Utah; to engage *de novo* through its subsidiary, DCB Capital Corp., Salt Lake City, Utah, in servicing loans and other extensions of credit for any person pursuant to Regulation Y, §§ 225.4(a)(1) and 225.4(a)(3).

Board of Governors of the Federal Reserve System, January 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2955 Filed 2-5-85; 8:45 am]

BILLING CODE 6210-01-M

FBC Bancshares 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 dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 1, 1985.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *FBC Bancshares Inc.*, Lakeview, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of the Farmers Banking Company, N.A., Lakeview, Ohio.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago Illinois 60690:

1. *Iowa National Bankshares Corp.*, Waterloo, Iowa; to acquire 100 percent of the voting shares of Midway Bank & Trust, Cedar Falls, Iowa.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Kevil Bancorp, Inc.*, Kevil, Kentucky; to become a bank holding company be acquring 86.6 percent of the voting shares of the Kevil Bank, Kevil, Kentucky.

Board of Governors of the Federal Reserve System, January 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2956 Filed 2-5-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Allied Health Professions Eligible for Scholarships Consideration Under the Health Professions Preparatory and Pregraduate Scholarship Programs for Indians, and the Indian Health Scholarship Program

The Health Professions Preparatory and Pregraduate Scholarship Programs for Indians are authorized by section 103 of the Indian Health Care Improvement Act, Pub. L. 94-437 as amended by Pub. L. 96-537, Indian Health Care Amendments of 1980. The Indian Health Scholarship Program was initially authorized by section 104 of Pub. L. 94-437, but is now authorized by section 338G (formally section 757) of the Public Health Service Act. Both programs are intended to encourage Indians to enter the health professions and to assure the availability of Indian Health professionals to serve Indians. This list is based upon the needs of the Indian Health Service as well as upon the needs of the Indians for additional service by specific health professions.

Regulations at 42 CFR 36.304 provide that the Indian Health Service shall, from time to time, publish a list of health professions eligible for consideration for the award of Health Professions Preparatory Scholarships for Indians and Indian Health Scholarships. Also, Section 338G(b) of the Public Health Service Act (42 U.S.C. 294y-1) authorizes the determination of specific health professions for which Indian Health Scholarships will be awarded.

Pending the availability of funds, consideration will be given to qualified applicants for scholarship support under the above named scholarship programs in the following health profession categories:

Section 103(b)(1):

Health Professions Preparatory Scholarship for Indians:

Prenursing—Preparatory for entry into Bachelor of Science in Nursing (BSN) or Associate Degree in Nursing (ADN) only.

Section 103(b)(2):

Pregraduate Scholarship Program:

Permedicine—Applicant must be enrolled in a baccalaurate degree program which will upon its completion prepare him/her for entry into an accredited medical school.

Section 338G (formerly Section 757) Health Professions Scholarship Program:
Dentistry
Engineering
—Biomedical
—Civil
—Environmental
—Structural
Environmental Health
Medical Records
Medicine
Nursing
—Bachelor of Science
—Associate Degree
Optometry
Pharmacy

This list of eligible allied health and health professions is effective for the 1984/1985 academic year only.

FOR FURTHER INFORMATION CONTACT: Mr. Pierre Colombel, Indian Health Service, Parklawn Building, Room 6A–23, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301–443–5440.

Dated: January 30, 1985.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

[FR Doc. 85–2921 Filed 2–5–85; 8:45 am]

BILLING CODE 4160–16–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–199]

Certain Anodes for Cathodic Protection and Components Thereof; Commission Review and Reversal of Initial Determination Terminating the Investigation as to Two Respondents on the Basis of a Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has reviewed and reversed a Commission administrative law judge's initial determination (ID) granting a joint motion to terminate the above-captioned investigation with respect to two respondents on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION:

Background

Investigation No. 337–TA–199 is being conducted to determine whether this is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain anodes for cathodic protection of metallic structures. The investigation was instituted on the basis of a complaint filed by Duriron Co., Inc., alleging numerous unfair acts and practices by British and U.S. companies involved in the importation, diststribution, or sale of the accused anodes. (See FR 30023 (July 25, 1984), as amended at 49 FR 45273 (Nov. 15, 1984).)

On December 6, 1984, complainant Duriron, the Commission investigative attorney, and respondents Tecnometal (NE) Limited and Wilson Walton International filed a joint motion (No. 199–4) requesting termination of the investigation with respect to those respondents and the issuance of a consent order. The motion explained that the parties had entered a memorandum agreement, a patent and trademark licensing agreement, and a consent order agreement, which settled the parties' dispute concerning the subject matter of the investigation. The motion was unopposed.

On December 19, 1984, the presiding adminstrative law judge (the ALJ) issued an ID (Order No. 5) granting the motion. The parties did not petition for review of the ID. The Commission ordered a review on its own motion. The Commission reversed the ID and denied the motion on the ground that the parties had not submitted nonconfidential versions of the memorandum and licensing agreements, as required by Commission rule 210.51(b)(1). (See 19 CFR 210.51(b)(1), as amended at 49 FR 46123 (Nov. 23, 1984).)

Public Inspection

Copies of the ID, the Commission's Action and Order, and all other nonconfidential documents on the record of the investigation and available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0471.

Issued: January 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–3003 Filed 2–5–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–198]

Certain Portable Electronic Calculators; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondent on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondent RJP Electronics Ltd. (RJP) in the above-captioned investigation. On December 18, 1984, complainant Texas Instruments Incorporated (TI) and respondent RJP filed a joint motion (Motion No. 198–55) to terminate RJP as a respondent in the above-captioned investigation based upon a settlement agreement. The administrative law judge issued an ID granting the motion for termination on December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–3395.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53) Notice of the ID was published in the Federal Register of January 17, 1985 (50 FR 2632). No petitions for review of the ID were filed nor were any comments received from Government agencies or the public.

Copies of the nonconfidential version of the 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, DC 20436, telephone 202–523–0161.

Issued: January 31, 1985.

By order of the Commission

Kenneth R. Mason,

Secretary.

[FR Doc. 85–3007 Filed 2–5–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-198]

Certain Portable Electronic Calculators; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondent on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondent FLX (HK), Ltd. (FLX) in the above-captioned investigation. On December 19, 1984, complainant Texas Instruments Incorporated (TI) and respondent FLX filed a joint motion (Motion No. 198–57) to terminate FLX as a respondent in the investigation based upon a settlement agreement. The administrative law judge issued an ID granting the motion for termination on December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–3395.

SUPPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53). Notice of the ID was published in the **Federal Register** of January 17, 1985 (50 FR 2632). No petitions for reviews of the ID were filed nor were any comments received from Government agencies or the public.

Copies of the nonconfidential version of the 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, DC 20436, telephone 202–523–0161.

Issued: January 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–3009 Filed 2–5–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-175 (Final)]

Cold-Rolled Carbon Steel Plates and Sheets from Argentina

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Argentina of cold-rolled carbon steel plates and sheets, provided for in item 607.83 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective July 25, 1984, following a preliminary determination by the Department of Commerce that imports of cold-rolled carbon steel plates and sheets from Argentina were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing 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, DC, and by publishing the notice in the **Federal Register** of August 22, 1984 (49 FR 33348). Subsequently, the Commerce Department extended its investigation and, likewise, so did the Commission, publishing notice of such in the **Federal Register** of October 9, 1984 (49 FR 39622). The hearing was held in Washington, DC, on December 13, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on January 22, 1985. The views of the Commission are contained in USITC Publication 1637 (January 1985), entitled "Cold-Rolled Carbon Steel Plates and Sheets from Argentina: Determination of the Commission in Investigation No. 731–TA–175 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: January 28, 1985.

By order fo the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 85–3002 Filed 2–5–85; 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] Commissioner Eckes dissenting.

[Investigation No. 337-TA-187]

Certain Glass Construction Blocks; Commission Decision Not To Review Initial Determinations Terminating Two Respondents on the Basis of Consent Orders; Issuance of Consent Orders; Termination of the Investigation

AGENCY: United States International Trade Commission.

ACTION: Termination of respondents Hardy Glass Block Panels, Inc. (Hardy), and Fred Beyer Manufacturing Co. (Beyer) on the basis of consent orders; termination of investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review two initial determinations (IDs) (Orders Nos. 25 and 26) terminating respondents Hardy and Beyer in the above-captioned investigation on the basis of consent orders. With the termination of respondents Hardy and Beyer, the investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: On November 15, 1984, complainant Pittsburg Corning Corp., respondent Hardy, and the Commission investigative attorney jointly moved (Motion No. 187–26) to terminate this investigation as to respondent Hardy on the basis of a consent order incorporating a consent order agreement and a settlement agreement. On November 27, 1984, complainant Pittsburg Corning Corp., respondent Beyer, and the Commission investigative attorney jointly moved (Motion No. 187-28) to terminate this investigation as to respondent Beyer on the basis of a consent order incorporating a consent order agreement and a settlement agreement. On December 13, 1984, the administrative law judge issued IDs terminating the investigation with respect to respondents Hardy and Beyer on the basis of consent orders. No petitions for review of the IDs or

comments from Government agencies or the public were received.

Termination of the investigation as to respondents Hardy and Beyer on the basis of the consent orders furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

Copies of the IDs 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.

Issued: January 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-3004 Filed 2-5-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-187]

Certain Glass Construction Blocks; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: United States International Trade Commission.

ACTION: Termination of respondent Imperial Glass Block Co. on the basis of a consent order.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 24) terminating Imperial Glass Block Co. (Imperial) as a respondent in the above-captioned investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: On November 15, 1984, complainant Pittsburg Corning Corp., respondent Imperial Glass Block Co., and the Commission investigative attorney jointly moved (Motion No. 187-25) to terminate this investigation as to respondent Imperial on the basis of a consent order incorporating a consent order agreement and a settlement agreement. On December 11, 1984, the administrative law judge issued an ID terminating the investigation with respect to respondent Imperial on the basis of a consent order. The Commission has received no petitions for review of the ID, or comments from Government agencies or the public.

Termination of the investigation as to respondent Imperial on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

Copies of the 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.

Issued: January 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-3005 Filed 2-5-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-200]

Certain Ink Jet Printing Systems and Components Thereof; Initial Determination Terminating Respondents 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 respondents on the basis of a settlement agreement: American Technologies Inc., Domino Printing Sciences, Ltd. and Charles Bucolt, individually and doing business as Franchise Mailing Systems.

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 January 31, 1985.

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 respondents. 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: January 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-3006 Filed 2-5-85; 8:45 am]

BILLING CODE 7020-02-M

[332-206]

Processed Mushrooms Annual Statistical Reports

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of providing annual reports on the U.S. processed mushroom industry for 2 years.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Tim McCarty, principal analyst (telephone 202-724-1753), U.S. International Trade Commission, Washington, D.C. 20436.

Background and Scope of Investigation:

In a letter received January 14, 1985, the U.S. Trade Representative requested that the Commission, pursuant to section 332 of the Tariff Act of 1930, prepare and publish 2 additional quarterly reports containing the following statistical information with respect to processed mushrooms: (1) Domestic production, sales, and

inventories by size of container and style of pack; (2) imports, by country of origin; (3) exports; and (4) apparent consumption. In addition, the Commission was requested to prepare and publish 2 annual reports, on a marketing year basis, for the years 1985/87, convering all of the subjects contained in the quarterly reports but reported on a marketing year, rather than a quarterly, basis. The investigation will be terminated effective September 30, 1987.

Pursuant to the request, the Commission will submit the twenty-third and twenty-fourth quarterly reports to the President and the USTR by May 31, 1985, and August 30, 1985, respectively, and the first and second annual reports by September 30, 1986, and September 30, 1987, respectively.

Issued by: February 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-3011 Filed 2-5-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-239 (Preliminary)]

Rock Salt from Canada; Institution of Preliminary Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-239 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of rock salt, provided for in items 420.94 and 420.96 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 14, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: January 28, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 28, 1985, by the International Salt Co., Clarks Summit, PA.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on February 19, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Stephen Vastagh (202-523-0283) not later than February 14, 1985 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before February 22, 1985 a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14 copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-3010 Filed 2-5-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-190]

Certain Softballs and Polyurethane Cores Therefor; Commission Decision Not To Review Initial Determination Amending the Complaint by Joining a Respondent and by Including Two Foreign Patents

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) amending the complaint in the above-captioned investigation to join a party respondent and include copies of two foreign patents.

SUMMARY: The U.S. International Trade Commission has determined not to review an ID (Order No. 8) issued in this investigation by the administrative law judge (ALJ) on July 27, 1984. The ID granted complainant Lannom Manufacturing Company's motion to amend the complaint to add Tusa, Inc.,

of Kaohsiung, Taiwan, as a respondent and to include copies of Canadian Patent No. 1,072,997 and Haitian Patent No. 148–Reg. 4.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

SUPPLEMENTARY INFORMATION: The authority for the Commission's action in this matter is contained in 19 U.S.C. 1337 and in 19 CFR 210.53.

Copies of the ALJ'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.

Issued: January 31, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–3008 Filed 2–5–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30604]

Rail Carriers; Iowa Railroad Co., Debtor; Petition for Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from its accounting and reporting requirements the Iowa Railroad Company. Other aspects of the proposed operation are already exempt under 49 CFR 1039.13.

DATES: This exemption is effective on January 31, 1985. Petitions to reopen must be filed by February 26, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30604 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Sander M. Bieber, 1730 Pennsylvania Avenue, NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Decided: January 29, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley dissented with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 85–2941 Filed 2–5–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 1081–85]

President's Commission on Organized Crime; Meetings

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces three forthcoming meetings of the President's Commission on Organized Crime. This notice also sets forth a summary of the agenda for three meetings, together with an explanation of why the first meeting will be closed to the public. Notice of these meetings is required by the Federal Advisory Committee Act, 5 U.S.C. App. I, section 10(a)(2).

DATES:

February 19, 1985, 5 p.m. to 7:00 p.m. (closed meeting).

February 20, 1985, 10:00 a.m. to 12:00 noon, 1:00 p.m. to 3:00 p.m. (public hearing).

February 21, 1985, 10:00 a.m. to 12:00 noon, 1:00 p.m. to 3:00 p.m. (public hearing).

ADDRESSES: Conference Room, Old Federal Courthouse, 300 NE 1st Avenue, Miami, Florida 33101 (February 19 closed meeting); Central Courtroom, Second Floor, Old Federal Courthouse, 300 NE 1st Avenue, Miami, Flordia 33101 (February 20 and 21 public hearings).

FOR FURTHER INFORMATION CONTACT: James D. Harmon, Jr., Executive Director and Chief Counsel, President's Commission on Organized Crime, 1425 K Street, NW., Suite 700, Washington, D.C. 20005; (202) 786–3500.

SUPPLEMENTARY INFORMATION: The closed meeting on February 19 will be conducted to discuss several matters. The Commission will be briefed concerning the investigation by the Commission staff of the organized criminal groups whose illegal activities are to be described at the public hearings. This briefing is likely to include repeated references to specific individuals who are confidential sources for the Commission, or who are alleged to be direct participants in illegal activities but whose participation will not specifically be discussed by witnesses at the public hearings. The physical safety of these individuals could be placed in jeopardy if the identities of the witnesses and the time and place of their testimony were to be made public in advance of the public hearings. Pursuant to the authority vested in him by section 8 of Pub. L. 98–368, the Chairman of the Commission has determined that these discussions are exempted from the public meeting requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c)(5) and (7) (C), (D), and (F), which is incorporated by reference in the Federal Advisory Committee Act.

The Commission will also discuss at the closed meeting a number of issues specifically concerning the Commission's issuance of subpoenas. It will discuss, for example, issues relating to certain individuals who have already been, or may be, served with subpoenas by the Commission, and who are to testify in depositions conducted by the staff of the Commission or in public hearings conducted by the Commission. Pursuant to the authority vested in him by section 8 of Pub. L. 98–368, the Chairman of the Commission has determined that this discussion is exempted from the public meeting requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c)(10), which is incorporated by reference into the Federal Advisory Committee Act.

The public hearings on February 20 and 21 are to be open to both the public and the press, and are for the purpose of receiving testimony concerning the activities conducted by organized criminal groups in the United States and abroad, involved in the manufacture, shipment, and distribution of heroin. The Commission will solicit testimony concerning the scope of activities of such groups, the manner in which their operations are conducted, and the effectiveness of Federal and state statutes and agencies in dealing with such groups. In particular, the Commission will solicit testimony from Federal, state, and local prosecutors and investigators and from private citizens concerning the medical, social, and legal costs of these criminal activities and the impact on local communities throughout the United States and on the U.S. economy as a whole, and the experience of U.S. and foreign law enforcement authorities in seeking to reduce that impact and to counteract the growing influence of such groups. Members of the public who wish to present written

statements to the Commission are invited to send such statements to the President's Commission on Organized Crime, 1425 K Street, NW., Suite 700, Washington, D.C. 20005.

Dated: February 1, 1985.

William French Smith,

Attorney General.

[FR Doc. 85-2960 Filed 2-1-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Notice of New System of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of New System of Records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a) requires each agency to publish notice of all systems of records it maintains. This document adds a new system of records created under the Debt Collection Act of 1982 to the Department of Labor's last annual list of systems of records (47 FR 30362, July 13, 1982). That list was amended by notice dated February 8, 1983 (48 FR 5824).

DATE: Persons wishing to comment on this system of records may do so by March 8, 1985.

EFFECTIVE DATE: Unless otherwise noticed in the **Federal Register**, this notice shall become final on March 8, 1985.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of the Solicitor, Division of Legislative and Legal Counsel, 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 the Solicitor, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone (202) 523-8188.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 552a(e)(4), and section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes a new system of records created under the Debt Collection Act of 1982, entitled DOL/OSEC-4. These files contain credit data on individuals who are indebted to the DOL, and whose indebtedness is subject to the Debt Collection Act of 1982, and is exempt under section (b)(12) of the Privacy Act. The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this system. A report on this system has been provided to OMB and to the Congress.

Signed at Washington, D.C. this 1st day of February, 1985.

Ford B. Ford,

Under Secretary of Labor.

DOL/OSEC-4

SYSTEM NAME:

Credit Data on Individual Debtors.

SYSTEM LOCATION:

A. Offices in Washington, D.C., (1) Office of the Secretary of Labor, including (a) Office of the Assistant Secretary for Administration and Management, (b) Office of the Solicitor of Labor, (c) Office of Information and Public Affairs, (d) Bureau of International Labor Affairs, (e) Employees' Compensation Appeals Board, (f) Wage Appeals Board, (g) Benefits Review Board, (h) Office of Administrative Law Judges, and (i) President's Committee on the Employment of the Handicapped; (2) Office of Pension Welfare Benefits Programs; (3) Office of Labor-Management Standards; (4) Office of Labor-Management Relations Services; (5) Bureau of Labor Statistics; (6) Employment Standards Administration; (7) Employment and Training Administration; (8) Occupational Safety and Health Administration; (9) Mine Safety and Health Administration; (10) Office of the Inspector General.

B. Regional, area and other offices of the above, including FECA and Black Lung District Offices, and Wage-Hour Area Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including DOL employees, former DOL employees, and other individuals who are indebted to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commercial credit reports, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as Social Security Number, address, nature, amount and history of the debt, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966, as amended, 80 Statute 309; 31 U.S.C. 3700; Debt Collection Act of 1982, Pub. L. 97-365; and Title 4, Code of Federal Regulations, Chapter II.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Pursuant to section 13 of the Debt Collection Act of 1982, the name, address(es), telephone number(s), Social Security Number, and nature, amount, and history of the debt of an individual may be disclosed to private debt collection agencies for the purpose of collecting or compromising a debt existing in this system.

b. *Department of Justice/General Accounting Office:* Information may be forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collection Standards, 4 CFR Chapter II. When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

c. *Other Federal Agencies:*

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

d. *Internal Revenue Service:*

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

CONSUMER REPORTING AGENCIES:

The amount, status, and history of overdue debts; the name and address, taxpayer identification (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose.

are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:

STORAGE:

The records are in manual files, magnetic tapes or other computer storage media, or on computer printouts.

RETRIEVABILITY:

Credit data is maintained by debtor name, claim number, cross referenced to the social security number (when available) to verify name and address.

SAFEGUARDS:

When not in use by personnel responsible for the records, they are stored in locked file cabinets.

RETENTION AND DISPOSAL:

After becoming inactive, records are cutoff at the end of the fiscal year, held one year, and then retired to a Federal Records Center under Record Group 217, GAO. Records created prior to July 2, 1975, will be retained for 10 years 3 months after the close of the account. Records created after July 2, 1975, will be retained by GAO for 6 years and 3 months after the close of the account.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate agency official, 29 CFR 70.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

DOL rules and regulations for contesting any record contents disclosure, and for appealing same, are promulgated by 29 CFR 70a.9.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from commercial credit reports, agency investigative reports, debtor's personal financial statements, correspondence and records relating to hearings on the debt, and from other DOL systems of records.

[FR Doc. 85-2973 Filed 2-5-85; 8:45 am]

BILLING CODE 4510-23-M

Privacy Act of 1974; Amendment of System of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Amendment of Privacy Act systems of records, Office of the Assistant Secretary for Administration and Management.

SUMMARY: The Department of Labor is hereby amending the system of records for the DOL/OASAM-1, Attendance, Leave, and Payroll File, and the DOL/OASAM-15, Travel Authorization and Voucher System, to provide public notice that the amount and status of identifiable overdue debts existing in the payroll and travel authorization programs may be disclosed to consumer reporting agencies pursuant to the Debt Collection Act of 1982. It is also adding new routine uses to the already published routine use for DOL/OASAM-1, and it establishes routine uses for DOL/OASAM-15, which had none before this amendment. In addition, this notice amends the categories of records and records source categories in both systems. The new routine uses for both systems include disclosure to debt collection agencies, the Department of Justice/General Accounting Office, and to other Federal Agencies including the Internal Revenue Service. These new routine uses are necessitated by the Debt Collection Act of 1982.

DATE: Persons wishing to comment on this notice may do so by March 8, 1985.

EFFECTIVE DATE: Unless otherwise noticed in the **FEDERAL REGISTER**, this notice shall become effective March 8, 1985.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of the Solicitor, Division of Legislation and Legal Counsel, 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 the Solicitor, Department of Labor, Room N-2428, 200 Constitution Avenue NW., Washington, D.C. 20210; Telephone (202) 523-6188.

REVISION OF ROUTINE USES, CATEGORIES OF RECORDS AND RECORDS SOURCE CATEGORIES FOR DOL/OASAM-1 AND DOL/OASAM-15:

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Labor hereby publishes a revision to the routine uses, categories of records and records source categories applicable to systems of records maintained by the Office of the Assistant Secretary for Administration and Management, previously published at 47 FR 30368-72 (July 13, 1982).

DOL/OASAM-1

SYSTEM NAME:

Attendance, Leave and Payroll File.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and employee number, grade, step, and salary, organization (code), retirement or FICA data as applicable. Federal, State and local tax deductions, as appropriate. IRS tax lien data, savings bond and charity deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data, military leave data, pay differentials, union dues deductions, allotments by type and amount, financial institution code and employee account number, leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement, disability, sick, transferred, and without pay), time and attendance records, including flexitime log sheets indicating number of regular, overtime, holiday, Sunday, and other hours worked, pay period number and ending date, cost of living allowances, co-owner and/or beneficiary of bonds, marital status, number of dependents, mailing address, and "Notification of Personnel Action." Commercial credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of a debt owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Transmittal of data to the U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments to financial institutions, and other authorized purposes. Tax withholding data is sent to the Internal Revenue Service and appropriate State and local taxing

authorities, FICA deductions to the Social Security Administration, dues deductions to labor unions, withholdings for health insurance to insurance carriers and the Office of Personnel Management, charity deductions to agents of charitable institutions, annual W–2 statements to taxing authorities and the individual, and transmittal of computer tape data to appropriate State and local governments for their benefits matching projects.

b. Pursuant to section 13 of the Debt Collection Act of 1982, the name, Social Security Number, address(es), telephone number(s), and nature, amount and history of the debt of a current or former employee may be disclosed to private debt collection agencies for the purpose of collecting or compromising a debt existing in this system.

c. *Department of Justice and General Accounting Office:* Information may be forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (4 CFR Chapter II). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

d. *Other Federal Agencies:*

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

(e) *Internal Revenue Service:*

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

CONSUMER REPORTING AGENCIES:

The amount, status, and history of overdue debts; the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program underwhich the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

* * * * *

RECORD SOURCE CATEGORIES:

Employees, supervisors, timekeepers, official personnel records, the IRS, commercial credit reports, personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

DOL/OASAM–15

SYSTEM NAME:

Travel Authorization and Voucher System.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Travel Authorizations, DL1–33, Travel Voucher, SF–1012 and GTR, SF–1171. The following additional records may be maintained for individuals indebted to the government for delinquent travel advances: Commercial credit reports, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of the debt, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Transmittal of data to the U.S. Treasury to effect issuance of checks to employees for travel and other related purposes, including permanent change of station allotments, temporary duty travel expenses, and other authorized purposes.

b. Pursuant to section 13 of the Debt Collection Act of 1982, the name, address(es), telephone number(s), Social Security Number, and nature, amount and history of the debt of a current or former employee may be disclosed to private debt collection agencies for the purpose of collecting or compromising a debt existing in this system.

c. *Department of Justice/General Accounting Office.* Information may be forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collections Standards (4 CFR Chapter II). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

d. *Other Federal Agencies.*

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is relevant to the requesting agency's decision on the matter.

e. *Internal Revenue Service:*

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

CONSUMER REPORTING AGENCIES:

The amount, status, and history of overdue debts; the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

* * * * *

RECORD SOURCE CATEGORIES:

Travel Authorization, DLI–33, Travel Voucher, SF–1012 and GTR, SF–1171. Commercial credit reports, agency investigative reports, debtor's personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

Signed at Washington, D.C. this 1st day of February, 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85–2974 Filed 2–5–85; 8:45 am]

BILLING CODE 4510–23–M

Privacy Act of 1974; Amendment of Systems and Records

AGENCY: Office of the Secretary, Labor.

ACTION: Amendment of Privacy Act systems of records, Employment Standards Administration.

SUMMARY: The Department of Labor is amending the system of records notices for the DOL/ESA–6, Office of Workers, Compensation Programs, Black Lung Benefit Claim File, the DOL/ESA–7, Office of Workers' Compensation Programs, Black Lung Benefit Payments File, and the DOL/ESA–13, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File, to provide public notice that the amount and status of overdue debts existing in the Black Lung and Federal Employee Compensation Programs may be disclosed to consumer reporting agencies pursuant to the Debt Collection Act of 1982. It is also adding new routine uses to the routine uses already published for the DOL/ESA–6, the DOL/ESA–7 and the DOL/ESA–13. The new routine uses for the systems include disclosure to debt collection agencies, to the Department of Justice/General Accounting Office, and to other Federal agencies including the Internal Revenue Service. These new routine uses are necessitated by the Debt Collection Act of 1982. In addition, this notice amends the categories of records and records source categories in each system.

DATE: Persons wishing to comment on this notice may do so by March 8, 1985.

EFFECTIVE DATE: Unless otherwise noticed in the **Federal Register**, this notice shall become effective March 8, 1985.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of the Solicitor, Division of Legislative and Legal Counsel, 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 the Solicitor, Department of Labor, Room N–2428, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone (202) 523–8188.

REVISION OF ROUTINE USES, CATEGORIES OF RECORDS AND RECORDS SOURCE CATEGORIES FOR DOL/ESA–6, DOL/ESA–7 AND DOL/ESA–13:

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Labor hereby publishes a revision to the routine uses, categories of records and record source categories, applicable to systems of records maintained by the Employment Standards Administration, DOL/ESA–6, DOL/ESA–7 and DOL/ESA–13, previously published at 47 FR 30377–83 (July 13, 1982) and previously amended at 48 FY 5824 (February 8, 1983).

DOL/ESA–6

SYSTEM NAME:

Office of Workers' Compensation Black Lung Benefit Claim File.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, medical, financial. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal, under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other governmental personnel and consultants involved in the investigations. Commercial credit reports of individuals indebted to the United States, correspondence to and form the debtor, information of records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of a claim owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982 including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. Disclosure to the employer at any time after report of the injury or report of the onset of occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal Employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

b. A record from this system may be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

c. Records may be disclosed to a debt collection agency that DOL has contracted for collection services to recover indebtedness owed to the United States.

d. *Department of Justice/General Accounting Office.* Information may be forwarded to the General Accounting Office (GAO), and/or the DOJ as prescribed in the Joint Federal Claims Collections Standards (4 CFR Ch. II). When debtors fail to make payment

through normal collection routines, the file is analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice (DOJ) for litigation.

e. *Other Federal Agencies.*

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

f. *Internal Revenue Service.*

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual

CONSUMER REPORTING AGENCIES:

The amount, status and history of overdue debts; the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

* * * * *

RECORD SOURCE CATEGORIES:

Claim forms, medical reports, correspondence, investigative reports, employment reports, Federal and State agency records, any other record or document pertaining to a claimant or his dependent as it relates to the claimant's age, education, work history, marital history or medical condition. Commercial credit reports, personal financial statements, correspondence with the debtor, records relating to hearing on the debt, and from other DOL systems of records.

* * * * *

DOL/ESA-7

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Payments File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial. Commercial credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of a claim owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Disclosure to mine operators who have been determined to the potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; state workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

b. A record from this system may be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

c. Records may be disclosed to a debt collection agency that DOL has contracted for collection services to recover indebtedness owed to the United States.

d. *Department of Justice/General Accounting Office.* Information may be forwarded to the General Accounting Office (GAO), and/or the DOJ as prescribed in the Joint Federal Claims Collections Standards (4 CFR Ch. II). When debtors fail to make payment through normal collection routines, the file is analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice (DOJ) for litigation.

e. *Other Federal Agencies.* (1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

f. *Internal Revenue Service.*

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing address for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

CONSUMER REPORTING AGENCIES:

The amount, status and history of overdue debts; the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

* * * * *

RECORD SOURCE CATEGORIES:

Black Lung Benefit Claims Files. Commercial credit reports, agency investigative reports, debtor's personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

* * * * *

DOL/ESA-13

SYSTEM NAME:

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Record includes reports of injury by employee and employing establishment, authorization for medical treatment, medical records, medical and transportation bills, compensation payment records, formal orders for or against payment of compensation, vital statistics such as birth, death and marriage certificates. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal, under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State, and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations. Commercial credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of a claim owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Disclosure to any third-party named in a claim or representative acting on his/her behalf until the claim is adjudicated and all appeals resolved; Federal agencies which employed the claimant at the time of occurrence or recurrence of the injury or occupational illness; Federal, State or private rehabilitation agencies to whom the claimant has been referred for evaluation of the extent and nature of the disability and/or rehabilitation; physicians making an examination for the United States under 5 U.S.C. 8213(a); medical insurance plans or health and welfare plans which the claimant is covered by in instances when there is evidence of payment by OWCP for treatment of a medical condition which is not compensable; and labor unions and other voluntary employee associations of which the claimant is a member as part of their service to members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

b. A record from this system may be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

c. Records may be disclosed to a debt collection agency that DOL has contracted for collection services to recover indebtedness owed to the United States.

d. Department of Justice/General Accounting Office. Information may be forwarded to the General Accounting Office (GAO), and/or the DOJ as prescribed in the Joint Federal Claims Collections Standards (4 CFR Ch. II). When debtors fail to make payment through normal collection routines, the file is analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice (DOJ) for litigation.

e. Other Federal Agencies.

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

f. Internal Revenue Service.

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

CONSUMER REPORTING AGENCIES:

The amount, status and history of overdue debts; the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

* * * * *

RECORD SOURCE CATEGORIES:

Injured employees, beneficiaries, employing Federal agencies, other Federal agencies, physicians, hospitals, clinics, educational institutions, attorneys, members of congress, OWCP field investigations, State governments. Commercial credit reports, agency investigative reports, debtor's personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

* * * * *

Signed at Washington, D.C., this 1st day of February, 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-2975 Filed 2-5-85; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This

series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FC 407–4 (which should be mentioned in all correspondence concerning this draft guide) is entitled "Guide for the Preparation of Applications for Licenses for the Use of Sealed Sources in Portable Gauging Devices" and is intended for Division 10, "General." It is being developed to provide guidance in conformance with the new NRC Form 313 for preparing license applications for the use of byproduct material in portable gauging devices.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position. Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by April 5, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Silver Spring, Maryland this 30th day of January 1985.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 85–2979 Filed 2–5–85; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide quidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FC 403–4 (which should be mentioned in all correspondence concerning this draft guide) is entitled "Guide for the Preparation of Applications for Licenses for the Use of Panoramic Dry Source-Storage Irradiators, Self-Contained Wet Source-Storage Irradiators, and Panoramic Wet Source-Storage Irradiators" and is intended for Division 10, "General." It is being developed to provide quidance in conformance with the new NRC Form 313 for the preparation of applications for licenses for the use of all irradiators except self-contained dry source-storage irradiators.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by April 1, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) of for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Silver Spring, Maryland this 28th day of January 1985.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 2978 Filed 2–5–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–537–CP; ASLBP No. 75–291–12 CP]

Department of Energy, Project Management Corp.; Tennessee Valley Authority, Clinch River Breeder Reactor Plant; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for *United States Department of Energy Project Managment Corporation Tennessee Valley Authority* (Clinch River Breeder Reactor Plant), Docket No. 50–537–CP, is hereby reconstituted by appointing Administrative Judge Ivan W. Smith in place of Administrative Judge Marshall E. Miller, who has resigned from the Panel. Administrative Judge Ivan W. Smith is appointed Chairman of the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Ivan W. Smith, Chairman
Dr. Cadet H. Hand, Jr.
Mr. Gustave A. Linneberger, Jr.

All correspondence, documents and other material shall be filed with the

Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge Ivan W. Smith, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dated at Bethesda, Maryland, this 31st day of January, 1985.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 85-2986 Filed 2-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3; ASLBP No. 77-347-01B OL]

Long Island Lighting Co.; Shoreham Nuclear Power Station, Unit 1; Emergency Planning Proceeding; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for *Long Island Lighting Company* Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OL-3, is hereby reconstituted by appointing Administrative Judge Morton B. Margulies in place of Administrative Judge James A. Laurenson, who has resigned from the Panel. Administrative Judge Morton B. Margulies is appointed Chairman of the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge Morton B. Margulies, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 31st day of January, 1985.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 85-2985 Filed 2-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-4 (Low Power)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of January 31, 1985, oral argument on the appeal of Suffolk County and the State of New York from the Licensing Board's October 29, 1984 initial decision will be held at *2:00 p.m. on Monday, February 11, 1985, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: January 31, 1985.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 85-2981 Filed 2-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-456-OL and 50-457-OL; ASLBP No. 79-410-03 OL]

Commonwealth Edison Co., Braidwood Nuclear Power Station, Units 1 and 2; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for *Commonwealth Edison Company* (Braidwood Nuclear Power Station, Units and 1 and 2), Docket Nos. 50-456-OL and 50-457-OL, is hereby reconstituted by appointing Administrative Judge Lawrence Brenner in place of Administrative Judge Marshall E. Miller, who has resigned from the panel. Administrative Judge Lawrence Brenner is appointed Chairman of the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Lawrence Brenner, Chairman
Dr. Richard F. Cole
Dr. A. Dixon Callihan

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge Lawrence Brenner, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dated at Bethesda, Maryland, this 31st day of January, 1985.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 85-2982 Filed 2-5-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14345; 811-2636]

American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

January 30, 1985.

Notice is hereby given that American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust ("Applicant"), 815 Sixteenth Street, NW., Washington, D.C. 20006, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on January 4, 1985, for an order of the Commission pursuant to section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company. 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 regulations thereunder for the text of the applicable provisions.

Applicant states that it was organized as a common law trust under the laws of the District of Columbia on November 24, 1964. It registered under the Act by filing a Form N-8A on May 11, 1978, and on May 29, 1979, it filed a Form N-1 Registration Statement under the Act and the Securities Act of 1933. On September 30, 1984, pursuant to a Plan of Reorganization ("Plan"), which had received the requisite approval by Applicant's board of trustees on August 2, 1984, Applicant exchanged its assets for units of beneficial interest of AFL-CIO Housing Investment Trust ("Housing Trust"), also registered under the Act an open-end, diversified management investment company, having investment objectives identical to those of Applicant. Such exchange was effectuated, it is stated, on the basis of the aggregate value of Applicant's assets and the net asset value of each Housing Trust unit exchanged therefor, such values having been determined as of September 30, 1984. In accordance

with the Plan, Housing Trust was to assume any liabilities of Applicant outstanding as of September 30, 1984. As of said date, it is stated, Applicant distributed all of the Housing Trust units received in the exchange to holders of beneficial interest in Applicant, according to each such participant's pro rata interest in Applicant, and thereupon dissolved.

Applicant represents that its trustees have the power to wind up its affairs; that it has retained no assets, and has no debts remaining outstanding. It is further stated that Applicant is not a party to any litigation or administrative proceeding, and has no security holders, nor any such persons to whom distributions in complete liquidation of their interests have not been made; Applicant is not engaged and does not propose to engage in any business activities other than those necessary to the winding up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 25, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2938 Filed 2-5-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13241]

American Southwest Financial Corp.; Application and Opportunity for Hearing

January 31, 1985.

Notice is hereby given that American Southwest Financial Corp., (the "Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended, (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that trusteeship of The Valley National Bank of Arizona ("Valley") under indentures dated as of December 1, 1982, April 1, 1983, July 1, 1983, October 27, 1983, January 1, 1984 and May 1, 1984 (the "Qualified Indenture"), between the Applicant and Valley which were heretofore qualified under the Act, and trusteeship by Valley under an indenture tentatively to be dated as of August 1, 1984, and which will be qualified under the Act (the "New Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under the Qualified Indenture and the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of providing on application to the Commission, and after opportunity for hearing thereon, that the trusteeships under the qualified indentures and such other indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures. The Applicant alleges that:

(1) Pursuant to the Qualified Indenture, the Applicant has issued $76,500,000 in aggregate principal amount of its Mortgage-Collateralized Bonds, Series 1984-1 (the "Series 1984-1 Bonds"), for which Valley serves as trustee. The Series 1984-1 Bonds were registered under the Securities Act of 1933, and the Qualified Indenture was qualified under the Act.

(2) Pursuant to the New Indenture, the Applicant proposes to issue and sell an as yet undermined aggregate principal amount of its Mortgage-Collateralized Bonds, issuable in series (the "New Bonds") for which it contemplates Valley will serve as trustee. The Applicant contemplates that the New Bonds will be registered under the Securities Act of 1933 pursuant to Rule 415 thereunder and that the New Indenture will be qualified under the Act.

(3) Each series of Bonds is secured by the pledge by the Applicant to Valley of collateral which serves as security only for that series. Each series is payable solely from the collateral pledged to secure the bonds of that series, and the holders of any Bonds of any series issued by the Applicant will not have recourse to the collateral granted to Valley as trustee for any other series of bonds. Any default under an indenture or indenture supplement for any series of Bonds will not cause a default under an indenture or indenture supplement for any other series of Bonds.

(4) The Applicant is not in default under the Qualified Indenture.

(5) Such differences as exist between the Qualified Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of the Indentures.

The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested persons may, not later than February 10, 1985 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2935 Filed 2-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21698; File No. SR-MSTC-85-2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company Relating To Mandatory Use of MSTC's B-System for Bearer Municipal Bonds

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 January 30, 1985, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Reguluatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is the MSTC Bearer System Administrative Bulletins dated June 4, 1984 and January 25, 1985 "Mandatory Use of MSTC's B-System for Bearer Municipal Bonds."

Rule 2 of Article II of the Rules of the Midwest Securities Trust Company is hereby amended as follows:

[Deletions Bracketed]

Delivery of Securities by Book-Entry

Rule 2. A Depository Participant having a Depository Free Position in a Security may, by filing a DDI with the Corporation, instruct the Corporation to transfer such Security from the Depository Account of such Participant, upon compliance with Procedures established by the Corporation, (i) to a free position in an account of such Participant with MCC (if the Participant is also a participant of MCC), or (ii) to a Depository Account of another Participant; provided, however, that if the receiving Participant shall have filed with the Corporation an instruction directing that all Securities transferred to such Participant by book-entry be credited to the clearing free position or loan free position of such Participant with MCC, the Corporation shall be authorized to comply with such instruction. A receiving Participant may not reclaim a delivery of a [Registered] Security to the deliverying Participant solely for the reason that the delivery was made via book-entry.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for the Proposed Rule Change*

The proposed rule change requires that a receiving Participant may not reclaim a delivery of a Security, whether in registered or bearer form, solely because the delivery was made via book-entry. The previous version of this rule allowed Participants to reject bearer securities deliveries if made via book-entry: *i.e.* the rule only affected movements of registered securities.

This rule change reflects the implementation of MSTC procedures enabling Participants to comply with MSRB Rules G-12 and G-15. Specifically, this rule change will facilitate compliance with the MSRB's requirements for book-entry settlement of municipal securities trades.

Additionally, as described in the attached Administrative Bulletins, all Participants settling bearer bond transactions must join MSTC's Bearer System. In order to minimize Participants' burdens, these changes are not effective until March 1, 1985.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the prompt and accurate clearance and settlement of securities transactions. The rule change will facilitate compliance with MSRB settlement requirements, thus assisting the establishment of a national system for securities settlement.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Midwest Securities Trust Company does not believe that the proposed rule change will impose any burdens on competition

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Comments were solicited, however, none were received.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule 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 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 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 February 27, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

January 30, 1985.

[FR Doc. 85-2937 Filed 2-5-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transactions Between Associates

Notice is hereby given that Grocers Capital Company, Inc. (Grocers), 260 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.903 of the Regulations governing small business investment companies (13 CFR 107.903 (1984)) for approval of conflict of interest transactions.

Grocers proposes to make loans to the following companies:

Price's Market ($37,500), 10821 Orr and Day Road, Santa Fe Springs, California 90671

Fike's Market ($150,000), 2100 West 19th Street, Bakersfield, California 93301

The proceeds of the loans will be used to purchase equipment or inventory from Grocers Equipment Company (GEC), and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. GEC, a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to these companies falls within the purview of §§ 107.3 and 107.903(b)(5) of the SBA Regulations. These loans require prior written approval of SBA.

Notice is hereby given that any person may, not later than (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in newspapers of general circulation in the Santa Fe Springs and Bakersfield, California areas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 29, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-2919 Filed 2-5-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0330]

Lotus Capital Corp.; Issuance of a Small Business Investment Company License

On February 24, 1984, a notice was published in the **Federal Register** (49 FR 7018) stating that an application has been filed by Lotus Capital Corporation, 875 Elm Street, Manchester, New Hampshire 03101 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business March 10, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0330 on January 11, 1985, to Lotus Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 29, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-2920 Filed 2-5-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 120-XX]

Advisory Circular; Extended Range Operations With Two-Engine Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of draft advisory circular and request for comments.

SUMMARY: This notice announces the FAA's plan to permit extended range overwater operations (as well as extended range operations over uninhabited land areas) of certain two-engine airline airplanes and invites public comments on a draft advisory circular (AC) that specifies detailed and comprehensive safety criteria that would have to be met to ensure that such operations meet the high level of safety commensurate with air carrier operations. The draft AC would be applicable to two-engine transport category airplanes operated by air carriers holding operating authority under 14 CFR Part 121. It would specify detailed technical criteria in the following areas which are required to provide the necessary high level of safety:

1. Type design approval methods for two-engine airplanes intended for use in extended range operations.

2. In-service experience considerations to demonstrate that the necessary level of propulsion system reliability has been achieved in-service, and that the applicant has obtained sufficent maintenance and operational familiarity with the particular airplane.

3. Operational approval methods to substantiate the operator's ability to safely conduct and support extended range operations with two-engine airplanes.

4. The methods to be used by a newly established Propulsion System Reliability Assessment Board during evaluation of the suitability of a particular airplane/engine combination for use in extended range operations.

DATE: Comments must be received on or before March 8, 1985.

ADDRESS: Comments on the draft advisory circular may be mailed in duplicate to the Federal Aviation Administration, Office of Flight Operations, Air Transportation Division, Attention: Flight Technical Programs Branch (AFO-210), 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked "File Number AC 120-XX" and may be inspected in Room 305 between 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed AC may be obtained by contacting Mr. Jerald M. Davis, Flight Technical Programs Branch, Air Transportation Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, CD 20591; Telephone (202) 426-8452.

SUPPLEMENTARY INFORMATION:

Background

Under current regulations (14 CFR 121.161), two-engine, turbine-powered airline airplanes are generally precluded from extended range operations that would take the airplane more than one hour flying time from the nearest suitable airport for landing anywhere along the flight path. The purpose of the regulation is to limit the time of operation that might have to be safely completed after the loss of power in one engine of a two-engine airplane, in recognition of the inherent reduced level

of redundancy that previous two-engine airplanes have had in comparison to three- and four-engine airplanes. The present regulation does, however, authorize the FAA Administrator to allow deviations from the rule under appropriate circumstances.

Currently, two-engine airline airplanes are being built that are more efficient and provide levels of redundancy (except with respect to the number of engines) and reliability as good or better than the levels exhibited by the previous generation of three- and four-engine airplanes. For example, the present models of turbine engines are much less likely to fail than many older models. In recognition of this technological achievement, the FAA believes that extended range operations should be permitted with two-engines airplanes provided that the airplanes and the airlines operating them meet stringent airworthiness and operating standards for each proposed extended range route that are designed to ensure that the level of safety provided to the traveling public would in no way be reduced. The FAA believes the draft Advisory Circular (AC) discussed in this notice contains such standards.

The special safety criteria included in the draft AC would assure that extended range operations with two-engine airplanes which meet these criteria, provide a level of safety equal to or better than that required of three- or four-engine airplanes currently flying these routes. Furthermore, the FAA believes it likely that the introduction of the airframe systems and engine technology necessary to meet these special safety criteria will result in a much safer operation, in domestic as well as oceanic service, than the turbojet airplanes designed 20 to 30 years ago, which would be replaced by these new aircraft, could provide.

The draft AC would also implement the work of the International Civil Aviation Organization's Extended Range Operations (ETOPS) Study Group, which the U.S. actively participated in and supported. In addition, it is responsive to industry requests for timely guidance on type design and operational approvals for two-engine airplanes for use in extended range operations.

Outline and Examples of Draft Advisory Circular Criteria

Under the draft AC, in order for an operator to obtain approval for extended range operations with two-engine airplanes, the operator would have to show that each of the systems of the particular airplane-engine combination is designed to fail-safe criteria, in which single failures of systems are considered to occur regardless of probability and multiple failure must be considered if likely, and that the systems can be continuously maintained and operated to achieve the highest level of safety during the intended operation. To achieve compliance, the type design of the particular airplane initially would have to be shown to be sufficiently reliable for extended range operations. Type design approval would involve detailed and extensive showings that the airframe, propulsion, auxiliary power unit, hydraulic, electrical, pressurization and fire protection systems aboard the airplane meet special redundancy requirements and other standards of airworthiness that take into consideration the possibility that the airplane may have to be flown for an extended period of time with only one operative engine. For example, the airplane would be required to have multiple sources of elecrical power for instruments and would have to be capable of safe flight after the complete loss of any two hydraulic systems and an unassociated engine. As another example, cargo compartment fire protection systems would have to be capable of suppressing or extinguishing in-flight fires considering the extra time that might be needed to reach an airport.

In addition to obtaining type design approval for the airplane for extended range operations, the operator of the airplane would have to show that an adequate level of in-service propulsion system reliability has been achieved by the world fleet and by the particular operator for the airplane-engine combination type for which extended range operational authority is requested. This will necessitate a review, statistical analysis, and engineering assessment of in-service reliability, including the review of data on engine shutdowns, unscheduled removals and dispatch delays. In general, at least 250,000 engine hours of world fleet service and 12 months of operations by the particular operator would have to be accumulated with the particular airplane-engine combination before an airplane-engine reliability determination could be made.

If type design approval is obtained and if it is found that the in-service reliability of a particular airplane-engine configuration is adequate for safe extended range operations, the operator would have to show that its operating procedures and dispatch rules ensure that its operations will be conducted safely. First, the operator's continuing airworthiness maintenance program would have to be modified to ensure that it is adequate. For example, the program would have to preclude extended range operations with any two-engine airplane that had an engine or other primary system failure on a previous flight, unless the cause is positively identified and rectified. Periodic reporting of current engine reliability and notification of changed maintenance procedures prior to implementation would also be necessary.

The operator would also have to use adequate radio and navigation equipment for the routes to be flown. In addition, fuel supplies would have to be shown to be adequate, for each flight. In establishing the necessary fuel supplies, a critical fuel scenario would be considered, involving a simultaneous failure of the pressurization system (forcing low-level, high-fuel-burn flight) and of an engine, at the critical point in time of the flight based on the time needed to reach a suitable alternate airport.

In addition, the operator would have to revise its Operations Manual to include special procedures for single engine operations. Also, its crewmember training and evaluation programs would have to be upgraded to cover the procedures for extended range operations. To ensure that the operator's overall procedures are adequate and that it is capable of conducting extended range operations, the operator would have to conduct a validation flight, witnessed by the FAA.

The above discussion only outlines the requirements that would have to be met for the approval of extended range operations with two-engine aircraft and presents several examples of those requirements. The draft advisory circular includes considerably more detailed and comprehensive engineering and operational criteria which would have to be met before approval would be granted. Public comments are specifically invited on any additional criteria that might be needed.

Issued in Washington, D.C., on February 1, 1985.

John S. Kern,

Acting Director of Flight Operations.

[FR Doc. 85-3000 Filed 2-5-85; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee/Technical Hazardous Liquid Pipeline Safety Standards Committee; Joint Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a joint meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee on February 28, 1985, at 9:00 a.m. in Room 4234, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to continue the process initiated at the October 31, 1984, joint meeting of receiving, reviewing and analyzing data to enable the advisory committees to assist and advise the Administrator of the Research and Special Programs Adminstration in the evaluation of the DOT pipeline safety program.

Attendance is open to the public, but limited to the space available. With approval of the Executive Director of the Committees, members of the public may present oral statements on the subject. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: January 30, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85–2967 Filed 2–5–85 8:45 am]

BILLING CODE 4910–60–M

Technical Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on February 28, 1985, at 4:00 p.m. in Room 4234, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of a proposed amendment to the pipeline safety standards (49 CFR Part 192) concerning nondestructive testing. The proposal would relax the requirement to nondestructively test 100 percent of the girth welds within railroad of public highway rights-of-way to permit testing only 90 percent when testing 100 percent is impracticable.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: January 30, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85–2968 Filed 2–5–85; 8:45 am]

BILLING CODE 4910–60–M

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on February 27, 1985, at 1:00 p.m., in Room 4234, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The agenda for the meeting is as follows:

Part I: Proposed amendment of the hazardous liquid pipeline safety standards (49 CFR Part 195).

The Committee is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of proposed new definitions of "rural" and "gathering line" that are intended to clarify the exception of rural gathering lines from Part 195 requirements. (This is a continuation of action by the Committee initiated at the November 1, 1984, meeting on this subject.)

Part II: Testing and inspecting hazardous liquid pipelines.

The Committee will discuss the various methods of testing and inspecting hazardous liquid pipelines and the frequency and type of testing and inspection which should be required. Section 5 of Pub. L. 98–464 (Act of October 11, 1984) requires the Secretary of Transportation to study this subject and submit a report to Congress based, in part, on consultations with the Committee.

Part III: Pipeline transportation of methanol.

The Committee will discuss issues regarding the transportation of methanol through the interstate hazardous liquid pipeline system in the United States, section 4 of Pub. L. 98–464 (Act of October 11, 1984) requires the Secretary of Transportation to study such transportation and make recommendations to Congress for its safety and efficiency.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items schedules for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: January 30, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85–2969 Filed 2–5–85; 8:45 am]

BILLING CODE 4910–60–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the

Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit "Leonardo da Vinci Drawings of Horses from the Royal Library at Windsor Castle" (included in the list [1] filed as part of this Determination), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement among The Fine Arts Museum of San Francisco, the National Gallery of Art, the Museum of Fine Arts, Houston and the Royal Library at Windsor Castle. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about February 24, 1985, to on or about June 9, 1985, at the Museum of Fine Arts, Houston, Texas, beginning on or about June 22, 1985, to on or about October 13, 1985 and at The Fine Arts Museum of San Francisco, San Francisco, California, beginning on or about November 9, 1985, to on or about February 23, 1986, is in the national interest.

Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: February 4, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 85-3096 Filed 2-4-85; 2:47 pm]

BILLING CODE 8230-01-M

[1] An itemized list of imported objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 50, No. 25
Wednesday, February 6, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 11, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge and establish six branches:

The Merchants Bank, Burlington, Vermont, as insured State nonmember bank, for consent to merge, under its charter and title, with Sterling Trust Company, Johnson, Vermont, and for consent to establish the six offices of Sterling Trust Company as branches of the resultant bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of new Part 325, entitled "Capital Maintenance," which: (1) Define capital, (2) establish minimum standards for adequate capital, (3) establish standards to determine when an insured bank is operating in an unsafe and unsound condition by reason of the amount of its capital, and (4) establish procedures for issuing a directive to require an insured State nonmember bank to achieve and maintain a minimum capital ratio; and a related Statement of Policy on Capital which explains various portions of the new Part 325 and gives some guidance on the manner in which the Corporation intends to apply the provisions of that part.

Memorandum and resolution re: Final amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," in accordance with the International Banking Act of 1978, which: (1) Raise the minimum required sum to be maintained in the capital equivalency ledger account to six percent, rather than five percent, of a branch's liabilities, and (2) eliminate the required deduction from the capital equivalency ledger account for assets classified "Doubtful".

Memorandum and resolution re: Proposed issuance of a Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions, which policy provides that, beginning six months following approval of the policy by the Corporation's Board of Directors, all final orders issued by the Corporation under its statutory enforcement authority will be published in the **Federal Register.**

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 4, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-3109 Filed 2-4-85; 3:27 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2.30 p.m. on Monday, February 11, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5 United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii))

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 4, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-3110 Filed 2-4-85; 3:27 pm]

BILLING CODE 6714-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 31, 1985.

TIME AND DATE: 10:00 a.m., February 4, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552(b)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. United Mine Workers of America on behalf of Rowe, et al. and Secretary of Labor on behalf of Williams v. Peabody Coal Company, Docket Nos. KENT 82-103-D, 82-105-D, 82-106-D, and LAKE 83-69-D. (Issues included whether the administrative law judge engaged in misconduct.)

2. Belcher Mine, Inc., Docket No. SE 84-8-M. (Issues include whether the administrative law judge engaged in misconduct.)

It was determined by a unanimous vote of Commissioners that this meeting be closed.

This meeting was previously scheduled for February 1, 1985. No earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 85-3075 Filed 2-4-85; 12:36 pm]

BILLING CODE 6735-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-09]

TIME AND DATE: 10:00 a.m., February 12, 1985.

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. Ratification List.
4. Petitions and Complaints.
5. Investigation 731-TA-165 [Final] (Certain valves, nozzles, and connectors of brass from Italy)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[FR Doc. 85-3001 Filed 2-1-85; 4:40 pm]

BILLING CODE 7020-02-M

federal register

Wednesday
February 6, 1985

Part II

Department of Commerce

Patent and Trademark Office

37 CFR Parts 1, 2, and 10
Practice Before the Patent and Trademark Office; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 2, and 10

[Docket 407 88-4181]

Practice Before the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending its rules governing practice before the PTO by attorneys and agents. These rules are needed to clarify and modernize the rules relating to admission to practice and the conduct of disciplinary cases. The rules are also needed to set out in the Code of Federal Regulations a PTO Code of Professional Responsibility. By amending the rules, the PTO believes the standards for admission to practice in patent cases will be more easily understood, that those practicing before the PTO will have ready access to a code of professional responsibility, and that procedure in disciplinary cases will be more easily understood. The PTO expects that the conduct of disciplinary proceedings under these rules will be more effective and less costly.

DATES: The effective date of these rules (except § 1.21(a) (5) and (6)) is March 8, 1985. Section 1.21(a) (5) and (6) is effective April 8, 1985.

FOR FURTHER INFORMATION CONTACT: Fred E. McKelvey by telephone at (703) 557-4025 (if no answer, message may be left at 703-557-4103) or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION:

Attorneys and agents practice before the Patent and Trademark Office (PTO) in patent cases. 35 U.S.C. 31. Attorneys also practice before the PTO in trademark and other non-patent cases. 5 U.S.C. 500(b). A few agents also practice before the PTO in trademark cases under rules in force prior to January 1, 1957.

A notice of proposed rulemaking for attorney and agent conduct and disciplinary procedure was published on August 11, 1983 in the **Federal Register**, 48 FR 36478, and on September 20, 1983 in the *Official Gazette*, 1034 O.G. 39, 1034 TMOG 33. A notice extending the comment period and setting a second hearing was published on October 5, 1983 in the **Federal Register**, 48 FR 45424, and on October 18, 1983, in the *Official Gazette*, 1035 O.G. 19, 1035 TMOG 17. The PTO decided to withdraw, and not adopt, the rules proposed in the **Federal Register** notice of August 11, 1983. There were numerous objections to the proposed rules and the public indicated that a longer period for study and review of a code of conduct and disciplinary procedures was necessary.

An advance notice of proposed rulemaking setting out revised rules being considered for standards of conduct and disciplinary proceedings was published on March 16, 1984, in the **Federal Register**, 49 FR 10012, and on April 10, 1984, in the *Official Gazette*, 1041 O.G. 15, 1041 TMOG 13. Numerous organizations and individuals filed comments in response to the advance notice.

On August 24, 1984, the PTO published in the **Federal Register**, a notice of proposed rulemaking, 49 FR 33790. On August 28, 1984, the notice was also published in the *Official Gazette*, 1045 O.G. 29; 1045 TMOG 25. The notice also appeared in the Bureau of National Affairs' *Patent, Trademark & Copyright Journal*, Vol. 28, No. 694, pp. 485-515 (August 30, 1984). Twenty-two written comments were timely received in response to the notice of proposed rulemaking. The comments are analyzed herein. A hearing was held on October 10, 1984. Five individuals appeared at the hearing. Oral comments made at the hearing are also analyzed herein. The twenty-two written comments and a copy of the transcript of the hearing are available for public inspection in Room 12B10, Crystal Gateway II, 1225 Jefferson Davis Highway, Arlington, Virginia.

This notice of rulemaking sets out rules in three areas:

(1) Practice of attorneys and agents before the PTO in patent, trademark, and other non-patent cases (§§ 10.2 through 10.19);

(2) A PTO Code of Professional Responsibility (§§ 10.20 through 10.112); and

(3) Rules governing (a) investigation of posssible violations of the PTO Code of Professional Responsibility and (b) disciplinary proceedings to reprimand, suspend, or exclude (disbar) individuals from practicing before the PTO who, after notice and opportunity for a hearing, are found to have violated a disciplinary rule of the PTO Code of Professional Responsibility (§§ 10.130 through 10.170).

Familiarity with the advance notice and notice of proposed rulemaking is assumed. Changes in the text of the rules published for comment in the notice of proposed rulemaking are discussed. Comments received in response to the notice of proposed rulemaking are discussed. Comments not timely received in response to the advance notice are also discussed.

Tables 1, 2, and 3 are included in this notice to assist readers in correlating present rules with the new rules and to find the principal source for the new rules. An indication in Tables 1, 2, or 3 that a section is "new" means that a corresponding section does not currently appear in Title 37 of the Code of Federal Regulations.

Table 1 shows the principal sources of the new rules which relate to (1) adminission to practice of attorneys and agents in patent cases and (2) practice in trademark and other non-patent cases.

Table 2 shows the principal sources of the rules for the new PTO Code of Professional Responsibility.

Table 3 shows the principal sources of the new rules for disciplinary proceedings.

Other sources for, and rationale in support of, the proposed rules are discussed in the Supplementary Information of the advance notice, 49 FR 10012-10022, and the Supplementary Information of the notice of proposed rulemaking, 49 FR 33790-33803.

In issuing these rules, the PTO has made every effort to minimize preemption of State control over the practice of law. Thus, in § 10.1, second sentence, the new rules provide:

> Nothing in * * * [these rules] shall be construed to preempt the authority of each State to maintain control over the practice of law, except to the extent necessary for the Patent and Trademark Office to accomplish its federal objectives.

This provision of § 10.1 is based on language in *Sperry* v. *Florida ex rel. Florida Bar*, 373 U.S. 379, 402 (1963), and makes clear the PTO's intent to regulate only conduct related or relevant to practice before the PTO.

In an effort to ascertain whether the proposed rules would have any adverse impact on the States, copies of both the advance notice of March 16, 1984, and the notice of proposed rulemaking of August 24, 1984, were sent to Bar Counsel in each State. The PTO received responses from Bar Counsel in Alaska, Connecticut, Florida, Georgia, Maryland, Mississippi, Nebraska, Texas, and Vermont. Comments were also received from the National Organization of Bar Counsel, the American Bar Association, and others.

Alaska Bar Counsel, contrary to other bar counsel filing comments, suggested that creation of a PTO Code of Professional Responsibility would be "inherently confusing" to any attorney practicing in a State and also before the PTO. The new rules, however, do not

establish for the first time a PTO Code of Professional Responsibility. The current PTO code appears in 37 CFR §§ 1.344 and 2.12. Sections 1.344 and 2.12 merely incorporate by reference the Code of Professional Responsibility of the American Bar Association (1970). The new PTO code more appropriately sets out the standards of conduct relevant to the practice of law before the PTO. Alaska Bar Counsel also felt that it would be more appropriate if the PTO brought alleged ethics violations by attorneys to local state enforcement authorities. This view was not shared by other bar counsel who filed comments. The statute (35 U.S.C. 32) authorizes the Commissioner to administer discipline. The PTO has taken disciplinary action in instances where a State has declined to do so. Moreover, there are registered patent agents who are not subject to discipline by State enforcement agencies. Finally, Alaska Bar counsel suggested that "adjudicative agencies" are too closely involved in a disciplinary matter to be impartial. Congress has determined otherwise. 35 U.S.C. 32 and 5 U.S.C. 500(d).

Comments were received from the Statewide Grievance Committee of Connecticut in response to the advance notice. Many helpful suggestions were made in the comments. Most of the suggestions were adopted at the time the notice of proposed rulemaking was published.

The Florida Bar, through its Director of Lawyer Regulation, filed comments in response to the notice of proposed rulemaking. The Florida Bar commented on §§ 10.1(c) and 10.23(c)(5). The PTO's response to the comment appears later in this notice under a discussion of § 10.1.

An Assistant General Counsel of the State Bar of Georgia filed a response to the advance notice. The response stated, among other things: "Although due to the press of business at the present time I am unable to provide a substantive response in this correspondence, I will respond within the appropriate time limits after having an opportunity to study the enclosed * * * [advance notice]." No further response was received.

Bar counsel for the Attorney Grievance Commission of Maryland filed a response to the advance notice. In his response Bar Counsel states in part:

> It does not appear to me that any of the proposed Rules would present any difficulty in the administration of discipline within Maryland.

Complaint Counsel for Mississippi responded to the advance notice. He stated in part:

> I have not reviewed the proposed Code in comparison with the Code of Professional Responsibility in great detail. In general however I can state that adoption of the proposed Code would not have an adverse effect upon the function of this office.

The General Counsel of the State Bar of Texas responded to the advance notice and did "not perceive that any problem would be created by * * * [the proposed rules] in Texas." The General Counsel did express the thought that the PTO's use of the word "practitioner" instead of "lawyer" would not prevent reciprocal discipline in Texas based on disciplinary action by the PTO. The PTO sees no reason for disagreeing with the General Counsel. The word "practitioner" is used by the PTO to define registered attorneys, registered agents, *and* other attorneys authorized to practice in trademark and other non-patent cases before the PTO under 5 U.S.C. 500(b).

The Chairman of the Professional Conduct Board of Vermont responded to the advance notice. He states in part:

> I find nothing contained in the proposed rules which would present any difficulty in the administration of disciplinary matters within the State of Vermont. Further, I see no problems created vis-a-vis the Code of Professional Responsibility in this jurisdiction.

The President of the National Organization of Bar Counsel responded to the notice of proposed rulemaking. He expressed a concern as to whether the PTO intended to "provide for notice and information of . . . [each disciplinary violation by an attorney] to each jurisdiction where the attorney is licensed." Two provisions of the rules are designed to insure that States are notified of PTO disciplinary action. Section 10.158(b)(1) requires a disciplined attorney to notify all bars of which he or she is a member and to file a copy of the notice with the Director of Enrollment and Discipline of the PTO. Section 10.159(a) requires the Director to notify known State bars and appropriate bar associations of PTO disciplinary action. In addition, as a matter of policy, the PTO intends to notify the National Discipline Data Bank of the American Bar Association.

Comments were filed in response to the advance notice and the notice of proposed rulemaking by the Standing Committee on Professional Discipline of the American Bar Association. The comments filed in response to the advance notice were analyzed in the notice of proposed rulemaking and are not re-analyzed in this notice. In its comments responding to the notice of proposed rulemaking the Standing Committee made several helpful suggestions, some of which are being adopted. A full discussion of the PTO rationale for adopting or not adopting a particular suggestion appears under analysis of comments later in this notice. The Standing Committee urged adoption of the 1983 ABA Model Rules. The PTO is not now adopting the Model Rules *inter alia* because most States have not adopted those rules. If a significant number of States adopt the Model Rules, the PTO will consider further amendments to its Code of Professional Responsibility. The Standing Committee suggested changes to § 10.23(c)(12) which are being adopted in part. The Standing Committee suggested that notice be given to a practitioner prior to any meeting of the Committee on Discipline. This suggestion is not being adopted. In most instances, a practitioner will be able to respond to a notice under 5 U.S.C. 558(c). The Committee will have the practitioner's response at the time of its deliberation. The Standing Committee urged that hearings in disciplinary matters should be open to the public. Others opposed this position. The PTO is not adopting this suggestion in view of 35 U.S.C. 122. Further rationale for not adopting the Standing Committee's suggestion appears later in the notice. The Standing Committee urged a change in § 10.149 to make the burden for proving a disciplinary violation one of "clear and convincing evidence." This suggestion is being adopted. The Standing Committee urged that more discovery be permitted than was authorized by § 10.152 as proposed. This suggestion is being adopted as explained further in this notice. The Standing Committee also thought § 10.159 should provide for notice to the ABA Natonal Discipline Data Bank when the PTO administers discipline. While § 10.159 will not specifically mention the Data Bank, a change has been made to permit the Director to notify appropriate bar associations. The Data Bank is an appropriate bar association.

Changes in Text

Several changes have been made in the text of the new rules from the text of the proposed rules which were published for comment in the notice of proposed rulemaking. Those changes are discussed below.

In § 1.8, the new paragraph will be (xiii). Paragraph (xii) was added when the rules relating to patent interference

proceedings were amended. See 49 F.R. 48451 (Dec. 12, 1984).

In the first sentence of § 1.31, the term "agent" has been changed to "registered agent" to make clear that only registered agents are intended.

Section 1.33(c) is being amended to delete a reference to former §§ 1.341 and 1.347 and to now refer to §§ 10.5 and 10.11.

Section 1.56 (f) and (h) is being amended to delete a reference to former § 1.346 and to now referred to § 10.18.

In the second sentence of § 10.1, "subpart shall" has been changed to "part shall" and "maintain control over" has been changed to "regulate." In the same sentence, "within its borders" has been deleted.

In § 10.2(b)(1), "maintain the register" has been changed to "maintain the register provided for in § 10.5".

In the next-to-the-last sentence of § 10.7(b), "examining corps" has been changed to "patent examining corps".

The language "an alien" in § 10.9(b) has been changed to read "a resident alien" to make clear that aliens registered under paragraphs (a) or (b) of § 10.6 must be resident aliens.

In the first sentence of § 10.14(c), "foreigner" has been changed to "foreign attorney or agent", "registered and in good standing" has been changed to "registered or in good standing", "applicants" has been changed to "parties" and "trademark applications" has been changed to "trademark cases".

In § 10.18(a)(1), "the paper has been read" has been changed to "the paper has been read by the practitioner".

Several changes have been made in § 10.23.

In § 10.23(c)(4)(iii), "improperly" has been added before "bestowing."

In § 10.23(c)(5), "on ethical grounds" has been added after the first occurrence of "attorney or agent" and "suspension or disbarment as an attorney or agent" (after "10.6(c)") has been deleted.

In § 10.23(c)(7), "patent" has been added before "application of another" and the following has been added as a second sentence: "See §§ 1.604(b) and 1.607(c) of this subchapter."

In § 10.23(c)(8), "Failing to forward" has been changed to "Failing to inform a client or former client"; "inability to forward, to" has been changed to "inability to notify"; "client correspondence" has been changed to "client of correspondence"; "is correspondence which" has been changed to "is correspondence of which"; and "under the circumstances should be forwarded to the client or former client" has been changed to "under the circumstances the client or former client should be notified."

Section 10.23(c)(12) has been changed to read: "Knowingly filing, or causing to be filed, a frivolous complaint alleging a violation by a practitioner of the Patent and Trademark Office Code of Professional Responsibility."

In § 10.23(c)(15), "including" has been changed to "making a" and "matter" has been changed to "statement".

In § 10.36(b)(3), the language "in the locality" has been deleted.

The following language has been deleted from § 10.40(c): ", and may not withdraw in other matters,".

In § 10.62(b), the language "contemplated or pending litigation or" has been deleted.

In § 10.63(1), the language "contemplated or pending litigation or" has been deleted. Both occurrences of "trail or" have been deleted from § 10.63(a). The language "contemplated or pending litigation or" has been deleted from § 10.63(b).

The following sentence has been added to § 10.64(b): "A practitioner may, however, advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee."

In § 10.84(a)(3), "§ 10.85" has been changed to "this part".

The following sentence has been added to § 10.87(a): "It is not improper, however, for a practitioner to encourage a client to meet with an opposing party for settlement discussions."

Paragraph (5) of § 10.89(c)as it appeared in the notice of proposed rulemaking has been deleted. Paragraph (6) of § 10.89(c) as it appeared in the notice of proposed rulemaking has been changed to read: "(5) Engage in undignified or discourteous conduct before the Office (see § 1.3 of this subchapter). "Subparagraph (7) of § 10.89(c) has been redesignated as subparagraph (6).

In § 10.112(a), the language:

> Maintained: (1) In the case of a practitioner whose office is located in the United States, the State in which the practitioner's office is situated or (2) in the case of a practitioner having an office in a foreign country or registered under § 10.6(c) in the United States or the foreign country

has been changed to read

> Maintained in the United States or, in the case of a practitioner having an office in a foreign country or registered under § 10.6(c), in the United States of the foreign country.

In § 10.131(a), the second sentence has been deleted as being unnecessary in view of § 10.132(b). The second sentence of § 10.131(a) in the notice of proposed rulemaking read: "The investigation shall be such as to determine whether there is probable cause to believe that a violation of a Disciplinary Rule by a practitioner has occurred."

In the first sentence of § 10.132(a), the language "that there is probable cause to believe" has been deleted. The Committee on Discipline, not the Director, shall determine whether there is probable cause to believe that a practitioner has violated a Disciplinary Rule. See §§ 10.4(b) and 10.132(b).

Several changes have been made in § 10.133. In the first sentence of § 10.133(b), the language "§§ 10.132(b) and 10.134" has been replaced with "§ 10.134". The reference to § 10.132(b) is not necessary. The language "his or her resignation by filing" in § 10.133(b) has been deleted as unnecessary. The second sentence of § 10.133(d) has been modified to become new paragraphs (c) and (d). Paragraph (c) indicates the content of an affidavit of resignation filed prior to the date set by the administrative law judge (ALJ) for hearing. Paragraph (d) indicates the content of an affidavit of resignation filed on or after the date set by the ALJ for hearing. Paragraph (c) has been redesignated as new paragraph (e). In addition, the language "paragraph (b)" therein has been changed to "paragraphs (b) or (c)". Paragraphs (d) and (e) have been redesignated as new paragraphs (f) and (g), respectively.

In § 10.135(a)(2)(i), "Committee on Enrollment" has been changed to "Director".

In § 10.149, "a preponderance of" has been changed in both instances to "clear and convincing".

Several changes have been made to § 10.152 to expand discovery. Paragraphs (a) and (b) of § 10.152 as set out in the notice of proposed rulemaking have been redesignated as paragraphs (e) and (f), respectively, and new paragraphs (a) through (d) have been added. New paragraph (a) sets forth discovery which is authorized. New paragraph (b) sets forth matter which *cannot* be discovered. Paragraph (c) sets forth factors which an ALJ can consider in determining whether to authorize discovery. Paragraph (d) requires that a motion be filed which addresses specifically and separately each particular request for discovery. In paragraph (e) (formerly paragraph (a)), a new subparagraph (3) has been added to specify that the ALJ may require the parties to set out in a pre-hearing statement information related to expert witnesses. Old paragraphs (3) and (4)

have been redesignated as new paragraphs (4) and (5), respectively.

In § 10.154(b), a new paragraph (5) has been added which states: "(5) any extenuating circumstances."

In § 10.155(a), both occurrences of "on the respondent" have been deleted.

Several changes have been made to § 10.158. In § 10.158(b)(1), after "all clients of the practitioner" the following has been added "for whom he or she is handling matters before the Office." In § 10.158(b)(2), "client's active case files" has been changed to "client's active Office case files". In § 10.158(c), changes have been made to make paragraph (c) applicable to corporate patent departments and to prohibit a suspended or excluded practitioner from meeting in person or in the presence of another practitioner with an official of the PTO in connection with the prosecution of a patent, trademark, or other case.

The following has been added to the end of § 10.159(a): "and any appropriate bar associations."

Several changes have been made in § 10.160(c). "A practitioner has been suspended or excluded" has been changed to "An individual who has resigned under § 10.133 or who has been suspended or excluded". The language "if the Director is satisfied" has been changed to "when the individual makes a clear and convincing showing". The language "suspended or excluded practitioner" has been changed to "individual".

Response to and Analysis of Comments

Twenty-two (22) written comments were timely received in response to the notice of proposed rulemaking. The comments have been analyzed. Some suggestions made in comments have been adopted and others have been rejected. A detailed analysis of the timely received comments follows. Several comments were not timely received by July 9, 1984, in response to the advance notice of proposed rulemaking of March 16, 1984. These comments have now been considered and are analyzed herein.

Several comments were received which suggested that the rules purport to regulate attorney conduct beyond that necessary or proper for administration of federal programs by the PTO. It is not, and has never been, the intention of the PTO to regulate conduct except to the extent necessary for the accomplishment of federal objectives. Thus, only that conduct which is relevant to the practice of patent, trademark, or other law *before the PTO* is what the PTO seeks to regulate. The preamble of §10.1 indicates that Subpart 10 governs solely the practice of patent, trademark, and other law before the PTO. As noted in the preamble to § 10.1, "[n]othing in this subpart shall be construed to preempt the authority of each State to regulate the practice of law, except to the extent necessary for the Patent and Trademark Office to accomplish its federal objectives." See *Sperry* v. *Florida ex rel. Florida Bar*, 373, U.S. 379, 402 (1963). See also *Michigan Canners and Freezers Ass'n.* v. *Agricultural Marketing and Bargaining Board*, 104 S.Ct. 2518, 2523 (1984) (State Law is preempted when it stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress) and *Fidelity Federal Savings and Loan Ass'n.* v. *de la Cuesta*, 102, S.Ct. 3014, 3022 (1982) (federal regulations have no less pre-emptive effect than federal statutes.

Several comments were received concerning § 10.1. The Florida Bar noted that in the notice of proposed rulemaking the PTO indicated "that failure to pay State bar dues is not a basis for suspension or exclusion before the PTO because failure to pay the dues has no relationship to the federal objectives which the PTO seeks to accomplish." 49 FR 33795, column 1, third full paragraph. The Florida Bar suggested that "the loss of good standing [should] be of concern to the PTO." The PTO agrees in part. Suspension from a State bar for failure to pay dues will not be viewed by the PTO as "misconduct." See § 10.23(c)(5), which has been changed to define misconduct as suspension or disbarment on ethical grounds. If an attorney is suspended by his or her State bar for failure to pay bar dues, and for that reason is no longer in good standing before the State bar, that attorney is no longer an attorney within the meaning of § 10.1(c). An attorney suspended from his or her State bar for failure to pay bar dues would no longer be eligible to represent individuals before the PTO in trademark and other non-patent cases.

One commentator suggested that the second sentence of § 10.1 be changed to read: "Nothing in this subpart shall be construed to preempt the authority of each State to regulate the practice of law, except to the extent necessary for the Patent and Trademark Office to accomplish its federal objectives." The suggestion is being adopted. The commentator noted that as originally proposed in the notice of proposed rulemaking, the phrase "to maintain control over the practice of law within its borders" is unduly restrictive. The commentator correctly pointed out that "[c]ertainly, New York would have the authority to regulate the practice of law by a New York attorney residing in Florida."

Another commentator noted the language "federal objectives" in § 10.1 and felt it would be appropriate for the PTO "to set forth what the federal objectives really are." The PTO does not believe it is appropriate to set out in the regulations specific federal objectives. The PTO engages in the examination of applications for patents, reexamination of issued patents, examination of applications for registrations of trademarks, and numerous *inter partes* patent and trademark proceedings. The federal objectives of the PTO center around these activities.

With respect to § 10.2(c), one commentator argued that "it is unfair to require the payment of a fee to review a final decision of the Director." The PTO disagrees. The review provided by § 10.2(c) is a service performed by the PTO for which a fee may be charged. There is no compelling reason for not charging a fee.

Several comments were received discussing § 10.4. One commentator suggested "that a provision for no discovery or testimony from a member of the Committee on Discipline is unfair and inappropriate." The PTO does not believe that a "mini-trial" should be conducted in a subsequent disciplinary proceeding of how or why the Committee on Discipline reached its decision. The commentator also argued that § 10.4(c) "would be in direct conflict with the Federal Rules of Civil Procedure" in any review in the U.S District Court for the District of Columbia. Again, the PTO disagrees. The Federal Rules of Civil Procedure do not apply to disciplinary cases in the PTO. Moreover, those rules do not apply in cases seeking judicial review of a decision of the Commissioner in a disciplinary matter. Applicable law (35 U.S.C. 32 and Local Rule 1–26 of the district court) provides for review on the record made in the PTO. See also *Camp* v. *Pitts*, 411 U.S. 138 (1973). Hence, there is no discovery in a proceeding under 35 U.S.C. 32.

Comments were received which suggest that the associate and assistant solicitors in the Office of the Solicitor cannot be isoloated from the Solicitor and the Deputy Solicitor. The associate and assistant solicitors are to be isolated so that (1) the associate and assistant solicitors may act as attorney for the Director in prosecuting a disciplinary proceeding and (2) the Solicitor and Deputy Solicitor may act as legal advisor to the Commissioner in deciding a disciplinary matter. In

disciplinary matters, the associate and assistant solicitors will report directly to the Director. Associate and assistant solicitors will not have occasion to discuss disciplinary matters with the Solicitor or Deputy Solicitor.

The following discussion in the *Attorney General's Manual on the Administrative Procedure Act*, pp. 57–58 (1947); commenting on original § 5(c) (now U.S.C. 554(d)) is believed particularly relevant to the issues raised in the comments:

> Assuming that an agency will in many cases wish to consult with certain of its staff members, it may proceed in one of two ways. It may in a particular case consult with staff members who in fact have not performed investigative or prosecuting functions in that or a factually related case. In the alternative, the agency may find it feasible so to organize its staff assignments that the staff members whom it most frequently desires to consult will be free of all investigative and prosecuting functions.
>
> * * * * *
>
> [I]f the agency so organizes its staff that the general counsel is not responsible for the investigative and prosecuting functions, he would be regularly available to the agency for consultation on the decision of cases.[*]

Several commentators suggested that members of the public or the PTO bar should be members of the Committee on Discipline. This suggestion is not being adopted. As noted in the notice of proposed rulemaking (49 FR 33793, column 2, last paragraph), there are two reasons for not adopting the suggestion. Use of individuals outside the PTO is made difficult by 35 U.S.C. 122. Administrative delays would take place because it would be more difficult to schedule meetings.

One commentator suggested that the language "at least" in the phrase "at least three employees of the Office" should be deleted from the second sentence of § 10.4(a). This suggestion is not being adopted. The "at least" language will permit the Commissioner to appoint alternate members to substitute for a member who may be disqualified or who may be unavailable for an extended period.

Section 10.10 provides that only practitioners who are registered under § 10.6 or individuals given limited recognition under § 10.9 will be permitted to prosecute patent applications of others before the PTO. One comment was received which noted that the rules do not address the "status" of (a) "an individual in a training program directed to the preparation and prosecution of applications for patent" or (b) "a long-time employee working within a patent organization in the area of preparation and prosecution of applications for patent, but has never become registered to practice as either a Patent Agent or Patent Attorney." The commentator suggested that the rules should state what such individuals or employees may do. The suggestion is not being adopted. Only registered practitioners (attorneys and agents) may practice patent law before the PTO. The commentator also suggested that the rules should provide that long-time corporate or government employees who have never been registered should be given limited recognition by the PTO. This suggestion is not being adopted. Limited recognition will be given only on a case-by-case basis. See § 10.9.

One comment suggested that "applicants" and "trademark applications" in the first sentence of § 10.14(c) rendered it unclear whether an individual authorized to practice before the PTO in trademark cases could prosecute post-registration cases, such as a cancellation proceeding. The rule has been clarified by changing "applicants" to "parties" and "trademark applications" to "trademark cases". An individual authorized to represent others under § 10.14 is authorized to appear in any trademark case.

Several comments were received discussing § 10.18. One comment made at the hearing suggested that the rule should specify who should read the paper being signed. The commentator stated: "I think it would be salutary if what you really mean is that the practitioner who signs it has read it." The suggestion is being adopted and the language of § 10.18(a)(1) has been changed from "the paper has been read" to "the paper has been read by the practitioner".

Two individuals commented that requiring the signature of a practitioner would eliminate the "custom" of having an associate sign the name of a principal attorney on a paper which the principal authorizes the associate to file. Section 10.18 requires that the practitioner signing the paper sign his or her own name. The rule would permit associate attorney John Smith to sign on behalf of principal attorney David Jones by signing the paper as follows: "David Jones by John Smith." The rule would not permit Smith to merely sign Jones' name or to sign "David Jones by JS." The rule does not authorize a non-practitioner (e.g., a para-legal or secretary) to sign a paper on behalf of a practitioner.

One comment asked the following:

> Assume an inventor is under Final Rejection and the period for proper response is near at hand. The attorney is now instructed to "keep the case alive" until a CIP [continuation-in-part] is prepared and filed. For reasons outside the control of the attorney, the CIP cannot be filed in time. Assume now the attorney files a Notice of Appeal, *never intending* to prosecute the appeal, intending only to buy time until the CIP can be filed. Would the filing of the Notice of Appeal violate Rule 10.18 and subject the attorney to PTO disciplinary action?

A notice of appeal is a proper response to a final rejection. Accordingly, it would not appear under the circumstances outlined that the notice of appeal was "interposed for delay" within the meaning of § 10.18(a)(4).

Three comments were received discussing § 10.22. One comment suggested that modifiers, such as "knowingly" and "willfully" be inserted in paragraphs (a) and (b) of § 10.22. The suggestion is not being adopted. A "materially false statement," a failure "to disclose a material fact," or furthering the application of another "known * * * to be unqualified" constitute acts which cannot be characterized as innocent. Accordingly, there is no need to insert the "modifiers" in the text of the rule. Another commentator suggested that the provisions of § 10.22 are not relevant to the federal objectives of the PTO. The PTO disagrees. Practitioners who (1) fail to tell the truth, (2) fail to reveal material information or (3) knowingly further the application of an unqualified individual to a bar, demonstrate that they are "disreputable" within the meaning of 35 U.S.C. 32. A third commentator suggested that § 10.22(b) is too broad because a practitioner could recommend an individual for membership in a bar and the individual might fail to pass the bar examination. Unless a practitioner has good reason to know that the individual will fail to pass a bar examination, it is not apparent how the practitioner's recommendation could amount to a violation of the PTO Code of Professional Responsibility.

Numerous comments were received discussing § 10.23. One comment suggested that § 10.23(c)(8) be changed to require notification of a client rather than requiring correspondence to be forwarded. This suggestion has been adopted by making appropriate changes to § 10.23(c)(8).

A suggestion was made to delete the reference to $5000 in § 10.23(c)(17). This suggestion is not being adopted. See the

[*] The general counsel's participation in rule making and in court litigation would be entirely compatible with his role in advising the agency in the decision of adjudicatory cases subject to section 5(c).

discussion in the advance notice, 49 FR 10016, column 1.

A suggestion was made that § 10.23(c)(5) has "a built-in inequity as regards different patent attorneys in different states." According to the commentator, a practitioner suspended for an act by Ohio might not be suspended for the same act by New York. The commentator reasons it would be unfair for the Office to suspend the Ohio practitioner, but not the New York practitioner. The commentator's concern is not warranted in view of the second sentence of § 10.1.

Another commentator noted that § 10.23(a)(3) "points up the difficulty of superimposing * * * [a] set of rules on of the various local jurisdictions." Here again, the commentator's concern is not believed warranted in view of the second sentence of § 10.1. Another commentator noted that "moral turpitude" is hard to define. It was suggested that possession of marijuana is regarded as a crime involving moral turpitude in some states where a 99-year sentence may be received. It was suggested that in other states possession of marijuana might result in "a slap on the wrist." If a practitioner is incarcerated for a crime in a state, it follows that the practitioner is not capable of representing individuals before the Office. This is true even if the same practitioner would not have been incarcerated in another state for the same act.

The Florida Bar raised a question concerning § 10.23(c)(5) which is answered under the discussion above of § 10.1. Section 10.23(c)(5) has been changed to make suspension or disbarment "on ethical grounds" a basis for suspension or disbarment by the Office. "Ethical grounds" would include incompetence, but would not include failure to pay State bar dues.

One comment suggested that "disreputable" and "gross misconduct" in § 10.23(a) be defined. The terms "disreputable" and "gross misconduct" appear in 35 U.S.C. 32 and need no further definition in the rules. For a discussion of "disreputable," see *Poole v. United States*, 54 A.F.T.R. 2d (P-H) 84-5536 (D.D.C June 29, 1984).

Several comments suggested that the Model Rules of Professional Conduct of the American Bar Association (1983) be adopted in place of § 10.23. Adoption of the Model Rules was given consideration prior to publication of the advance notice and the notice of proposed rulemaking. The matter has been considered again. However, it has not been demonstrated to the Office that a large number of states have adopted the Model Rules. As noted in the notice of proposed rulemaking, at least Virginia has rejected the Model Rules. Accordingly, the PTO will not, at this time, adopt the Model Rules. If a large number of states adopt the Model Rules in the future, the PTO would be willing to reconsider its position.

One comment suggested that "before the Office" be inserted after the word "conduct" in § 10.23(b) (4), (5), and (6). This suggestion is not being adopted in view of the second sentence of § 10.1.

A suggestion was received that "improperly" be inserted at the beginning of § 10.23(c)(4)(iii). This suggestion has been adopted.

A suggestion was received that the word "patent" be inserted before "application" in § 10.23(c)(7). This suggestion has been adopted.

A suggestion was received that § 10.23(c)(15) be changed so that a trademark practitioner could present potentially scandalous subject matter in order to receive a determination on the merits of registrability. See e.g., *In re McGinley*, 660 F.2d 481, 211 USPQ 668 (CCPA 1981). Section 10.23(c)(15) has been changed to refer only "making a scandalous or indecent statement in a paper filed in the Office."

Several individuals suggested that it may be difficult to determine the identity of the "client" under § 10.23(c)(8), particularly in corporate patent departments. The PTO will presume that practitioners know the identities of their clients and that information conveyed to the client is being conveyed in a manner acceptable to the client.

Section 10.23(c)(12) has been changed in response to comments which suggested that it would be difficult for practitioners to comply with § 10.23(c)(12) on the one hand and §§ 10.24 and 10.131 on the other hand. The purpose of § 10.23(c)(12) is to eliminate a frivolous complaint against practitioners. Accordingly, § 10.23(c)(12) has been changed to define as misconduct "knowingly filing, or causing to be filed, a frivolous complaint alleging a violation by a practitioner of the Patent and Trademark Office Code of Professional Responsibility."

Several individuals criticized § 10.24. The provisions of § 10.24 are derived from DR 1-103 of the Code of Professional Responsibility of the American Bar Association (1970)—the rule currently applicable to practitioners. See 37 CFR 1.344 and 2.13. The PTO is not aware that the current rule causes any problems. Accordingly, the numerous suggestions to delete or amend § 10.24 are not being adopted.

One comment was received which suggested that charging another person with trademark infringement and requesting that the person withdraw a pending application "might be . . . interpreted as a violation" of § 10.31(a). The PTO disagrees. A reasonable interpretation of the rule does not justify the unreasonable construction by the commentator.

At the hearing, an individual discussed § 10.32. The individual suggested that three "practices" should be sanctioned under any PTO Code of Professional Responsibility and it was suggested that all three practices might be prohibited by § 10.32. *First*, the individual suggested that "the giving of moderately priced presents . . . to established clients on appropriate occasions—Christmas, weddings of their daughters" should not constitute a violation of § 10.32. The PTO agrees. The giving of a gift to an "established client" on the occasions suggested is not a gift "to a person for recommending the practitioner's services." *Second*, the individual suggested that a practitioner should not be prohibited from "paying for ordinary client entertainment." The PTO agrees. Again the "client" is not "a person recommending the practitioner's services" in return for being entertained. *Third*, the individual argued that the rules should not preclude an "exchange" of cases with foreign practitioners." An "exchange" was said to occur "[w]here a foreign patent practioner in his country sends cases to an American patent or trademark practitioner to prosecute before the PTO, and you send the foreign firm cases to prosecute before the foreign patent office, on the more or less explicit basis that it's something in the nature of a trade." According to the individual, the "exchange" ordinarily takes place without knowledge of the practitioner's client. The individual expressed the opinion that "exchanges" without knowledge of the client presently occur routinely. The PTO believes that the suggested "exchange" may ethically take place *only* when the practitioner's clients are fully advised of the exchange. Three other witnesses at the hearing expressed the view—correctly the PTO believes—that client knowledge is essential to an ethical exchange of the type contemplated. No change in § 10.32 is being made.

A suggestion was received that "in matters before the Office" be inserted after "professional employment" in § 10.33. The suggestion is not being adopted in view of the second sentence of § 10.1. Another comment suggested that Rule 7.3 of the Model Rules of Professional Conduct (1983) be adopted in place of § 10.33. The suggestion is not

being adopted. Section 10.33 is based partly on Rule 7.3, but contains the additional language "under circumstances evidencing undue influence, intimidation, or overreaching." Section 10.33 is designed to prohibit so-called "ambulance chasing." In *Ohralik* v. *Ohio State Bar Ass'n.*, 436 U.S. 447 (1978), the Supreme Court held that a state could lawfully regulate ambulance chasing. In its opinion, the Supreme Court said:

> We need not discuss or evaluate each of these interests in detail as appellant has conceded that the State has a legitimate and indeed "compelling" interest in preventing those aspects of solicitation that involve fraud, undue influence, intimidation, overreaching, and other forms of "vexatious conduct." We agree that protection of the public from these aspects of solicitation is a legitimate and important state interest.

436 U.S. at 462. The additional language appearing in § 10.33 is designed to limit the application of § 10.33 to those situations in which the PTO has a legitimate interest. See also 35 U.S.C. 32 and § 10.31(a).

A suggestion was received that § 10.35(b) should be deleted. According to the suggestion, "[r]egulation of the practitioner's business arrangements should be left to state regulation." While the PTO is in general agreement with the rationale suggested, there exist partnerships of agents which are not subject to regulation by any state. Moreover, the commentator has not suggested or shown that § 10.35(b) is inconsistent with the policy of any state. Practitioners should not be free to hold themselves out as being associated with a partnership or other organizations when an association does not in fact exist.

One comment suggested that "in the locality" be deleted from § 10.36(b)(3). This suggestion is being adopted, because "in the locality" has no particular significance in the practice of patent and trademark law. Clients of patent and trademark practitioners are not necessarily located where counsel are located. Moreover, the practice is national in scope.

An individual at the hearing suggested that the PTO should delete subparagraphs (1) and (2) from § 10.37(a). This suggestion is not being adopted. The individual suggested that a client need not know that "employment" has been referred to another practitioner or to a foreign practitioner. The PTO disagrees and so did three other individuals who expressed a view at the hearing. Moreover, the PTO believes that when "farming out" occurs with the consent of a client, that the fee division should be proportional to the services rendered. Under § 10.37, "farming out" of work without knowledge and consent of a client will constitute a disciplinary rule violation.

One commentator suggested that § 10.39 "may result in numerous claims to the effect that a practitioner brought a proceeding 'merely for the purpose of harassing or maliciously injuring another person.' " Section 10.39 continues existing policy (37 CFR 1.344 and DR 2-109 of the ABA Code (1970)). Under existing policy, the PTO has not experienced "numerous claims." Accordingly, there is no reason to expect such claims under § 10.39.

A suggestion was received that the first sentence of § 10.40(a) be changed to read: "A practitioner may withdraw from employment in a proceeding before the Office without permission from the Commissioner in those instances in which a substitute has been selected and is willing to serve." This suggestion is not being adopted. If "a substitute has been selected and is willing to serve," presumably with the consent of the client, a new power of attorney may be filed in the PTO. Another commentator suggested that § 10.40 should not apply to corporate attorneys. This suggestion likewise is not being adopted. If a corporate attorney changes jobs, the attorney should withdraw from representing the "old" corporation *or* the old corporation should revoke any power of attorney.

One comment suggested that the PTO should be under a burden of deciding requests for permission to withdraw within thirty (30) days. This suggestion is not being adopted, but it is and will continue to be PTO policy to promptly decide requests for permission to withdraw.

One comment suggested that ", and may not withdraw in other matters," be deleted from § 10.40(c). This suggestion has been adopted.

One comment asked whether a power of attorney given during prosecution of a patent application continues to be viable after the patent is issued. The answer is "yes." Communications received during reexamination proceedings are sent to the correspondence address established during prosecution of the application which matures into the patent being reexamined. See 37 CFR 1.525. Notices concerning maintenance fees likewise are mailed to the correspondence address. See 37 CFR 1.363, 49 FR 34725 (Aug. 31, 1984). The commentator also raised a question of who is the client when a case is filed on behalf of an individual, but the individual's assignee pays the practitioner's bills. Practitioners are expected to know the identities of their clients. If a practitioner is hired by a corporation and wishes to make that fact plain on the record of a patent application, the practitioner may file an assignment and a power of attorney signed by the assignee. If a dispute should then occur between the individual and the assignee, the record would be clear that the assignee is the client.

A comment suggested that § 10.40(a) "would appear to be unreasonable" in view of the language "giving due notice to another practitioner." Such language does not appear in § 10.40(a).

An oral comment was received by phone which questioned whether the use of para-legals or apprentices by a practitioner constitutes the unauthorized practice of law. If a para-legal or apprentice works under the direction of a practitioner and the practitioner does not allow the para-legal or apprentice to hold themselves out as a practitioner, there is no unauthorized practice of law problem within the meaning of § 10.47.

One comment discussing § 10.49 made the following statement:

> * * * if the intent of this section is to prohibit a practitioner from forming a partnership with a lawyer who, while in good standing with his State bar, does not qualify to practice before the Office (either because he has not taken the patent examination or is not qualified to handle trademark matters), then it should be stricken.

As explained in the notice of proposed rulemaking (49 FR 33797, column 3), the PTO does not intend to prohibit formation of law firms by members of the Bar of any state.

One comment suggested that "in matters before the Office" should be inserted after "employment" in § 10.62(a). This suggestion is not being adopted in view of the second sentence of § 10.1.

Another comment suggested that §§ 10.62 and 10.63 be replaced with Rule 3.7(b) of the Model Rules of Professional Conduct of the ABA (1983). For reasons already discussed, the PTO is not adopting the Model Rules. The comment went on to suggest that practitioners would not be free to testify concerning attorney diligence in patent interference cases. The PTO has made it plain twice that it disagrees. See the advance notice (49 FR 10016, column 3 (March 16, 1984)) and the notice of proposed rulemaking (49 FR 33797, column 3, last paragraph (August 24, 1984)).

A comment suggested that language in §§ 10.62 and 10.63 is not clear. Specifically, the commentator referred to "solely to an uncontested matter" or "solely to a matter of formality." This language occurs in the current rules and has not caused any known difficulty.

Two comments were received which suggested that § 10.64(b) should permit practitioners to pay fees which rightfully should be paid by a practitioner. This suggestion is being adopted and the following sentence has been added to § 10.64(b): "A practitioner may, however, advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee." One of the commentators supplied the following rationale with which the PTO agrees:

It sometimes happens that payment of a fee is necessitated by some act or omission for which the practitioner and not the client is responsible. One example is a fee for an extension of time to respond to an Office Action (see 37 CFR 1.17 and 1.136), where the delay has resulted from the practitioner's workload for other clients, or from the practitioner's absence from his or her office for purposes unrelated to the client's business. Another example is a petition fee for revival of an application unintentionally abandoned through some inadvertent oversight on the practitioner's part. In these circumstances, it would seem unjust to require the client to bear the cost of the fee.

One comment suggested that § 10.65 should be amended to indicate that it relates only to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

Another comment suggested that § 10.65(a) "may limit a practitioner serving on the board of directors of a client." The commentator went on to say that practitioners serving on boards of directors is a common practice. Inasmuch as the client consents to practitioner serving on the board, it is believed that § 10.65 does not limit a practitioner as suggested by the commentator.

One comment was received which suggested that § 10.66(d) be changed to exclude corporate patent departments. According to the comment, "why should an entire corporate patent department have to withdraw if one of its members has to withdraw for disciplinary reasons?" In situations where it would not be appropriate for an entire firm or department to withdraw, § 10.66(d) permits the Commissioner or the Director to so order. See e.g., *Sunkist Growers, Inc.* v. *The Benjamin Ansehl Co.*, 221 USPQ 1077 (Comm'r. Pat. 1984). Another comment suggested that § 10.66 should be amended to indicate that it relates only to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

One comment was received which suggested that § 10.67 be amended to indicate that it relates only to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

A comment was received which suggested that § 10.68(c) might be construed to preclude a practitioner from joining a law firm where attorneys who are not registered to practice before the PTO "are in control," i.e., are the "senior" partners. The definition of practitioner (see § 10.1(r)) precludes such a construction, because any attorney in good standing in any State is a practitioner. Another comment suggested that § 10.68 be amended to indicate that it relates only to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

One comment was made at the hearing which suggested that modifiers, such as "knowingly, willfully, intentionally," be inserted in § 10.77. This suggestion is not being adopted. The PTO believes § 10.77 states clearly the prohibited conduct.

A comment was received which suggested that §§ 10.77, 10.78 and 10.84 be amended to indicate that they refer only to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

One comment suggested that the term "unwarranted" in § 10.85(a)(2) is "too vague as to its limits." The PTO disagrees. Contrary to the suggestion by the commentator, it is believed that practitioners can readily determine whether they are advocating a position that is unwarranted under existing law.

A comment was received which suggested that § 10.85(b) can place a difficult burden on patent counsel. In support of his position, the commentator gave two examples and commented on both examples as follows:

Example 1: A client engages a patent attorney in the preparation of a patent application, and the patent attorney goes through the usual routine of advising the client of statutory bars, duty to disclose, etc. The attorney prepares and files the application, and during the course of the prosecution, the client informs the attorney of some activities that occurred a couple of years before filing the application, which activities might constitute an offer for sale. The attorney advises that this must be disclosed to the Patent Examiner, but the applicant refuses to follow this course of action and discharges the patent attorney. The client then engages another attorney to complete the prosecution, without telling the new attorney of the potentially damaging prior art.

Comment: In accordance with my interpretation of § 10.85(b), the first attorney would be required to disclose this situation to the Office, unless the term "perpetrated a fraud" as it appears in that rule does not include the deliberate failure to disclose relevant prior art. My concern is that this could make for some very poor relationships with the client who might not understand the attorney's duty of disclosure before the Office.

Example 2: A rather poor inventor has managed to drum up enough money for the filing fee for a patent application and then proceeds to prepare and file his own patent application, without the assistance of a patent attorney. After a few months, the inventor obtains some financing from an investor, and the inventor and the investor consult the patent attorney to see if he would continue with the prosecution of the application. The attorney reviews the fact pattern and informs both the inventor and the investor that there is unquestionably some prior art, in the form of an earlier publication by the inventor, which must be disclosed before the Office. When the inventor and the investor find that the attorney intends to disclose this prior art as soon as he is engaged as their attorney, the inventor and the investor tell the attorney that they would rather engage the services of some other patent attorney, and that they will not tell the second attorney of the prior art.

Comment: As I would interpret § 10.85(b), the first patent attorney would be obliged to inform the Office of the relevant prior art. The first patent attorney would likely have the serial number and filing date of the application, and it would appear to me that the patent attorney would have to disclose not only the prior art, but also disclose the intent of the inventor and the investor not to disclose the same. This is pretty harsh treatment, and I can see where the inventor and the investor would have some very hard feelings against the patent attorney.

The PTO agrees that under the circumstances of Example 1, a "client * * * might not understand the attorney's duty of disclosure. * * *" Likewise, the PTO can understand "where the inventor and the investor [in Example 2] would have some very hard feelings against the patent attorney." Nevertheless, the commentator has correctly noted in each case that the practitioner is required to advise the PTO. The practitioner's obligation under § 10.85(b) has not been changed by the rules and is mandated by *Kingsland* v. *Dorsey*, 338 U.S. 318 (1949). See also Nahstoll, *The Lawyer's Allegiance: Priorities Regarding Confidentiality*, 41 Wash. & Lee L. Rev. 421 (1984).

A comment was received which suggested that § 10.85 be amended to indicate that it pertains only to matters before the PTO. The suggestion is not being adopted in view of the second sentence of § 10.1.

Two comments were received which suggested that § 10.87(a) could be construed to prohibit a practioner from recommending that a client meet with an opposing party for settlement discussions. Both comments suggested

that § 10.87(a) be amended to permit a practitioner to recommend that a client engage in settlement discussions directly with an opposing party. The suggestion is being adopted and the following sentence has been added to § 10.87(a): "It is not improper, however, for a practitioner to encourage a client to meet with an opposing party for settlement discussions."

A suggestion was made that § 10.87 be amended to indicate that it pertains only to matters before the PTO. The suggestion is not being adopted in view of the second sentence of § 10.1.

One comment suggested that § 10.89(c)(5) be "eliminated on the grounds of vagueness" because one cannot "be expected to comply with apparently unpublished customs of courstesy or practice." The suggestion is being adopted. Paragraph (6) of § 10.89(c) is being redesignated as paragraph (5) and has also been changed to read: "Engage in undignified or discourteous conduct before the Office (see § 1.3 of this Subchapter)." Paragraph (7) has been redesignated as paragraph (6).

Another comment discussing § 10.89 asked "since when must counsel cite to the Examiner in *ex parte* proceedings cases known to be directly adverse to the position being advocated?" Counsel are expected to advise patent and trademark examiners of known controlling authority which is contrary to a position being advocated. It is important for counsel to do so in *ex parte* cases because there is no *advocate* taking a position contrary to the position being taken by an applicant. See also *Southern Pacific Transportation Co.* v. *Public Utilities Commission of the State of California*, 716 F.2d 1285, 1291 (9th Cir. 1983).

A commentator contended that § 10.89(a) "makes no sense" because a decision of the PTO may have been overruled by the Federal Circuit. Section 10.89(a) is limited to "a decision of the Office made in the course of a proceeding." Practitioners are expected to follow interlocutory orders entered in PTO proceedings. Obviously if such an order is ultimately overruled or reversed by a court, it no longer need be followed. The same commentator suggested that § 10.89(c)(3) is not appropriate. Specifically, the commentator indicated that practitioners often rely on the specification of a patent application and prior art. The specification and prior art are evidence, not the "practitioner's personal knowledge."

One commentator suggested that §§ 10.92 and 10.93 be amended to indicate that they relate solely to matters before the PTO. This suggestion is not being adopted in view of the second sentence of § 10.1.

A commentator at the hearing suggested that § 10.93 be changed to permit practitioners to discuss procedural matters with interlocutory examiners or members of the Board of Patent Interferences or the Trademark Trial and Appeal Board. In view of Pub. L. 98-622, November 8, 1984, the Board of Patent Interferences will cease to exist on February 8, 1985. All patent interference cases will be transfered to the Board of Patent Appeals and Interferences and will be assigned to an examiner-in-chief. Practitioners may consult an examiner-in-chief orally upon adequate notice to opposing counsel. A telephone conference call may be arranged when opposing counsel desires to participate in the oral consultation. The same is true of the interlocutory examiners or members of the Trademark Trial and Appeal Board. Questions of a purely procedural nature may be asked. However, an examiner-in-chief or the interlocutory examiner or member of the Trademark Trial and Appeal Board may nevertheless decline to answer procedural questions without opposing counsel being present or involved in a conference call.

One commentator suggested that §§ 10.101, 10.102, 10.103, and 10.111 be amended to indicate that they refer only to proceedings in the PTO. The suggestion is not being adopted in view of the second sentence of § 10.1.

One comment suggested that practitioners residing in the United States should be able to maintain trust funds in a bank in any State. This suggestion is being adopted and § 10.112(a) has been changed to implement the suggestion. However, if a State bar requires funds to be kept in a bank within the State, a practitioner would be required to keep funds in a bank in the State in order to comply with State rules. Another comment suggested that § 10.112(c)(2) is not practical. According to the commentator, "invention samples and invention disclosures and drawings usually are the client's property, but keeping them in a safe deposit box is totally impractical." The commentator overlooks that portion of § 10.112(c)(2) which reads "in a safe deposit box or other place of safekeeping. * * *" A client may consent to a practitioner keeping invention samples, invention disclosures, and drawings in the practitioner's office. The practitioner, of course, should see to it that the office is maintained with appropriate security.

An individual testified at the hearing that § 10.112 is not clear. According to the individual, "I think the rules should specify that if you get money up front from a client, whether it's called a retainer, pre-payment, or whatever * * * that money has to be put into a trust fund or a trust account * * * and that you can't take the money out and spend it until you have performed the services and sent a bill to the client that says X dollars has come out of your trust account in payment of Y services." The PTO believes that § 10.112(b)(2) specifies "that you can't take the money out and spend it until you have performed the services" and that § 10.112(c)(3) specifies that you must send "a bill to the client." Accordingly, no change to § 10.112 is necessary.

One commentator testified at the hearing that the PTO rules do not address "those individuals who, due to a mental or physical defect, are not able to bring themselves in conformity with the rules of conduct." * * *" On the contrary, § 10.130 specifies that any practitioner shown to be "incompetent" may be suspended or excluded. The commentator at the hearing referred to an individual "who has a drinking problem or one who is mentally incapable or representing people before the * * * Office." The statute (35 U.S.C. 32) and the rules address such an individual. As noted in the advance notice, the PTO has declined to adopt the suggestion appearing in Manson, *Helping Lawyers Who Need Help (But Won't Ask for It!)*, 25 Va. Bar News 27 (June 1977). See 49 FR 10017, column 1 (Mar. 16, 1984). If an individual is suspended due to a drinking problem, reinstatement (see § 10.160) may be conditioned on a clear and convincing showing that the drinking problem has been overcome.

One individual testified at the hearing that a "statute of limitations" should be inserted in § 10.131. This suggestion is not being adopted. As the individual noted during testimony, statutes of limitations do not apply in disciplinary proceedings.

A suggestion was received that § 10.132 be changed to expressly provide that:

> No disposition adverse to the respondent shall be recommended by the Director until the respondent shall have been afforded the opportunity to be heard.

This suggestion is not being adopted. Section 10.132(a) provides that, where necessary, the Director shall comply with 5 U.S.C. 558(c) prior to calling a meeting of the Committee on Discipline. The relevant portion of 5 U.S.C. 558(c) provides:

Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given:

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

Where appropriate, a notice under § 558(c) will be issued prior to the time the Director takes a case to the Committee on Discipline. Any reply to § 558(c) notice will be reviewed by the Director and the Committee on Discipline prior to deciding whether a complaint should be filed.

Another suggestion was received which indicated that § 10.132(c) should be changed so that the "accused practitioner * * * [would] have the right to select an administrative law judge from a panel of such judges, such panel including the names of at least two law judges." This suggestion is not being adopted. No rationale was given in support of the suggestion and there is no known reason to permit a respondent to select the particular administrative law judge (ALJ) to be assigned to hear the practitioner's case.

Several changes have been made in § 10.133 by the PTO which are not in response to any comment or suggestion. The language "§§ 10.132(b) and 10.134" in the first sentence of § 10.133(b) has been changed to "§ 10.134". This change was made because a reference to § 10.132(b) is not necessary. The language "his or her resignation by filing" in the first sentence of § 10.133(b) has also been deleted as unnecessary. The second sentence of paragraph (b) of § 10.133 has been replaced by new paragraphs (c) and (d). New paragraph (c) specifies the content of an affidavit of resignation filed prior to the date set by the ALJ for a hearing. New paragraph (d) specifies the content of an affidavit of resignation filed on or after the date set by the ALJ for a hearing. Old paragraph (c) has been redesignated as new paragraph (e) and the language "paragraph (b)" therein has been changed to read "paragraphs (b) and (c)". Old paragraphs (d) and (e) have been redesignated as new paragraphs (f) and (g), respectively.

New paragraph (c) of § 10.133 has been added to define the conditions under which a practitioner may resign prior to the date set by the ALJ for a hearing. Experience has shown that practitioners do not readily resign prior to hearing if they are required to admit the charges against them and/or are required to admit that they could not have been defended against the charges or the subject of an investigation. Paragraph (c) does not require a practitioner to admit the charges or any lack of defense at the time of resignation. Rather, under § 10.133(c)(5), any admission is operative at the time of a request for reinstatement and only for the *limited* purpose of determining the request for reinstatement. By deferring the time when the practitioner makes the admissions, it is believed that settlements are more likely. Once a hearing begins, however, there is no reason to permit a resignation without admission of the facts and a lack of defense. The admissions of paragraph (c)(5) are relevant in determining whether reinstatement should be granted and whether sufficient time has passed between resignation and any application for reinstatement.

One comment was made at the hearing which suggested that "if, in fact there is a real stalemate in a settlement discussion, that there be some avenue so that there be, in essence, binding arbitration" on the part of the respondent and the Director. This suggestion is not being adopted. There is no reason to impose binding arbitration in disciplinary matters. While settlements are to be encouraged, if the parties (the respondent and the Director) cannot reach a mutually agreeable settlement, the proper recourse is to proceed with the disciplinary proceeding.

A suggestion was received that the second sentence of § 10.138 be deleted. The suggestion is not being adopted. The second sentence of § 10.138 provides that evidence obtained by a subpoena under 35 U.S.C. 24 will not be admitted unless prior approval was obtained from the ALJ to proceed under section 24. This provision is necessary to retain control over the proceedings in the ALJ. Moreover, an order authorizing a party to proceed under section 24 can be helpful to any district court which is required to determine whether an individual should be compelled to answer counsel's questions. Additional rationale in support of the PTO's decision not to adopt the suggestion appears in the advance notice (49 FR 10019, columns 1 and 2) and in the notice of proposed rulemaking (49 FR 33800, column 1).

Two individuals testified at the hearing concerning § 10.144. Section 10.144 provides that hearings in disciplinary cases will not be open to the public. One individual suggested that hearings in disciplinary matters should be opened to the public. The other individual took the opposite position and supported § 10.144 as proposed. The suggestion to open hearings to the public is not being adopted at this time. The PTO believes that a practitioner should not unnecessarily be exposed to charges of alleged wrongdoing until the practitioner is found to have violated the PTO Code of Professional Responsibility. Unnecessary and premature exposure could cause a practitioner's client to find other counsel based on mere allegations. Additionally, the PTO is required to maintain information concerning patent applications in secrecy. 35 U.S.C. 122. In most disciplinary cases information concerning a patent application is revealed at any hearing. Accordingly, the PTO will not provide for public hearings. However, the PTO intends to further study the possibility of hearings open to the public (e.g., in a disciplinary proceeding involving only trademark matters) and may, in the future, propose to modify § 10.144.

Numerous comments were received which suggested that the burden of proof set forth in § 10.149 should be changed from "preponderance of evidence" to "clear and convincing evidence." As announced at the hearing, this suggestion is being adopted. The "clear and convincing evidence" standard brings § 10.149 in conformance with § 10.158(d)(1)(ii) which also requires proof by clear and convincing evidence.

The term "clear and convincing evidence" is not succeptable to a precise definition. The PTO, therefore, deems it appropriate to set forth its views on what constitutes "clear and convincing evidence." "Clear and convincing evidence" falls somewhere between proof beyond a reasonable doubt and proof by a preponderance of evidence.

A reasonable doubt is a doubt based upon reason and common sense—the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a person would be willing to rely and act upon it unhesitatingly in the most important of his or her affairs. Devitt, *Federal Jury Practice and Instructions* § 11.01 (2d ed. 1970).

To establish a fact by a preponderance of evidence means to prove that fact is more likely so than not so. A preponderance of evidence means such evidence as, when considered and compared with that opposed to it, has more convincing force, and produces in the mind of the trier of fact a belief that what is sought to be proved is more likely true than not true. Devitt, *supra* at § 7.01.

Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to an allegation sought to be established; it is more than a preponderance of evidence, but less than that required to establish guilt beyond a reasonable doubt. *Hobson* v. *Eaton*, 399 F.2d 781 (6th Cir. 1968)."It does not mean clear and unequivocal." *Fred C. Walker Agency, Inc.* v. *Lucas*, 215 Va. 535, 540–541, 211 S.E.2d 88, 92 (1975).

Several comments were received which suggested that § 10.150 be changed to make the Federal Rules of Evidence applicable to disciplinary proceedings. The suggestion is not being adopted. The PTO has explained, in both the advance notice (49 FR 10020, column 2) and the notice of proposed rulemaking (49 FR 33801, columns 1 and 2) why it cannot adopt the Federal Rules of Evidence in disciplinary cases. The "Federal Rules of Evidence . . . do not apply to administrative proceedings . . . ." Davis, *Administrative Law Treatise*, § 14.01 (Supp. 1970). The controlling law is set out in 5 U.S.C. 556(d) which provides in part: "Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by an party and supported by and in accordance with the reliable, probative, and substantial evidence." It appears to be the concern of some of the comments that the Administrative Procedure Act does not articulate an appropriate standard of evidence and that hearsay may be admitted. Suffice it to say that many adjudications occur daily under the Administrative Procedure Act, including disciplinary proceedings. The following language appearing in an opinion of the Eleventh Circuit in *TRW-United Greenfield Division* v. *National Labor Relations Board*, 716 F.2d 1391, 1394 (11th Cir. 1983), may be helpful:

> At the hearing the ALJ refused to allow five additional employees to testify that other employees told them that such a statement had been made. TRW contends it was denied a full and fair hearing by the exclusion of this testimony. The general rule is that administrative tribunals are not bound by the strict rules of evidence governing jury trials. *Opp Cotton Mills, Inc.* v. *Administrator of Wage & Hour Div.*, 312 U.S. 126, 155, 61 S.Ct. 524, 537, 85 L.Ed. 624 (1971). Thus, the admission of testimony which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. *Tagg Bros. & Moorhead* v. *United States*, 280 U.S. 420, 442, 50 S.Ct. 220, 225, 74 L.Ed. 524 (1930). But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence. *Consolidated Edison Co.* v. *N.L.R.B.*, 305 U.S. 197, 230, 59 S.Ct. 206, 217, 83 L.Ed. 126 (1938). Therefore, the hearsay testimony of other employees would not have amounted to substantial evidence sufficient to support a finding for the company. We find that TRW was not denied a full and fair hearing by the judge's refusal to admit hearsay testimony.

See also *Steadman* v. *Securities and Exchange Commission*, 450 U.S. 91, 98 n. 17 (1981); *Richardson* v. *Perales*, 402 U.S. 389, 410–411 (1971); *Brown* v. *Gamage*, 377 F.2d 154, 158 (D.C.Cir.), *cert. denied*, 389 U.S. 858 (1967); Annotation, *Hearsay Evidence In Proceedings Before Federal Administrative Agencies*, 6 ALR Fed 76 (1971); and Davis, *Hearsay in Administrative Proceedings*, 32 Geo. Wash. L. Rev. 689 (1964).

A suggestion was received that § 10.151 be changed to make the deposition rules of the Federal Rules of Civil Procedure applicable to disciplinary proceedings. This suggestion is not being adopted. The discovery provisions of the Federal Rules of Civil Procedure are not being adopted by the PTO in disciplinary cases. Except for discovery which the parties agree to make voluntarily, all discovery under these rules will require the prior permission of the ALJ. This prior permission is designed to insure that the ALJ retains control over the proceeding. By requiring prior approval of the ALJ to take a deposition, the rules insure that the deposition will relate to evidence the ALJ deems to be relevant and will afford the ALJ the option of determining whether he or she wishes to observe the witness.

Several comments were received which suggested that § 10.152 be changed to permit more discovery. Some commentators urged adoption of the discovery provisions of the Federal Rules of Civil Procedure relating to requests for admission, interrogatories, and requests for production of documents. Other commentators felt that the discovery proposed in the notice of proposed rulemaking was not sufficient and that more discovery should be authorized. These latter commentators, however, did not urge adoption of the discovery provisions of the Federal Rules of Civil Procedure. As one commentator noted:

> Disciplinary proceedings are not in the nature of civil actions and full discovery within the scope of the Federal Rules of Civil Procedure is probably not needed or desirable.

The PTO agrees that more discovery is appropriate than would have been authorized under § 10.152 as proposed. The PTO does not agree, however, that discovery should be commensurate in scope with the discovery provisions of the Federal Rules of Civil Procedure.

One commentator at the hearing who urged adoption of the discovery provisions of the Federal Rules of Civil Procedure, correctly recognized the existence of "concerns of the Patent [and Trademark] Office regarding what are alleged to be general discovery abuses." There is ample basis for the PTO's concern. See e.g., Pollack, *Discovery—Its Abuse and Correction*, 80 F.R.D. 219 (1979) (reproducing remarks made by Judge Pollack at the Fifth Circuit Judicial Conference on April 26, 1978 at New Orleans). The same commentator at the hearing went on to note, however, that if the ALJ "gets on top of a case and monitors a case very actively, then no discovery abuses will occur, and if they do, they will be dealt with swiftly and properly."

Advocates of discovery "reform" seemingly rely on two principles which are claimed to be the cure-all for discovery abuse: (1) Active control by the judge and (2) sanctions. See e.g. *Second Report of the Special Committee for the Study of Discovery Abuse*, 92 F.R.D. 137 (1980). The PTO is not in a position to impose the most effective sanction—costs. However, the PTO can invest the ALJ with control over discovery. It is because the PTO can invest the ALJ with control over discovery that the suggestion for more discovery is being adopted. Section 10.152 has been changed to permit discovery which the PTO believes will be effective. The scope of the discovery, however, will not be commensurate in scope with the Federal Rules of Civil Procedure.

Paragraph (a) of § 10.152 will permit *limited* discovery *after* an answer is filed. Discovery is not authorized prior to the filing of an answer. A party seeking discovery will have to make out a clear and convincing case to the ALJ that discovery is necessary *and* relevant. If discovery is authorized, the ALJ may set conditions he or she deems appropriate to accomplish the discovery. For example, the ALJ may set the place and time for inspection of documents which are required to be produced or the ALJ can order a party to mail copies of the documents to the other party. Under paragraph (a) of § 10.152, discovery is limited to a *reasonable* number of requests for admissions,

interrogatories, or requests for production of documents and things. Consideration was given to setting numerical maximums for requests for admission, interrogatories and requests for production of documents and things. See e.g., Local Rule 11.1 of the U.S. District Court for the Eastern District of Virginia. However, numerical maximums are not presently specified. Should discovery become a problem, the PTO will give further consideration to limiting the number of discovery requests which a party may file.

Paragraph (b) § 10.152 specifies certain matters which *cannot* be discovered. Matter which will be used by another party solely for impeachment or cross-examination cannot be discovered. Documents which will be used as part of the Director's case-in-chief of the respondent's case-in-rebuttal or affirmative defenses are subject to discovery. Patent applications not available to a respondent under 35 U.S.C. § 122 are not subject to discovery. Matter relating to disciplinary proceedings commenced prior to the effective date of these rules is not available. For the most part, the reasons for a particular length of suspension or disbarment have not been stated in the past. Accordingly, disciplinary proceedings commenced prior to these rules are not particularly relevant. See *Poole* v. *United States*, 54 A.F.T.R. 2d (P-H) 84-5536 (D.D.C. June 29, 1984). Prior disciplinary proceedings which resulted in public discipline being imposed will continue to be available in the Office of the Director of Enrollment and Discipline. Respondents will continue to be free to inspect the files of those proceedings. Matters relating to experts, except as may be required by the ALJ under § 10.152(e), likewise are not subject to discovery. Privileged matter and attorney work product are excluded from matter which can be discovered.

Paragraph (c) sets forth some factors the ALJ can consider in determining whether to authorize discovery or to limit discovery which is authorized. The factors include delay (which is a major consideration in disciplinary matters), burden on the party required to produce discovery, availability of the discovery sought to the public (in which case, discovery may not be necessary), the extent to which the matter sought to be discovered is equally available to both parties, and the extent to which discovery is available from another source.

Paragraph (d) of § 10.152 requires a party desiring discovery to file a motion which explains, in detail, how each request is relevant to an issue raised in the complaint or the answer.

Paragraph (e) of § 10.152 sets out matter which the ALJ can require a party to produce in a pre-hearing statement. Subparagraph (4) states the matter the ALJ can require disclosed related to experts.

The PTO has every reason to believe that the discovery authorized by § 10.152 will be useful and that sufficient authority has been given to the ALJ to effectively control discovery and prevent abuses. The PTO intends to monitor discovery closely in the future and will consider amending these rules if abuses occur.

One comment suggested that § 10.154(b) be modified by adding "any extenuating circumstances" as a matter to be considered in imposing a penalty. This suggestion is being adopted. Another comment suggested that § 10.154 should address "probation." This suggestion is not being adopted. Nevertheless, the PTO has authority to place a practitioner on probation for all or a portion of any suspension and to revoke the probation upon a showing of a violation. See *In re Dula*, 1030 *Official Gazette* 20 (May 17, 1983).

One comment suggested that § 10.155 be modified to specify that the Director should serve a copy of any appeal "on the respondent or on the attorney for respondent." This suggestion is not being adopted. However, in view of the suggestion the language "on the respondent" (both occurrences) in § 10.155(a) is being deleted. Section 10.142(a) specifies how service is made on a respondent who is represented by an attorney.

A suggestion was received that § 10.157 be modified to provide that a stay would be entered in every case where a respondent seeks judicial review of a decision of the Commissioner. This suggestion was rejected at the time the notice of proposed rulemaking was published (49 FR 33802) and is not being adopted. There are cases where a stay is not appropriate, e.g., when the disbarred practitioner is incarcerated. There are other times when a stay may be appropriate. Accordingly, stays will be granted in the discretion of the Commissioner.

Several comments were received discussing § 10.158. Some commentators suggested that § 10.158 was "too lenient" and another suggested that it was "too hard" on suspended and excluded practitioners. Section 10.158 is designed to advise suspended practitioners as to what they can and cannot do during any period of suspension. The PTO believes that § 10.158 strikes a reasonable balance in a difficult area. See the discussion concerning § 10.158 in the advance notice (49 FR 10021, columns 2 and 3). One comment suggested that § 10.158 should be made applicable to corporations. This suggestion is being adopted by appropriate changes in § 10.158(c) to refer to client-employers. Another comment suggested that § 10.158(b) (1) and (2) be changed to refer to matters before the PTO. This suggestion is also being adopted.

An oral comment was received asking whether the Director could conduct an investigation in connection with a determination under § 10.158(d). The Director may conduct whatever investigation is warranted to determine whether a suspended or excluded practitioner seeking reinstatement has complied with regulations relating to suspended and excluded practitioners.

A comment was received regarding § 10.159(a) which suggested that the Director notify the American Bar Association National Discipline Data Bank when a practitioner is suspended or excluded. This suggestion is not being adopted as such. However, § 10.159(a) has been changed to authorize the Director to notify "any appropriate bar association." The PTO is not inclined to mention any particular bar association by name in the rules. It will be the practice of the PTO to notify the National Discipline Data Bank, among others, when a practitioner is disciplined. Another comment suggested that the entire file of a disciplinary proceeding should not be open to the public when only some, but not all, charges are sustained. This suggestion is not being adopted. In most disciplinary matters, it would be highly inconvenient to segregate the relevant from the irrelevant. Moreover, once discipline is imposed, the principal rationale for keeping the file secret no longer exists. The disciplined practitioner will suffer whatever public embarrassment results from discipline apart from whether part or all of the file is open to the public.

With respect to § 10.160, one commentator suggested that the burden on the suspended or excluded practitioner for reinstatement be stated in the rules. This suggestion is being adopted and a "clear and convincing showing" requirement has been added to §10.160(c). Section 10.149 sets out the burden on the Director for proof of allegations in the complaint and upon the respondent for proving affirmative defenses. The showing required by § 10.158(d)(1) is by "clear and convincing evidence." One commentator

suggested that the 5-year period of § 10.160(b) should be changed to a 3-year period. This suggestion is not being adopted. According to the commentator, the PTO has failed to state why a 5-year period was proposed. The commentator believes a 3-year period is more appropriate, although no reason is given in support of the commentator's belief. The PTO, after considering the matter, has concluded that some period must be specified and there is no reason to change the 5-year period proposed. A commentator suggested that a practitioner suspended for less than six months should "automatically" be reinstated. This suggestion is not being adopted, because the Director, as a condition to any reinstatement, must find that the suspended practitioner complied with § 10.158. Another commentator questioned whether the rules should provide for application for reinstatement during a period of probation. The PTO believes the rules need not make provision for application for reinstatement during probation. For example, if a practitioner is suspended for a period of three years and it is ordered that the practitioner be actually suspended for at least one year *and* that the last two years the practitioner be placed on probation, the practitioner would be able to apply for reinstatement after serving one year of the three year suspension.

The PTO disagrees with the following comment concerning § 10.161(b): "This clause is ex post facto legislation as it seeks retroactively an increase of penalties regarding conduct which occurred prior to the legislation." No legislation is involved. Section 10.161(b) does not "increase penalties."

TABLE 1.—PRINCIPAL SOURCE OF §§ 10.2 THROUGH 10.19

Section	Source
10.1 (preamble)	35 U.S.C. 31; *Sperry* v. *Florida*, 373 U.S. 379, 402 (1963).
10.1	35 U.S.C. 25; 28 U.S.C. 1746.
10.1(c)	5 U.S.C. 500(b).
10.1(g)	1 U.S.C. 1.
10.1(aa)	35 U.S.C. 100(c).
10.2(a)	New.
10.2(b)(1)	New, but see 37 CFR 1.341(i) (1983).
10.2(b)(2)	New, but see 37 CFR 1.348(a) (1983).
10.2(c)	New, but see 37 CFR 1.341(i) (1983).
10.3	37 CFR 1.341(i) (1983).
10.4(a)	New.
10.4(b)	New, but see 37 CFR 1.348(a) (1983).
10.4(c)	New.
10.5	37 CFR 1.341 (1983).
10.6(a)	37 CFR 1.341(a) (1983).
10.6(b)	37 CFR 1.341(b) (1983).
10.6(c)	37 CFR 1.341(e) (1983).
10.6(d)	37 CFR 1.341(f) (1983).
10.6(e)	37 CFR 1.341(g) (1983).
10.7 (a), (b)	37 CFR 1.341(c) (1983).
10.7(c)	New.
10.8	37 CFR 1.341(h) (1983).
10.9(a)	37 CFR 1.342 (1983).
10.9(b)	New.
10.10	37 CFR 1.343 (1983).
10.11	37 CFR 1.347 (1983).
10.12	[Reserved].
10.13	[Reserved].
10.14	5 U.S.C. 500(b) and 37 CFR 2.12 (1983).
10.15	35 U.S.C. 32; 5 U.S.C. 500(d)(2); 37 CFR 1.343 (1983); and 37 CFR 2.12(f) (1983).
10.16	[Reserved].
10.17	[Reserved].
10.18(a)	37 CFR 1.346 (1983) and 37 CFR 2.15 (1983), see also Rule 11, FRCP.
10.18(b)	35 U.S.C. 32 and Rule 11, FRCP.
10.19	[Reserved].

TABLE 2.—PRINCIPAL SOURCE OF SECTIONS OF 10.20 THROUGH 10.112, THE PTO CODE OF PROFESSIONAL RESPONSIBILITY

Section	Source
10.20	Preamble to MCPR (1980).
10.21	MCPR Canon 1 (1980).
10.22	MCPR DR 1-101 (1980).
10.23(a)	35 U.S.C. 32.
10.23(b)(1)	35 U.S.C. 32 and MCPR DR 1-102 (A)(1) (1980).
10.23(b) (2)-(6)	MCPR DR 1-102(A) (2)-(6) (1980).
10.23(c) (1)-(14)	PTO created.
10.23(c)(15)	Rule 11, FRCP.
10.23(c) (16)-(18)	PTO created.
10.23(d)	*U.S.* v. *Beecroft*, 608 F.2d 753 (9th Cir. 1979).
10.24	MCPR 1-103(1980).
10.25 through 10.29	[Reserved].
10.30	MCPR Canon 2(1980).
10.31(a)	35 U.S.C. 32.
10.31(b)	5 U.S.C. 501.
10.31(c)	37 CFR 1.345(c) (1983).
10.31(d)	Newly created.
10.32	MRPC Rule 7.2 (1983).
10.33	MRPC Rule 7.3 (1983).
10.34	MRPC Rule 7.4 (1983).
10.35(a)	5 U.S.C. 501 and MR PC Rule 7.5 (1983).
10.35(b)	MRPC Rule 7.5 (1983).
10.36	MCPR DR 2-106 (1980).
10.37	MCPR DR 2-107 (1980).
10.38	MCPR DR 2-108 (1980).
10.39	MCPR DR 2-109 (1980).
10.40	MCPR DR 2-110 (1980).
10.41 through 10.45	[Reserved].
10.46	MCPR Canon 3 (1980).
10.47 (a), (c)	MCPR DR 3-101 (1980).
10.47(b)	New (but see e.g., *Crawford* v. *State Bar of California*, 7 Cal. Rptr. 746, 355 P.2d 490 (Cal. 1960)).
10.48	MCPR DR 3-102 (1980).
10.49	MCPR DR 3-103 (1980).
10.50 through 10.55	[Reserved].
10.56	MCPR Canon 4 (1980).
10.57	MCPR DR 4-101 (1980).
10.58 through 10.60	[Reserved].
10.61	MCPR Canon 5 (1980).
10.62	MCPR DR 5-101 (1980).
10.63	MCPR DR 5-102 (1980).
10.64	MCPR DR 5-103 (1980).
10.65	MCPR DR 5-104 (1980).
10.66	MCPR DR 5-105 (1980).
10.67	MCPR DR 5-106 (1980).
10.68	MCPR DR 5-107 (1980).
10.69 through 10.75	[Reserved].
10.76	MCPR Canon 6 (1980).
10.77	MCPR DR 6-101 (1980).
10.78	MCPR DR 6-102 (1980).
10.79 through 10.82	[Reserved].
10.83	MCPR Canon 7 (1980).
10.84	MCPR DR 7-101 (1980).
10.85	MCPR DR 7-102 (1980).
10.86	[Reserved].
10.87	MCPR DR 7-104 (1980).
10.88	MCPR DR 7-105 (1980).
10.89	MCPR DR 7-106 (1980).
10.90	[Reserved].
10.91	[Reserved].
10.92	MCPR DR 7-109 (1980).
10.93	VCPR DR 7-109 (1984).
10.94 through 10.99	[Reserved].
10.100	MCPR Canon 8 (1980).
10.101(a)	MCPR DR 8-101 (1980).
10.101(b)	37 CFR 1.341(f) (1983) and 41 Op Att'y Gen. 21 (1948), *reprinted in* 1949 Dec. Comm'r. Pat. 1.
10.102	MCPR DR 8-102 (1980).
10.103	MCPR DR 8-103 (1980).
10.104 through 10.109	[Reserved].
10.110	MCPR Canon 9 (1980).
10.111	MCPR DR 9-101 (1980).
10.112	MCPR DR 9-102 (1980).

Abbreviations:
FRCP means Federal Rules of Civil Procedure.
MCPR means Model Code of Professional Responsibility of the ABA (1980).
MRPC means Model Rules of Professional Conduct of the ABA (1983).
VCPR means the Virginia Code of Professional Responsibility (1964).

TABLE 3.—PRINCIPAL SOURCE OF §§ 10.130 THROUGH 10.161

Section	Source
10.130	35 U.S.C. 32.
10.131(a)	New, but see 37 CFR 1.348(a).
10.131(b)	MCPR DR 1-103 (1980).
10.131(c)	New.
10.132(a), (c)	New.
10.132(b)	New, but see 37 CFR 1.348(b) (1983).
10.133	New.
10.134	37 CFR 1.348(b) (1983).
10.135(a)(1)	New.
10.135(a)(2)	37 CFR 1.348(b) (1983).
10.135(a)(3)	New.
10.135(b)	New.
10.135(c)	New.
10.135(d)	5 U.S.C. 500(f).
10.136(a)	37 CFR 1.348(c) (1983).
10.136(b)	New.
10.136(c)	37 CFR 1.348(c) (1983).
10.136(d)	37 CFR 1.348(c) (1983).
10.136(e)	New.
10.137	37 CFR 1.348(c) (1983).
10.138	New.
10.139(a)	5 U.S.C. 3105.
10.139(b)	5 U.S.C. 556(c).
10.139(c)	New.
10.139(d)	New.
10.139(e)	New.
10.140(a)	5 U.S.C. 500(b).
10.140(b)	New.
10.141	New.
10.142	New.
10.143	New.
10.144	New.
10.145	New.
10.146-10.148	[Reserved].
10.149	New.
10.150(a)	5 U.S.C. 556(d).
10.150(b)	37 CFR 1.348(d)(3) (1983).
10.150(c)	New.
10.150(d)	New.
10.150(e)	New.
10.151	37 CFR 1.348(d)(3) (1983).
10.152	New, see *Silverman* v. *CFTC*, 549 F.2d 28 (7th Cir. 1977).
10.153	New, but see 5 U.S.C. 557(c).
10.154	See 5 U.S.C. 557(b) and 35 U.S.C. 32.
10.155	New.
10.156	New.
10.157	35 U.S.C. 32, Local Rule 1-26 (D.D.C.).
10.158	New.
10.159	New.
10.160	New.
10.161	New.

TABLE 3.—PRINCIPAL SOURCE OF §§ 10.130 THROUGH 10.161—Continued

Section	Source
10.162–10.169	[Reserved].
10.170	New, but see 37 CFR 1.163.

Other Considerations

The rules will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rules are in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354) and Executive Order 12291.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the rules will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The rules regulate the conduct of attorneys and agents who represent individuals and juristic entities before the Patent and Trademark Office and would not be expected to result in an increase of fees charged by attorneys and agents to entities, including small entities.

The Patent and Trademark Office has determined that the rules are not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The information reporting requirements contained in the rules have been approved by the Office of Management and Budget, OMB Control No. 0651–0012 and OMB Control No. 0651–0017.

List of Subjects in 37 CFR Part 1, 2 and 10

Administrative practice and procedure, Authority delegations, Conflict of interests, Courts, Inventions and patents, Trademarks, Lawyers.

For the reasons given in the preamble and under the authority granted to the Commissioner of Patents and Trademarks by 5 U.S.C. 500; 15 U.S.C. 1123; and 35 U.S.C. 6, 31, 32, and 41. Parts 1, 2, and 10 of Title 37 of the Code of Federal Regulations are amended as set forth below:

PART 1— RULES OF PRACTICE IN PATENT CASES

1. Section 1.8 is amended by adding to paragraph (a)(2) a new paragraph (xiii) to read as follows:

§ 1.8 Certificate of mailing.

(a) * * *

(2) * * *

(xiii) Papers filed in connection with a disciplinary proceeding under Part 10 of this subchapter.

2. Section 1.21 is amended by adding to paragraph (a) two new paragraphs (5) and (6) to read as follows:

§ 1.21 Miscellaneous fees and charges.

(a) * * *

(5) For review of a decision of the Director of Enrollment and Discipline under § 10.2(c) 60.00

(6) For requesting regrading of an examination under § 10.7(c) 60.00

* * * * *

3. Section 1.31 is revised to read as follows:

§ 1.31 Applicants may be represented by a registered attorney or agent.

An applicant for patent may file and prosecute his or her own case, or he or she may be represented by a registered attorney, registered agent, or other individual authorized to practice before the Patent and Trademark Office in patent cases. See §§ 10.6 and 10.9 of this subchapter. The Patent and Trademark Office cannot aid in the selection of a registered attorney or agent.

§ 1.33 [Amended]

4. Section 1.33 is amended by removing from paragraph (c) "1.341 and 1.347" and inserting in its place "10.5 and 10.11".

5. Section 1.34 is amended by revising paragraph (a) as follows:

§ 1.34 Recognition for representation.

(a) When a registered attorney or agent acting in a representative capacity appears in person or signs a paper in practice before the Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the Patent and Trademark Office that under the provisions of this Subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered attorney or agent should specify his or her registration number with his or her signature. Further proof of authority to act in a representative capacity may be required.

* * * * *

§ 1.56 [Amended]

6. Section 1.56 is amended by removing from paragraphs (f) and (h) "1.346" and inserting in its place "10.18".

7. The center heading preceding § 1.341 is removed.

§§ 1.341–1.348 [Removed]

8. Sections 1.341 through 1.348 are removed.

§ 1.455 [Amended]

9. Section 1.455 is amended by removing from paragraph (a) "1.341" and inserting in its place "10.10".

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

10. Section 2.11 is revised to read as follows:

§ 2.11 Applicants may be represented by an attorney.

The owner of a trademark may file and prosecute his or her own application for registration of such trademark, or he or she may be represented by an attorney or other individual authorized to practice in trademark cases under § 10.14 of this subchapter. The Patent and Trademark Office cannot aid in the selection of an attorney or other representative.

§§ 2.12–2.16 [Removed]

11. Sections 2.12 through 2.16 are removed.

12. Section 2.17 is amended by revising paragraph (a) as follows:

§ 2.17 Recognition for representation.

(a) When an attorney as defined in § 10.1(c) of this subchapter acting in a representative capacity appears in person or signs a paper in practice before the Patent and Trademark Office in a trademark case, his or her personal appearance or signature shall constitute a representation to the Patent and Trademark Office that, under the provisions of § 10.14 and the law he or she is authorized to represent the particular party in whose behalf he or she acts. Further proof of authority to act in a representative capacity may be required.

* * * * *

13. Section 2.19 is revised to read as follows:

§ 2.19 Revocation of power of attorney or of other authorization to represent, withdrawal.

(a) Authority to represent an applicant or a party to a proceeding may be revoked at any stage in the proceedings of a case upon notification to the Commissioner; and when it is so

revoked, the Office will communicate directly with the applicant or party to the proceeding or with such other qualified person as may be authorized. The Patent and Trademark Office will notify the person affected of the revocation of his or her authorization.

(b) An individual authorized to represent an applicant or party in a trademark case may withdraw upon application to and approval by the Commissioner.

14. The following Part 10 is added:

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

§ 10.1 Definitions.

This part governs solely the practice of patent, trademark, and other law before the Patent and Trademark Office. Nothing in this part shall be construed to preempt the authority of each State to regulate the practice of law, except to the extent necessary for the Patent and Trademark Office to accomplish its federal objectives. Unless otherwise clear from the context, the following definitions apply to this part:

(a) "Affidavit" means affidavit, declaration under 35 U.S.C. 25 (see § 1.68 and § 2.20 of this subchapter), or statutory declaration under 28 U.S.C. 1746.

(b) "Application" includes an application for a design, plant, or utility patent, an application to reissue any patent, and an application to register a trademark.

(c) "Attorney" or "lawyer" means an individual who is a member in good standing of the bar of any United States court or the highest court of any State. A "non-lawyer" is a person who is not an attorney or lawyer.

(d) "Canon" is defined in § 10.20(a).

(e) "Confidence" is defined in § 10.57(a).

(f) "Differing interests" include every interest that may adversely affect either the judgment or the loyalty of a practitioner to a client, whether it be a conflicting, inconsistent, diverse, or other interest.

(g) "Director" means the Director of Enrollment and Discipline.

(h) "Disciplinary Rule" is defined in § 10.20(b).

(i) "Employee of a tribunal" includes all employees of courts, the Office, and other adjudicatory bodies.

(j) "Giving information" within the meaning of § 10.23(c)(2) includes making (1) a written statement or representation

or (2) an oral statement or representation.

(k) "Law firm" includes a professional legal corporation or a partnership.

(l) "Legal counsel" means practitioner.

(m) "Legal profession" includes the individuals who are lawfully engaged in practice of patent, trademark, and other law before the Office.

(n) "Legal service" means any legal service which may lawfully be performed by a practitioner before the Office.

(o) "Legal System" includes the Office and courts and adjudicatory bodies which review matters on which the Office has acted.

(p) "Office" means Patent and Trademark Office.

(q) "Person" includes a corporation, an association, a trust, a partnership, and any other organization or legal entity.

(r) "Practitioner" means (1) an attorney or agent registered to practice before the Office in patent cases or (2) an individual authorized under 5 U.S.C. 500(b) or otherwise as provided by this Subchapter, to practice before the Office in trademark cases or other non-patent cases. A "suspended or excluded practitioner" is a practitioner who is suspended or excluded under § 10.156. A "non-practitioner" is an individual who is not a practitioner.

(s) A "proceeding before the Office" includes an application, a reexamination, a protest, a public use proceeding, a patent interference, an *inter partes* trademark proceeding, or any other proceeding which is pending before the Office.

(t) "Professional legal corporation" means a corporation authorized by law to practice law for profit.

(u) "Registration" means registration to practice before the Office in patent cases.

(v) "Respondent" is defined in § 10.134(a)(1).

(w) "Secret" is defined in § 10.57(a).

(x) "Solicit" is defined in § 10.33.

(y) "State" includes the District of Columbia, Puerto Rico, and other federal territories and possessions.

(z) "Tribunal" includes courts, the Office, and other adjudicatory bodies.

(aa) "United States" means the United States of America, its territories and possessions.

§ 10.2 Director of Enrollment and Discipline.

(a) *Appointment.* The Commissioner shall appoint a Director of Enrollment and Discipline. In the event of the absence of the Director or a vacancy in the Office of the Director, the Commissioner may designate an employee of the Office to serve as acting Director of Enrollment and Discipline. The Director and any acting Director shall be an active member in good standing of the bar of a State.

(b) *Duties.* The Director shall:

(1) Receive and act upon applications for registration, prepare and grade the examination provided for in § 10.7(b), maintain the register provided for in § 10.5, and perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary.

(2) Conduct investigations into possible violations by practitioners of Disciplinary Rules, with the consent of the Committee on Discipline initiate disciplinary proceedings under § 10.132(b), and perform such other duties in connection with investigations and disciplinary proceedings as may be necessary.

(c) *Review of Director's decision.* Any final decision of the Director refusing to register an individual under § 10.6, recognize an individual under §§ 10.9 or 10.14(c), or reinstate a suspended or excluded petitioner under § 10.160, may be reviewed by petition to the Commissioner upon payment of the fee set forth in § 1.21(a)(5). A petition filed more than 30 days after the date of the decision of the Director may be dismissed as untimely. Any petition shall contain (1) a statement of the facts involved and the points to be reviewed and (2) the action requested. Briefs or memoranda, if any, in support of the petition shall accompany or be embodied therein. The petition will be decided on the basis of the record made before the Director and no new evidence will be considered by the Commissioner in deciding the petition. Copies of documents already of record before the Director shall not be submitted with the petition. An oral hearing on the petition will not be granted except when considered necessary by the Commissioner.

(OMB Control No. 0651–0012.)

§ 10.3 Committee on Enrollment.

(a) The Commissioner may establish a Committee on Enrollment composed of one or more employees of the Office.

(b) The Committee on Enrollment shall, as necessary, advise the Director in connection with the Director's duties under § 10.2(b)(1).

§ 10.4 Committee on Discipline.

(a) The Commissioner shall appoint a Committee on Discipline. The Committee on Discipline shall consist of at least three employees of the Office, none of whom reports directly or indirectly to the Director or the Solicitor. Each member of the Committee on Discipline shall be a member in good standing of the bar of a State.

(b) The Committee on Discipline shall meet at the request of the Director and after reviewing evidence presented by the Director shall, by majority vote, determine whether there is probable cause to bring charges under § 10.132 against a practitioner. When charges are brought against a practitioner, no member of the Committee on Discipline, employee under the direction of the Director, or associate solicitor or assistant solicitor in the Office of the Solicitor shall participate in rendering a decision on the charges.

(c) No discovery shall be authorized of, and no member of the Committee on Discipline shall be required to testify about, deliberations of the Committee on Discipline.

Individuals Entitled To Practice Before the Patent and Trademark Office

§ 10.5 Register of attorneys and agents in patent cases.

A register of attorneys and agents is kept in the Office on which are entered the names of all individuals recognized as entitled to represent applicants before the Office in the preparation and prosecution of applications for patent. Registration in the Office under the provisions of this part shall only entitle the individuals registered to practice before the Office in patent cases.

§ 10.6 Registration of attorneys and agents.

(a) *Attorneys.* Any citizen of the United States who is an attorney and who fulfills the requirements of this part may be registered as a patent attorney to practice before the Office. When appropriate, any alien who is an attorney, who lawfully resides in the United States, and who fulfills the requirements of this part may be registered as a patent attorney to practice before the Office, *provided:* Registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States and *further provided:* The alien may remain registered only (1) if the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States or (2) if the alien ceases to reside in the United States, the alien is qualified to be registered under paragraph (c) of this section. See also § 10.9(b).

(b) *Agents.* Any citizen of the United States who is not an attorney and who fulfills the requirements of this part may

be registered as a patent agent to practice before the Office. When appropriate, any alien who is not an attorney, who lawfully resides in the United States, and who fulfills the requirements of this part may be registered as a patent agent to practice before the Office, *provided:* Registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States, and *further provided:* The alien may remain registered only (1) if the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States or (2) if the alien ceases to reside in the United States, the alien is qualified to be registered under paragraph (c) of this section. See also § 10.9(b).

Note.—All individuals registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys or not, and such registrations have not been changed.

(c) *Foreigners.* Any foreigner not a resident of the United States who shall file proof to the satisfaction of the Director that he or she is registered and in good standing before the patent office of the country in which he or she resides and practices and who is possessed of the qualifications stated in § 10.7, may be registered as a patent agent to practice before the Office for the limited purpose of presenting and prosecuting patent applications of applicants located in such country, *provided:* The patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States Patent and Trademark Office. Registration as a patent agent under this paragraph shall continue only during the period that the conditions specified in this paragraph obtain.

(d) *Government employees.* Any officer or employee of the United States who is disqualified by statute (18 U.S.C. 203, 205) from practicing as an attorney or agent in proceedings or other matters before Government departments or agencies, may not be registered to practice before the Office. If any registered attorney or agent becomes an officer or employee of the United States who is disqualified by statute from practicing as an attorney or agent in proceedings and other matters before Government departments or agencies, his or her name shall be endorsed as inactive on the register during the period of any employment by the United States. An officer or employee of the United States whose official duties require the preparation and prosecution of applications for patent and who fulfills the requirements of this part may be registered to practice before the Office to the extent necessary to carry out his or her official duties. A written statement describing the official duties of the officer or employee and signed on behalf of the agency employing the officer or employee may be required by the Director.

(e) *Former Office employees.* No individual who has served in the Office will be registered after termination of his or her services, nor if registered before such service, be reinstated, unless he or she signs a written statement indicating that he or she has read 18 U.S.C. 207. No individual who has served in the patent examining corps of the Office will be registered after termination of his or her services, nor if registered before such service, be reinstated, unless he or she signs a written undertaking (1) not to prosecute or aid in any manner in the prosecution of any patent application pending in any patent examining group during his or her period of service therein and (2) not to prepare or prosecute or to assist in any manner in the preparation or prosecution of any patent application of another (i) assigned to such group for examination and (ii) filed within two years after the date he or she left such group, without written authorization of the Director. Associated and related classes in other patent examining groups may be required to be included in the undertaking or designated classes may be excluded from the undertaking. When an application for registration or reinstatement is made after resignation from the Office, the applicant will not be registered or reinstated if he or she has prepared or prosecuted or assisted in the preparation or prosecution of any patent application as indicated in this paragraph.

(OMB Control No. 0651-0012.)

§ 10.7 Requirements for registration.

(a) No individual will be registered to practice before the Office unless he or she shall:

(1) Apply to the Commissioner in writing on a form supplied by the Director and furnish all requested information and material and

(2) Establish to the satisfaction of the Director that he or she is:

(i) Of good moral character and repute;

(ii) Possessed of the legal, scientific, and technical qualifications necessary to enable him or her to render applicants for patents valuable service; and

(iii) Is otherwise competent to advise and assist applicants for patents in the presentation and prosecution of their applications before the Office.

(b) In order that the Director may determine whether an individual seeking to have his or her name placed upon the register has the qualifications specified in paragraph (a) of this section, satisfactory proof of good moral character and repute and of sufficient basic training in scientific and technical matters must be submitted to the Director. Except as provided in this paragraph, each applicant for registration must take and pass an examination which is held from time to time. Each application for admission to take the examination for registration must be accompanied by the fee set forth in § 1.21(a)(1) of this subchapter. The taking of an examination may be waived in the case of any individual who has actively served for at least four years in the patent examining corps of the Office. The examination will not be administered as a mere academic exercise.

(c) Within two months from the date an applicant is notified that he or she failed an examination, the applicant may request regrading of the examination upon payment of the fee set forth in § 1.21(a)(6). Any applicant requesting regrading shall particularly point out the errors which the applicant believed occurred in the grading of his or her examination.

(OMB Control No. 0651-0012.)

§ 10.8 Oath and registration fee.

Before an individual may have his or her name entered on the register of attorneys and agents, the individual must, after his or her application is approved, subscribe and swear to an oath or make a declaration prescribed by the Commissioner and pay the registration fee set forth in § 1.21(a)(2) of this subchapter.

(OMB Control No. 0651-0012.)

§ 10.9 Limited recognition in patent cases.

(a) Any individual not registered under § 10.6 may, upon a showing of circumstances which render it necessary or justifiable, be given limited recognition by the Director to prosecute as attorney or agent a specified application or specified applications, but limited recognition under this paragraph shall not extend further than the application or applications specified.

(b) When registration of a resident alien under paragraphs (a) or (b) of § 10.6 is not appropriate, the resident alien may be given limited recognition as may be appropriate under paragraph (a) of this section.

§ 10.10 Individuals not registered or recognized to practice in patent cases.

Only practitioners who are registered under § 10.6 or individuals given limited recognition under § 10.9 will be permitted to prosecute patent applications of others before the Office.

§ 10.11 Removing names from the register.

(a) Registered attorneys and agents shall notify the Director of any change of address. Any notification to the Director of any change of address shall be separate from any notice of change of address filed in individual applications.

(b) A letter may be addressed to any individual on the register, at the address of which separate notice was last received by the Director, for the purpose of ascertaining whether such individual desires to remain on the register. The name of any individual failing to reply and give any information requested by the Director within a time limit specified will be removed from the register and the names of individuals so removed will be published in the Official Gazette. The name of any individual so removed may be reinstated on the register as may be appropriate and upon payment of the fee set forth in § 1.21(a)(3) of this subchapter.

(OMB Control No. 0651–0012.)

§§ 10.12–10.13 [Reserved]

§ 10.14 Individuals who may practice before the Office in trademark and other non-patent cases.

(a) *Attorneys.* Any individual who is an attorney may represent others before the Office in trademark and other non-patent cases. An attorney is not required to apply for registration or recognition to practice before the Office in trademark and other non-patent cases.

(b) *Non-lawyers.* Individuals who are not attorneys are not recognized to practice before the Office in trademark and other non-patent cases, except that individuals not attorneys who were recognized to practice before the Office in trademark cases under this chapter prior to January 1, 1957, will be recognized as agents to continue practice before the Office in trademark cases.

(c) *Foreigners.* Any foreign attorney or agent not a resident of the United States who shall prove to the satisfaction of the Director that he or she is registered or in good standing before the patent or trademark office of the country in which he or she resides and practices, may be recognized for the limited purpose of representing parties located in such country before the Office in the presentation and prosecution of trademark cases, *provided:* The patent or trademark office of such country allows substantially reciprocal privileges to those permitted to practice in trademark cases before the United States Patent and Trademark Office. Recognition under this paragraph shall continue only during the period that the conditions specified in this paragraph obtain.

(d) Recognition of any individual under this section shall not be construed as sanctioning or authorizing the performance of any act regarded in the jurisdiction where performed as the unauthorized practice of law.

(e) No individual other than those specified in paragraphs (a), (b), and (c) of this section will be permitted to practice before the Office in trademark cases. Any individual may appear in a trademark or other non-patent case in his or her own behalf. Any individual may appear in a trademark case for (1) a firm of which he or she is a member or (2) a corporation or association of which he or she is an officer and which he or she is authorized to represent, if such firm, corporation, or association is a party to a trademark proceeding pending before the Office.

§ 10.15 Refusal to recognize a practitioner.

Any practitioner authorized to appear before the Office may be suspended or excluded in accordance with the provisions of this part. Any practitioner who is suspended or excluded under this subpart or removed under § 10.11(b) shall not be entitled to practice before the Office.

§§ 10.16–10.17 [Reserved]

§ 10.18 Signature and certificate of practitioner.

(a) Every paper filed by a practitioner representing an applicant or party to a proceeding in the Office must bear the signature of, and be personally signed by, such practitioner except those papers which are required to be signed by the applicant or party. The signature of practitioner to a paper filed by him or her, constitutes a certificate that:

(1) The paper has been read by the practitioner;

(2) The paper's filing is authorized;

(3) To the best of his or her knowledge, information, and belief, there is good ground to support the paper, including any allegations of improper conduct contained or alleged therein; and

(4) It is not interposed for delay.

(b) Any practitioner knowingly violating the provisions of this section is subject to disciplinary action. See § 10.23(c)(15).

§ 10.19 [Reserved]

Patent and Trademark Office Code of Professional Responsibility

§ 10.20 Canons and Disciplinary Rules.

(a) Canons are set out in §§ 10.21, 10.30, 10.46, 10.56, 10.61, 10.76, 10.83, 10.100, and 10.110. Canons are statements of axiomatic norms, expressing in general terms the standards of professional conduct expected of practitioners in their relationships with the public, with the legal system, and with the legal profession.

(b) Disciplinary Rules are set out in §§ 10.22–10.24, 10.31–10.40, 10.47–10.57, 10.62–10.68, 10.77, 10.78, 10.84, 10.85, 10.87–10.89, 10.92, 10.93, 10.101–10.103, 10.111, and 10.112. Disciplinary Rules are mandatory in character and state the minimum level of conduct below which no practitioner can fall without being subjected to disciplinary action.

§ 10.21 Canon 1.

A practitioner should assist in maintaining the integrity and competence of the legal profession.

§ 10.22 Maintaining integrity and competence of the legal profession.

(a) A practitioner is subject to discipline if the practitioner has made a materially false statement in, or if the practitioner has deliberately failed to disclose a material fact requested in connection with, the practitioner's application for registration or membership in the bar of any United States court or any State court or his or her authority to otherwise practice before the Office in trademark and other non-patent cases.

(b) A practitioner shall not further the application for registration or membership in the bar of any United States court, State court, or administrative agency of another person known by the practitioner to be unqualified in respect to character, education, or other relevant attribute.

§ 10.23 Misconduct.

(a) A practitioner shall not engage in disreputable or gross misconduct.

(b) A practitioner shall not:

(1) Violate a Disciplinary Rule.

(2) Circumvent a Disciplinary Rule through actions of another.

(3) Engage in illegal conduct involving moral turpitude.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office.

(c) Conduct which constitutes a violation of paragraphs (a) and (b) of this section includes, but is not limited to:

(1) Conviction of a criminal offense involving moral turpitude, dishonesty, or breach of trust.

(2) Knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information, to:

(i) A client in connection with any immediate, prospective, or pending business before the Office.

(ii) The Office or any employee of the Office.

(3) Misappropriation of, or failure to properly or timely remit, funds received by a practitioner or the practitioner's firm from a client to pay a fee which the client is required by law to pay to the Office.

(4) Directly or indirectly improperly influencing, attempting to improperly influence, offering or agreeing to improperly influence, or attempting to offer or agree to improperly influence an official action of any employee of the Office by:

(i) Use of threats, false accusations, duress, or coercion,

(ii) An offer of any special inducement or promise of advantage, or

(iii) Improperly bestowing of any gift, favor, or thing of value.

(5) Suspension or disbarment from practice as an attorney or agent on ethical grounds by any duly constituted authority of a State or the United States or, in the case of a practitioner who resides in a foreign country or is registered under § 10.6(c), by any duly constituted authority of:

(i) A State,

(ii) The United States, or

(iii) The country in which the practitioner resides.

(6) Knowingly aiding or abetting a practitioner suspended or excluded from practice before the Office in engaging in unauthorized practice before the Office under § 10.158.

(7) Knowingly withholding from the Office information identifying a patent or patent application of another from which one or more claims have been copied. See §§ 1.604(b) and 1.607(c) of this subchapter.

(8) Failing to inform a client or former client or failing to timely notify the Office of an inability to notify to a client or former client of correspondence received from the Office or the client's or former client's opponent in an *inter partes* proceeding before the Office when the correspondence (i) could have a significant effect on a matter pending before the Office, (ii) is received by the practitioner on behalf of a client or former client and (iii) is correspondence of which a reasonable practitioner would believe under the circumstances the client or former client should be notified.

(9) Knowingly misusing a certificate of mailing under § 1.8 of this subchapter or a certificate of "Express Mail" under § 1.10 of this subchapter.

(10) Violating the duty of candor or good faith requirements of § 1.56(a) of this subchapter.

(11) Knowingly filing, or causing to be filed, an application which is subject to being stricken under § 1.56(c) of this subchapter.

(12) Knowingly filing, or causing to be filed, a frivolous complaint alleging a violation by a practitioner of the Patent and Trademark Office Code of Professional Responsibility.

(13) Knowingly preparing or prosecuting a patent application in violation of an undertaking signed under § 10.6(e).

(14) Knowingly failing to advise the Director in writing of any change which would preclude continued registration under § 10.6.

(15) Knowingly signing a paper filed in the Office in violation of the provisions of § 10.18 or making a scandalous or indecent statement in a paper filed in the Office.

(16) Willfully refusing to reveal or report knowledge or evidence to the Director contrary to § 10.24 or paragraph (b) of § 101.31.

(17) Representing before the Office in a patent case either a joint venture comprising an inventor and an invention developer or an inventor referred to the registered practitioner by an invention developer when (i) the registered practitioner knows, or has been advised by the Office, that a formal complaint filed by a federal or state agency, based on any violation of any law relating to securities, unfair methods of competition, unfair or deceptive acts or practices, mail fraud, or other civil or criminal conduct, is pending before a federal or state court or federal or state agency, or has been resolved unfavorably by such court or agency, against the invention developer in connection with invention development services and (ii) the registered practitioner fails to fully advise the inventor of the existence of the pending complaint or unfavorable resolution thereof prior to undertaking or continuing representation of the joint venture or inventor. "Invention developer" means any person, and any agent, employee, officer, partner, or independent contractor thereof, who is not a registered practitioner and who advertises invention development services in media of general circulation or who enters into contracts for invention development services with customers as a result of such advertisement. "Invention development services" means acts of invention development required or promised to be performed, or actually performed, or both, by an invention developer for a customer. "Invention development" means the evaluation, perfection, marketing, brokering, or promotion of an invention on behalf of a customer by an invention developer, including a patent search, preparation of a patent application, or any other act done by an invention developer for consideration toward the end of procuring or attempting to procure a license, buyer, or patent for an invention. "Customer" means any individual who has made an invention and who enters into a contract for invention development services with an invention developer with respect to the invention by which the inventor becomes obligated to pay the invention developer less than $5,000 (not to include any additional sums which the invention developer is to receive as a result of successful development of the invention). "Contract for invention development services" means a contract for invention development services with an invention developer with respect to an invention made by a customer by which the inventor becomes obligated to pay the invention developer less than $5,000 (not to include any additional sums which the invention developer is to receive as a result of successful development of the invention).

(18) In the absence of information sufficient to establish a reasonable belief that fraud or inequitable conduct has occurred, alleging before a tribunal that anyone has committee a fraud on the Office or engaged in inequitable conduct in a proceeding before the Office.

(d) A practitioner who acts with reckless indifference to whether a representation is true or false is chargeable with knowledge of its falsity. Deceitful statements of half-truths or concealment of material facts shall be deemed actual fraud within the meaning of this part.

§ 10.24 Disclosure of information to authorities.

(a) A practitioner possessing unprivileged knowledge of a violation of a Disciplinary Rule shall report such knowledge to the Director.

(b) A practitioner possessing unprivileged knowledge or evidence concerning another practitioner, employee of the Office, or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of practitioners, employees of the Office, or judges.

(OMB Control No. 0651-0017.)

§§ 10.25-10.29 [Reserved]

§ 10.30 Canon 2.

A practitioner should assist the legal profession in fulfilling its duty to make legal counsel available.

§ 10.31 Communications concerning a practitioner's services.

(a) No practitioner shall with respect to any prospective business before the Office, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any prospective applicant or other person having immediate or prospective business before the Office.

(b) A practitioner may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the practitioner's practice before the Office.

(c) Unless authorized under § 10.14(b), a non-lawyer practitioner shall not hold himself or herself out as authorized to practice before the Office in trademark cases.

(d) Unless a practitioner is an attorney, the practitioner shall not hold himself or herself out:

(1) To be an attorney or lawyer or

(2) As authorized to practice before the Office in non-patent and trademark cases.

§ 10.32 Advertising.

(a) Subject to § 10.31, a practitioner may advertise services through public media, including a telephone directory, legal directory, newspaper, or other periodical, radio, or television, or through written communications not involving solicitation as defined by § 10.33.

(b) A practitioner shall not give anything of value to a person for recommending the practitioner's services, except that a practitioner may pay the reasonable cost of advertising or written communication permitted by this section and may pay the usual charges of a not-for-profit lawyer referral service or other legal service organization.

(c) Any communication made pursuant to this section shall include the name of at least one practitioner responsible for its content.

§ 10.33 Direct contact with prospective clients.

A practitioner may not solicit professional employment from a prospective client with whom the practitioner has no family or prior professional relationship, by mail, in-person or otherwise, when a significant motive for the practitioner's doing so is the practitioner's pecuniary gain under circumstances evidencing undue influence, intimidation, or overreaching. The term "solicit" includes contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient, but does not include letters addressed or advertising circulars distributed generally to persons not specifically known to need legal services of the kind provided by the practitioner in a particular matter, but who are so situated that they might in general find such services useful.

§ 10.34 Communication of fields of practice.

A registered practitioner may state or imply that the practitioner is a specialist as follows:

(a) A registered practitioner who is an attorney may use the designation "Patents," "Patent Attorney," "Patent Lawyer," "Registered Patent Attorney," or a substantially similar designation.

(b) A registered practitioner who is not an attorney may use the designation "Patents," "Patent Agent," "Registered Patent Agent," or a substantially similar designation, except that any practitioner who was registered prior to November 15, 1938, may refer to himself or herself as a "patent attorney."

§ 10.35 Firm names and letterheads.

(a) A practitioner shall not use a firm name, letterhead, or other professional designation that violates § 10.31. A trade name may be used by a practitioner in private practice if it does not imply a current connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of § 10.31.

(b) Practitioners may state or imply that they practice in a partnership or other organization only when that is the fact.

§ 10.36 Fees for legal services.

(a) A practitioner shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(b) A fee is clearly excessive when, after a review of the facts, a practitioner of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the practitioner.

(3) The fee customarily charged for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation, and ability of the practitioner or practitioners performing the services.

(8) Whether the fee is fixed or contingent.

§ 10.37 Division of fees among practitioners.

(a) A practitioner shall not divide a fee for legal services with another practitioner who is not a partner in or associate of the practitioner's law firm or law office, unless:

(1) The client consents to employment of the other practitioner after a full disclosure that a division of fees will be made.

(2) The division is made in proportion to the services performed and responsibility assumed by each.

(3) The total fee of the practitioners does not clearly exceed reasonable compensation for all legal services rendered to the client.

(b) This section does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

§ 10.38 Agreements restricting the practice of a practitioner.

(a) A practitioner shall not be a party to or participate in a partnership or employment agreement with another practitioner that restricts the right of a practitioner to practice before the Office after the termination of a relationship created by the agreement, except as a condition to payment of retirement benefits.

(b) In connection with the settlement of a controversy or suit, a practitioner shall not enter into an agreement that restricts the practitioner's right to practice before the Office.

§ 10.39 Acceptance of employment.

A practitioner shall not accept employment on behalf of a person if the practitioner knows or it is obvious that such person wishes to:

(a) Bring a legal action, commence a proceeding before the Office, conduct a defense, assert a position in any proceeding pending before the Office, or otherwise have steps taken for the person, merely for the purpose of harassing or maliciously injuring any other person.

(b) Present a claim or defense in litigation or any proceeding before the Office that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification, or reversal of existing law.

§ 10.40 Withdrawal from employment.

(a) A practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office (see §§ 1.36 and 2.19 of this subchapter). In any event, a practitioner shall not withdraw from employment until the practitioner has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to his or her client, allowing time for employment of another practitioner, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules. A practitioner who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

(b) *Mandatory withdrawal.* A practitioner representing a client before the Office shall withdraw from employment if:

(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;

(2) The practitoner knows or it is obvious that the practitoner's continued employment will result in violation of a Disciplinary Rule;

(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or

(4) The practitioner is discharged by the client.

(c) *Permissive withdrawal.* If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:

(1) The petitioner's client:

(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;

(ii) Personally seeks to pursue an illegal course of conduct;

(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;

(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;

(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or

(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.

(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;

(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;

(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;

(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

§§ 10.41–10.45 [Reserved]

§ 10.46 Canon 3.

A practitioner should assist in preventing the unauthorized practice of law.

§ 10.47 Aiding unauthorized practice of law.

(a) A practitioner shall not aid a non-practitioner in the unauthorized practice of law before the Office.

(b) A practitioner shall not aid a suspended or excluded practitioner in the practice of law before the Office.

(c) A practitioner shall not aid a non-lawyer in the unauthorized practice of law.

§ 10.48 Sharing legal fees.

A practitioner or a firm of practitioners shall not share legal fees with a non-practitioner except that:

(a) An agreement by a practitioner with the practitioner's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the practitioner's death, to the practitioner's estate or to one or more specified persons.

(b) A practitioner who undertakes to complete unfinished legal business of a deceased practitioner may pay to the estate of the deceased practitioner that proportion of the total compensation which fairly represents the services rendered by the deceased practitioner.

(c) A practitioner or firm of practitioners may include non-practitioner employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement, providing such plan does not circumvent another Disciplinary Rule.

§ 10.49 Forming a partnership with a non-practitioner.

A practitioner shall not form a partnership with a non-practitioner if any of the activities of the partnership consist of the practice of patent, trademark, or other law before the Office.

§§ 10.50–10.55 [Reserved]

§ 10.56 Canon 4.

A practitioner should preserve the confidences and secrets of a client.

§ 10.57 Preservation of confidences and secrets of a client.

(a) "Confidence" refers to information protected by the attorney-client or agent-client privilege under applicable law. "Secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(b) Except when permitted under paragraph (c) of this section, a practitioner shall not knowingly:

(1) Reveal a confidence or secret of a client.

(2) Use a confidence or secret of a client to the disadvantage of the client.

(3) Use a confidence or secret of a client for the advantage of the practitioner or of a third person, unless the client consents after full disclosure.

(c) A practitioner may reveal:

(1) Confidences or secrets with the consent of the client affected but only after a full disclosure to the client.

(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.

(3) The intention of a client to commit a crime and the information necessary to prevent the crime.

(4) Confidences or secrets necessary to establish or collect the practitioner's fee or to defend the practitioner or the practitioner's employees or associates against an accusation of wrongful conduct.

(d) A practitioner shall exercise reasonable care to prevent the practitioner's employees, associates, and others whose services are utilized by the practitioner from disclosing or using confidences or secrets of a client, except that a practitioner may reveal the information allowed by paragraph (c) of this section through an employee.

§§ 10.58–10.60 [Reserved]

§ 10.61 Canon 5.

A practitioner should exercise independent professional judgment on behalf of a client.

§ 10.62 Refusing employment when the interest of the practitioner may impair the practitioner's independent professional judgment.

(a) Except with the consent of a client after full disclosure, a practitioner shall not accept employment if the exercise of the practitioner's professional judgment on behalf of the client will be or reasonably may be affected by the practitioner's own financial, business, property, or personal interests.

(b) A practitioner shall not accept employment in a proceeding before the Office if the practitioner knows or it is obvious that the practitioner or another practitioner in the practitioner's firm ought to sign an affidavit to be filed in the Office or be called as a witness, except that the practitioner may undertake the employment and the practitioner or another practitioner in the practitioner's firm may testify:

(1) If the testimony will relate solely to an uncontested matter.

(2) If the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony.

(3) If the testimony will relate solely to the nature and value of legal services rendered in the case by the practitioner or the practitioner's firm to the client.

(4) As to any matter, if refusal would work a substantial hardship on the client because of the distinctive value of the practitioner or the practitioner's firm as counsel in the particular case.

§ 10.63 Withdrawal when the practitioner becomes a witness.

(a) If, after undertaking employment in a proceeding in the Office, a practitioner learns or it is obvious that the practitioner or another practitioner in the practitioner's firm ought to sign an affidavit to be filed in the Office or be called as a witness on behalf of a practitioner's client, the practitioner shall withdraw from the conduct of the proceeding and the practitioner's firm, if any, shall not continue representation in the proceeding, except that the practitioner may continue the representation and the practitioner or another practitioner in the practitioner's firm may testify in the circumstances enumerated in paragraphs (1) through (4) of § 10.62(b).

(b) If, after undertaking employment in a proceeding before the Office, a practitioner learns or it is obvious that the practitioner or another practitioner in the practitioner's firm may be asked to sign an affidavit to be filed in the Office or be called as a witness other than on behalf of the practitioner's client, the practitioner may continue the representation until it is apparent that the practitioner's affidavit or testimony is or may be prejudicial to the practitioner's client.

§ 10.64 Avoiding acquisition of interest in litigation or proceeding before the Office.

(a) A practitioner shall not acquire a proprietary interest in the subject matter of a proceeding before the Office which the practitioner is conducting for a client, except that the practitioner may:

(1) Acquire a lien granted by law to secure the practitioner's fee or expenses; or

(2) Contract with a client for a reasonable contingent fee; or

(3) In a patent case, take an interest in the patent as part or all of his or her fee.

(b) While representing a client in connection with a contemplated or pending proceeding before the Office, a practitioner shall not advance or guarantee financial assistance to a client, except that a practitioner may advance or guarantee the expenses of going forward in a proceeding before the Office including fees required by law to be paid to the Office, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses. A practitioner may, however, advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee.

§ 10.65 Limiting business relations with a client.

A practitioner shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the practitioner to exercise professional judgment therein for the protection of the client, unless the client has consented after full disclosure.

§ 10.66 Refusing to accept or continue employment if the interests of another client may impair the independent professional judgment of the practitioner.

(a) A practitioner shall decline proffered employment if the exercise of the practitioner's independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve the practitioner in representing differing interests, except to the extent permitted under paragraph (c) of this section.

(b) A practitioner shall not continue multiple employment if the exercise of the practitioner's independent professional judgment in behalf of a client will be or is likely to be adversely affected by the practitoner's representation of another client, or if it would be likely to involve the practitioner in representing differing interests, except to the extent permitted under paragraph (c) of this section.

(c) In the situations covered by paragraphs (a) and (b) of this section a practitioner may represent multiple clients if it is obvious that the practitioner can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of the practitioner's independent professional judgment on behalf of each.

(d) If a practitioner is required to decline employment or to withdraw from employment under a Disciplinary Rule, no partner, or associate, or any other practitioner affiliated with the practitioner or the practitioner's firm, may accept or continue such employment unless otherwise ordered by the Director or Commissioner.

§ 10.67 Settling similar claims of clients.

A practitioner who represents two or more clients shall not make or participate in the making of an aggregate settlement of the claims of or against the practitioner's clients, unless each client has consented to the settlement after being advised of the existence and nature of all the claims involved in the proposed settlement, of

the total amount of the settlement, and of the participation of each person in the settlement.

§ 10.68 Avoiding influence by others than the client.

(a) Except with the consent of the practitioner's client after full disclosure, a practitioner shall not:

(1) Accept compensation from one other than the practitioner's client for the practitioner's legal services to or for the client.

(2) Accept from one other than the practitioner's client any thing of value related to the practitioner's representation of or the practitioner's employment by the client.

(b) A practitioner shall not permit a person who recommends, employs, or pays the practitioner to render legal services for another, to direct or regulate the practitioner's professional judgment in rendering such legal services.

(c) A practitioner shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if a non-practitioner has the right to direct or control the professional judgment of a practitioner.

§§ 10.69–10.75 [Reserved]

§ 10.76 Canon 6.

A practitioner should represent a client competently.

§ 10.77 Failing to act competently.

A practitioner shall not:

(a) Handle a legal matter which the practitioner knows or should know that the practitioner is not competent to handle, without associating with the practitioner another practitioner who is competent to handle it.

(b) Handle a legal matter without preparation adequate in the circumstances.

(c) Neglect a legal matter entrusted to the practitioner.

§ 10.78 Limiting liability to client.

A practitioner shall not attempt to exonerate himself or herself from, or limit his or her liability to, a client for his or her personal malpractice.

§§ 10.79–10.82 [Reserved]

§ 10.83 Canon 7.

A practitioner should represent a client zealously within the bounds of the law.

§ 10.84 Representing a client zealously.

(a) A practitioner shall not intentionally:

(1) Fail to seek the lawful objectives of a client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by paragraph (b) of this section. A practitioner does not violate the provisions of this section, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but a practitioner may withdraw as permitted under §§ 10.40, 10.63, and 10.66.

(3) Prejudice or damage a client during the course of a professional relationship, except as required under this part.

(b) In representation of a client, a practitioner may:

(1) Where permissible, exercise professional judgment to waive or fail to assert a right or position of the client.

(2) Refuse to aid or participate in conduct that the practitioner believes to be unlawful, even though there is some support for an argument that the conduct is legal.

§ 10.85 Representing a client within the bounds of the law.

(a) In representation of a client, a practitioner shall not:

(1) Initiate or defend any proceeding before the Office, assert a position, conduct a defense, delay a trial or proceeding before the Office, or take other action on behalf of the practitioner's client when the practitioner knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that a practitioner may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which the practitioner is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when the practitioner knows or it is obvious that the evidence is false.

(7) Counsel or assist a client in conduct that the practitioner knows to be illegal or fraudulent.

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

(b) A practitioner who receives information clearly establishing that:

(1) A client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so the practitioner shall reveal the fraud to the affected person or tribunal.

(2) A person other than a client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

§ 10.86 [Reserved]

§ 10.87 Communicating with one of adverse interest.

During the course of representation of a client, a practitioner shall not:

(a) Communicate or cause another to communicate on the subject of the representation with a party the practitioner knows to be represented by another practitioner in that matter unless the practitioner has the prior consent of the other practitioner representing such other party or is authorized by law to do so. It is not improper, however, for a practitioner to encourage a client to meet with an opposing party for settlement discussions.

(b) Give advice to a person who is not represented by a practitioner other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of the practitioner's client.

§ 10.88 Threatening criminal prosecution.

A practitioner shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in any prospective or pending proceeding before the Office.

§ 10.89 Conduct in proceedings.

(a) A practitioner shall not disregard or advise a client to disregard any provision of this Subchapter or a decision of the Office made in the course of a proceeding before the Office, but the practitioner may take appropriate steps in good faith to test the validity of such provision or decision.

(b) In presenting a matter to the Office, a practitioner shall disclose:

(1) Controlling legal authority known to the practitioner to be directly adverse to the position of the client and which is not disclosed by opposing counsel or an employee of the Office.

(2) Unless privileged or irrelevant, the identities of the client the practitioner represents and of the persons who employed the practitioner.

(c) In appearing in a professional capacity before a tribunal, a practitioner shall not:

(1) State or allude to any matter that the practitioner has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

(2) Ask any question that the practitioner has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person.

(3) Assert the practitioner's personal knowledge of the facts in issue, except when testifying as a witness.

(4) Assert the practitioner's personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the practitioner may argue, on the practitioner's analysis of the evidence, for any position or conclusion with respect to the matters stated herein.

(5) Engage in undignified or discourteous conduct before the Office (see § 1.3 of the subchapter).

(6) Intentionally or habitually violate any provision of this subchapter or established rule of evidence.

§§ 10.90–10.91 [Reserved]

§ 10.92 Contact with witnesses.

(a) A practitioner shall not suppress any evidence that the practitioner or the practitioner's client has a legal obligation to reveal or produce.

(b) A practitioner shall not advise or cause a person to be secreted or to leave the jurisdiction of a tribunal for the purpose of making the person unavailable as a witness therein.

(c) A practitioner shall not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness' affidavit, testimony or the outcome of the case. But a practitioner may advance, guarantee, or acquiesce in the payment of:

(1) Expenses reasonably incurred by a witness in attending, testifying, or making an affidavit.

(2) Reasonable compensation to a witness for the witness' loss of time in attending, testifying, or making an affidavit.

(3) A reasonable fee for the professional services of an expert witness.

§ 10.93 Contact with officials.

(a) A practitioner shall not give or lend anything of value to a judge, official, or employee of a tribunal under circumstances which might give the appearance that the gift or loan is made to influence official action.

(b) In an adversary proceeding, including any *inter partes* proceeding before the Office, a practitioner shall not communicate, or cause another to communicate, as to the merits of the cause with a judge, official, or Office employee before whom the proceeding is pending, except:

(1) In the course of official proceedings in the cause.

(2) In writing if the practitioner promptly delivers a copy of the writing to opposing counsel or to the adverse party if the adverse party is not represented by a practitioner.

(3) Orally upon adequate notice to opposing counsel or to the adverse party if the adverse party is not represented by a practitioner.

(4) As otherwise authorized by law.

§§ 10.94–10.99 [Reserved]

§ 10.100 Canon 8.

A practitioner should assist in improving the legal system.

§ 10.101 Action as a public official.

(a) A practitioner who holds public office shall not:

(1) Use the practitioner's public position to obtain, or attempt to obtain, a special advantage in legislative matters for the practitioner or for a client under circumstances where the practitioner knows or it is obvious that such action is not in the public interest.

(2) Use the practitioner's public position to influence, or attempt to influence, a tribunal to act in favor of the practitioner or of a client.

(3) Accept any thing of value from any person when the practitioner knows or it is obvious that the offer is for the purpose of influencing the practitioner's action as a public official.

(b) A practitioner who is an officer or employee of the United States shall not practice before the Office in patent cases except as provided in § 10.8(d).

§ 10.102 Statements concerning officials.

(a) A practitioner shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office or to a position in the Office.

(b) A practitioner shall not knowingly make false accusations against a judge, other adjudicatory officer, or employee of the Office.

§ 10.103 Practitioner candidate for judicial office.

A practitioner who is a candidate for judicial office shall comply with applicable provisions of law.

§§ 10.104–10.109 [Reserved]

§ 10.110 Canon 9.

A practitioner should avoid even the appearance of professional impropriety.

§ 10.111 Avoiding even the appearance of impropriety.

(a) A practitioner shall not accept private employment in a matter upon the merits of which he or she has acted in a judicial capacity.

(b) A practitioner shall not accept private employment in a matter in which he or she had personal responsibility while a public employee.

(c) A practitioner shall not state or imply that the practitioner is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

§ 10.112 Preserving identity of funds and property of client.

(a) All funds of clients paid to a practitioner or a practitioner's firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the United States or, in the case of a practitioner having an office in a foreign country or registered under § 10.6(c), in the United States or the foreign country.

(b) No funds belonging to the practitioner or the practitioner's firm shall be deposited in the bank accounts required by paragraph (a) of this section except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the practitioner or the practitioner's firm must be deposited therein, but the portion belonging to the practitioner or the practitioner's firm may be withdrawn when due unless the right of the practitioner or the practitioner's firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(c) A practitioner shall:

(1) Promptly notify a client of the receipt of the client's funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the practitioner and render appropriate accounts to the client regarding the funds, securities, or other properties.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the practitioner which the client is entitled to receive.

(OMB Control No. 0651-0017.)

§§ 10.113-10.129 [Reserved]

Investigations and Disciplinary Proceedings

§ 10.130 Reprimand, suspension or exclusion.

(a) The Commissioner may, after notice and opportunity for a hearing, (1) reprimand or (2) suspend or exclude, either generally or in any particular case, any individual, attorney, or agent shown to be incompetent or disreputable, who is guilty of gross misconduct, or who violates a Disciplinary Rule.

(b) Petitions to disqualify a practitioner in *ex parte* or *inter partes* cases in the Office are not governed by §§ 10.130 through 10.170 and will be handled on a case-by-case basis under such conditions as the Commissioner deems appropriate.

§ 10.131 Investigations.

(a) The Director is authorized to investigate possible violations of Disciplinary Rules by practitioners. See § 10.2(b)(2).

(b) Practitioners shall report and reveal to the Director any knowledge or evidence required by § 10.24. A practitioner shall cooperate with the Director in connection with any investigation under paragraph (a) of this section and with officials of the Office in connection with any disciplinary proceeding instituted under § 10.132(b).

(c) Any non-practitioner possessing knowledge or information concerning a violation of a Disciplinary Rule by a practitioner may report the violation to the Director. The Director may require that the report be presented in the form of an affidavit.

§ 10.132 Initiating a disciplinary proceeding; reference to an administrative law judge.

(a) If after conducting an investigation under § 10.131(a) the Director is of the opinion that a practitioner has violated a Disciplinary Rule, the Director shall, after complying where necessary with the provisions of 5 U.S.C. 558(c), call a meeting of the Committee on Discipline. The Committee on Discipline shall then determine as specified in § 10.4(b) whether a disciplinary proceeding shall be instituted under paragraph (b) of this section.

(b) If the Committee on Discipline determines that probable cause exists to believe that a practitioner has violated a Disciplinary Rule, the Director shall institute a disciplinary proceeding by filing a complaint under § 10.134. The complaint shall be filed in the Office of the Director. A disciplinary proceeding may result in:

(1) A reprimand, or

(2) Suspension or exclusion of a practitioner from practice before the Office.

(c) Upon the filing of a complaint under § 10.134, the Commissioner will refer the disciplinary proceeding to an administrative law judge.

§ 10.133 Conference between Director and practitioner; resignation.

(a) *General.* The Director may confer with a practitioner concerning possible violations by the practitioner of a Disciplinary Rule whether or not a disciplinary proceeding has been instituted.

(b) *Resignation.* Any practitioner who is the subject of an investigation under § 10.131 or against whom a complaint has been filed under § 10.134 may resign from practice before the Office only by submitting with the Director an affidavit stating his or her desire to resign.

(c) If filed prior to the date set by the administrative law judge for a hearing, the affidavit shall state that:

(1) The resignation is freely and voluntarily proffered;

(2) The practitioner is not acting under duress or coercion from the Office;

(3) The practitioner is fully aware of the implications of filing the resignation;

(4) The practitioner is aware (i) of a pending investigation or (ii) of charges arising from the complaint alleging that he or she is guilty of a violation of the Patent and Trademark Office Code of Professional Responsibility, the nature of which shall be set forth by the practitioner to the satisfaction of the Director;

(5) The practitioner acknowledges that, if and when he or she applies for reinstatement under § 10.160, the Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that:

(i) The facts upon which the complaint is based are true and

(ii) The practitioner could not have successfully defended himself or herself against (A) charges predicated on the violation under investigation or (B) charges set out in the complaint filed against the practitioner.

(d) If filed on or after the date set by the administrative law judge for a hearing, the affidavit shall make the statements required by paragraphs (b)(1) through (4) of this section and shall state that:

(1) The practitioner acknowledges the facts upon which the complaint is based are true; and

(2) The resignation is being submitted because the practitioner could not successfully defend himself or herself against (i) charges predicated on the violation under investigation or (ii) charges set out in the complaint.

(e) When an affidavit under paragraphs (b) or (c) of this section is received while an investigation is pending, the Commissioner shall enter an order excluding the practitioner "on consent." When an affidavit under paragraphs (b) or (c) of this section is received after a complaint under § 10.134 has been filed, the Director shall notify the administrative law judge. The administrative law judge shall enter an order transferring the disciplinary proceeding to the Commissioner and the Commissioner shall enter an order excluding the practitioner "on consent."

(f) Any practitioner who resigns from practice before the Office under this section and who intends to reapply for admission to practice before the Office must comply with the provisions of § 10.158.

(g) *Settlement.* Before or after a complaint is filed under § 10.134, a settlement conference may occur between the Director and a practitioner for the purpose of settling any disciplinary matter. If an offer of settlement is made by the Director or the practitioner and is not accepted by the other, no reference to the offer of settlement or its refusal shall be admissible in evidence in the disciplinary proceeding unless both the Director and the practitioner agree in writing.

§ 10.134 Complaint.

(a) A complaint instituting a disciplinary proceeding shall:

(1) Name the practitioner, who may then be referred to as the "respondent."

(2) Give a plain and concise description of the alleged violations of the Disciplinary Rules by the practitioner.

(3) State the place and time for filing an answer by the respondent.

(4) State that a decision by default may be entered against the respondent if an answer is not timely filed.

(5) Be signed by the Director.

(b) A complaint will be deemed sufficient if it fairly informs the respondent of any violation of the Disciplinary Rules which form the basis for the disciplinary proceeding so that the respondent is able to adequately prepare a defense.

§ 10.135 Service of complaint.

(a) A complaint may be served on a respondent in any of the following methods:

(1) By handing a copy of the complaint personally to the respondent, in which case the individual handing the complaint to the respondent shall file an affidavit with the Director indicating the time and place the complaint was handed to the respondent.

(2) By mailing a copy of the complaint by "Express Mail" or first-class mail to:

(i) A registered practitioner at the address for which separate notice was last received by the Director or

(ii) A non-registered practitioner at the last address for the respondent known to the Director.

(3) By any method mutually agreeable to the Director and the respondent.

(b) If a complaint served by mail under paragraph (a)(2) of this section is returned by the U.S. Postal Service, the Director shall mail a second copy of the complaint to the respondent. If the second copy of the complaint is also returned by the U.S. Postal Service, the Director shall serve the respondent by publishing an appropriate notice in the *Official Gazette* for four consecutive weeks, in which case the time for answer shall be at least thirty days from the fourth publication of the notice.

(c) If a respondent is a registered practitioner, the Director may serve simultaneously with the complaint a letter under § 10.11(b). The Director may require the respondent to answer the § 10.11(b) letter within a period of not less than 15 days. An answer to the § 10.11(b) letter shall constitute proof of service. If the respondent fails to answer the § 10.11(b) letter, his or her name will be removed from the register as provided by § 10.11(b).

(d) If the respondent is represented by an attorney under § 10.140(a), a copy of the complaint shall also be served on the attorney.

§ 10.136 Answer to complaint.

(a) *Time for answer.* An answer to a complaint shall be filed within a time set in the complaint which shall be not less than thirty days.

(b) *With whom filed.* The answer shall be filed in writing with the administrative law judge. The time for filing an answer may be extended once for a period of no more than thirty days by the administrative law judge upon a showing of good cause provided a motion requesting an extension of time is filed within thirty days after the date the complaint is filed by the Director. A copy of the answer shall be served on the Director.

(c) *Content.* The respondent shall include in the answer a statement of the facts which constitute the grounds of defense and shall specifically admit or deny each allegation set forth in the complaint. The respondent shall not deny a material allegation in the complaint which the respondent knows to be true or state that respondent is without sufficient information to form a belief as to the truth of an allegation when in fact the respondent possesses that information. The respondent shall also state affirmatively special matters of defense.

(d) *Failure to deny allegations in complaint.* Every allegation in the complaint which is not denied by a respondent if the answer is deemed to be admitted and may be considered proven. No further evidence in respect of that allegation need be received by the administrative law judge at any hearing. Failure to timely file an answer will constitute an admission of the allegations in the complaint.

(3) *Reply by Director.* No reply to an answer is required by the Director and any affirmative defense in the answer shall be deemed to be denied. The Director may, however, file a reply if he or she chooses or if ordered by the administrative law judge.

§ 10.137 Supplemental complaint.

False statements in an answer may be made the basis of a supplemental complaint.

§ 10.138 Contested case.

Upon the filing of an answer by the respondent, a disciplinary proceeding shall be regarded as a contested case within the meaning of 35 U.S.C. 24. Evidence obtained by a subpoena issued under 35 U.S.C. 24 shall not be admitted into the record or considered unless leave to proceed under 35 U.S.C. 24 was previously authorized by the administrative law judge.

§ 10.139 Administrative law judge; appointment; responsibilities; review of interlocutory orders; stays.

(a) *Appointment.* An administrative law judge, appointed under 5 U.S.C 3105, shall conduct disciplinary proceedings as provided by this part.

(b) *Responsibilities.* The administrative law judge shall have authority to:

(1) Administer oaths and affirmations;

(2) Make rulings upon motions and other requests;

(3) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(4) Authorize the taking of a deposition of a witness in lieu of personal appearance of the witness before the administrative law judge;

(5) Determine the time and place of any hearing and regulate its course and conduct;

(6) Hold or provide for the holding of conferences to settle or simplify the issues;

(7) Receive and consider oral or written arguments on facts or law;

(8) Adopt procedures and modify procedures from time to time as occasion requires for the orderly disposition of proceedings;

(9) Make initial decisions under § 10.154; and

(10) Perform acts and take measures as necessary to promote the efficient and timely conduct of any disciplinary proceeding.

(c) *Time for making initial decision.* The administrative law judge shall set times and exercise control over a disciplinary proceeding such that an initial decision under § 10.154 is normally issued within six months of the date a complaint is filed. The administrative law judge may, however, issue an initial decision more than six months after a complaint is filed if in his or her opinion there exist unusual circumstances which preclude issuance of an initial decision within six months of the filing of the complaint.

(d) *Review of interlocutory orders.* An interlocutory order of an administrative law judge will not be reviewed by the Commissioner except:

(1) when the administrative law judge shall be of the opinion (i) that the interlocutory order involves a controlling question of procedure or law as to which there is a substantial ground for a difference of opinion and (ii) that an immediate decision by the Commissioner may materially advance the ultimate termination of the disciplinary proceeding or

(2) in an extraordinary situation where justice requies review

(e) *Stays pending review of interlocutory order.* If the Director or a respondent seeks review of an interlocutory order of an administrative law judge under paragraph (b)(2) of this section, any time period set for taking action by the administrative law judge shall not be stayed unless ordered by the Commissioner or the administrative law judge.

§ 10.140 Representative for Director or respondent.

(a) A respondent may be represented before the Office in connection with an investigation or disciplinary proceeding by an attorney. The attorney shall file a written declaration that he or she is an

attorney within the meaning of § 10.1(c) and shall state:

(1) The address to which the attorney wants correspondence related to the investigation or disciplinary proceeding sent and

(2) A telephone number where the attorney may be reached during normal business hours.

(b) The Commissioner shall designate at least two associate solicitors in the Office of the Solicitor to act as representatives for the Director in disciplinary proceedings. In prosecuting disciplinary proceedings, the designated associate solicitors shall not involve the Solicitor or the Deputy Solicitor. The Solicitor and the Deputy Solicitor shall remain insulated from the investigation and prosecution of all disciplinary proceedings in order that they shall be available as counsel to the Commissioner in deciding disciplinary proceedings.

§ 10.141 Filing of papers.

(a) The provisions of § 1.8 of this subchapter do not apply to disciplinary proceedings.

(b) All papers filed after the complaint and prior to entry of an initial decision by the administrative law judge shall be filed with the administrative law judge at an address or place designated by the administrative law judge. All papers filed after entry of an initial decision by the administrative law judge shall be filed with the Director. The Director shall promptly forward to the Commissioner any paper which requires action under this part by the Commissioner.

(c) The administrative law judge or the Director may provide for filing papers and other matters by hand or by "Express Mail."

§ 10.142 Service of papers.

(a) All papers other than a complaint shall be served on a respondent represented by an attorney by:

(1) Delivering a copy of the paper to the office of the attorney; or

(2) Mailing a copy of the paper by first-class mail or "Express Mail" to the attorney at the address provided by the attorney under § 10.140(a)(1); or

(3) Any other method mutually agreeable to the attorney and a representative for the Director.

(b) All papers other than a complaint shall be served on a respondent who is not represented by an attorney by:

(1) Delivering a copy of the paper to the respondent; or

(2) Mailing a copy of the paper by first-class mail or "Express Mail" to the respondent at the address to which a complaint may be served or such other address as may be designated in writing by the respondent; or

(3) Any other method mutually agreeable to the respondent and a representative of the Director.

(c) A respondent shall serve on the representative for the Director one copy of each paper filed with the administrative law judge or the Director. A paper may be served on the representative for the Director by:

(1) Delivering a copy of the paper to the representative; or

(2) Mailing a copy of the paper by first-class mail or "Express Mail" to an address designated in writing by the representative; or

(3) Any other method mutually agreeable to the respondent and the representative.

(d) Each paper filed in a disciplinary proceeding shall contain therein a certificate of service indicating:

(1) The date on which service was made and

(2) The method by which service was made.

(e) The administrative law judge or the Commissioner may require that a paper be served by hand or by "Express Mail."

(f) Service by mail is completed when the paper mailed in the United States is placed into the custody of the U.S. Postal Service.

§ 10.143 Motions.

Motions may be filed with the administrative law judge. The administrative law judge will determine on a case-by-case basis the time period for response to a motion and whether replies to responses will be authorized. No motion shall be filed with the administrative law judge unless such motion is supported by a written statement by the moving party that the moving party or attorney for the moving party has conferred with the opposing party or attorney for the opposing party in an effort in good faith to resolve by agreement the issues raised by the motion and has been unable to reach agreement. If issues raised by a motion are resolved by the parties prior to a decision on the motion by the administrative law judge, the parties shall promptly notify the administrative law judge.

§ 10.144 Hearings.

(a) The administrative law judge shall preside at hearings in disciplinary proceedings. Hearings will be stenographically recorded and transcribed and the testimony of witnesses will be received under oath or affirmation. The administrative law judge shall conduct hearings in accordance with 5 U.S.C. 556. A copy of the transcript of the hearing shall become part of the record. A copy of the transcript shall be provided to the Director and the respondent at the expense of the Office.

(b) If the respondent to a disciplinary proceeding fails to appear at the hearing after a notice of hearing has been given by the administrative law judge, the administrative law judge may deem the respondent to have waived the right to a hearing and may proceed with the hearing in the absence of the respondent.

(c) A hearing under this section will not be open to the public except that the Director may grant a request by a respondent to open his or her hearing to the public and make the record of the disciplinary proceeding available for public inspection, *provided*, Agreement is reached in advance to exclude from public disclosure information which is privileged or confidential under applicable laws or regulations. If a disciplinary proceeding results in disciplinary action against a practitioner, and subject to § 10.159(c), the record of the entire disciplinary proceeding, including any settlement agreement, will be available for public inspection.

§ 10.145 Proof; variance; amendment of pleadings.

In case of a variance between the evidence and the allegations in a complaint, answer, or reply, if any, the administrative law judge may order or authorize amendment of the complaint, answer, or reply to conform to the evidence. Any party who would otherwise be prejudiced by the amendment will be given reasonable opportunity to meet the allegations in the complaint, answer, or reply, as amended, and the administrative law judge shall make findings on any issue presented by the complaint, answer, or reply as amended.

§§ 10.146–10.148 [Reserved]

§ 10.149 Burden of proof.

In a disciplinary proceeding, the Director shall have the burden of proving his or her case by clear and convincing evidence and a respondent shall have the burden of proving any affirmative defense by clear and convincing evidence.

§ 10.150 Evidence.

(a) *Rules of evidence.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings in disciplinary proceedings. However, the administrative law judge shall exclude

evidence which is irrelevant, immaterial, or unduly repetitious.

(b) *Depositions.* Depositions of witnesses taken pursuant to § 10.151 may be admitted as evidence.

(c) *Government documents.* Official documents, records, and papers of the Office are admissible without extrinsic evidence of authenticity. These documents, records and papers may be evidenced by a copy certified as correct by an employee of the Office.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions the administrative law judge deems appropriate.

(e) *Objections.* Objections to evidence will be in short form, stating the grounds of objection. Objections and rulings on objections will be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

§ 10.151 Depositions.

(a) Depositions for use at the hearing in lieu of personal appearance of a witness before the administrative law judge may be taken by respondent or the Director upon a showing of good cause and with the approval of, and under such conditions as may be deemed appropriate by, the administrative law judge. Depositions may be taken upon oral or written questions, upon not less than ten days written notice to the other party, before any officer authorized to administer an oath or affirmation in the place where the deposition is to be taken. The requirement of ten days notice may be waived by the parties and depositions may then be taken of a witness and at a time and place mutually agreed to by the parties. When a deposition is taken upon written questions, copies of the written questions will be served upon the other party with the notice and copies of any written cross-questions will be served by hand or "Express Mail" not less than five days before the date of the taking of the deposition unless the parties mutually agree otherwise. A party on whose behalf a deposition is taken shall file a copy of a transcript of the deposition signed by a court reporter with the administrative law judge and shall serve one copy upon the opposing party. Expenses for a court reporter and preparing, serving, and filing depositions shall be borne by the party at whose instance the deposition is taken.

(b) When the Director and the respondent agree in writing, a deposition of any witness who will appear voluntarily may be taken under such terms and condition as may be mutually agreeable to the Director and the respondent. The deposition shall not be filed with the administrative law judge and may not be admitted in evidence before the administrative law judge unless he or she orders the deposition admitted in evidence. The admissibility of the deposition shall lie within the discretion of the administrative law judge who may reject the deposition on any reasonable basis including the fact that demeanor is involved and that the witness should have been called to appear personally before the administrative law judge.

§ 10.152 Discovery.

Discovery shall not be authorized except as follows:

(a) After an answer is filed under § 10.136 and when a party establishes in a clear and convincing manner that discovery is necessary and relevant, the administrative law judge, under such conditions as he or she deems appropriate, may order an opposing party to:

(1) Answer a reasonable number of written requests for admission or interrogatories;

(2) Produce for inspection and copying a reasonable number of documents; and

(3) Produce for inspection a reasonable number of things other than documents.

(b) Discovery shall not be authorized under paragraph (a) of this section of any matter which:

(1) Will be used by another party solely for impeachment or cross-examination;

(2) Is not available to the party under 35 U.S.C. § 122;

(3) Relates to any disciplinary proceeding commenced in the Patent and Trademark Office prior to March 8, 1985;

(4) Relates to experts except as the administrative law judge may require under paragraph (e) of this section.

(5) Is privileged; or

(6) Relates to mental impressions, conclusions, opinions, or legal theories of any attorney or other representative of a party.

(c) The administrative law judge may deny discovery requested under paragraph (a) of this section if the discovery sought:

(1) Will unduly delay the disciplinary proceeding;

(2) Will place an undue burden on the party required to produce the discovery sought; or

(3) Is available (i) generally to the public, (ii) equally to the parties; or (iii) to the party seeking the discovery through another source.

(d) Prior to authorizing discovery under paragraph (a) of this section, the administrative law judge shall require the party seeking discovery to file a motion (§ 10.143) and explain in detail for each request made how the discovery sought is necessary and relevant to an issue actually raised in the complaint or the answer.

(e) The administrative law judge may require parties to file and serve, prior to any hearing, a pre-hearing statement which contains:

(1) A list (together with a copy) of all proposed exhibits to be used in connection with a party's case-in-chief,

(2) A list of proposed witnesses,

(3) As to each proposed expert witness:

(i) An identification of the field in which the individual will be qualified as an expert;

(ii) A statement as to the subject matter on which the expert is expected to testify; and

(iii) A statement of the substance of the facts and opinions to which the expert is expected to testify,

(4) The identity of government employees who have investigated the case, and

(5) Copies of memoranda reflecting respondent's own statements to administrative representatives.

(f) After a witness testifies for a party if the opposing party requests, the party may be required to produce, prior to cross-examination, any written statement made by the witness.

§ 10.153 Proposed findings and conclusions; post-hearing memorandum.

Except in cases when the respondent has failed to answer the complaint, the administrative law judge, prior to making an initial decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and a post-hearing memorandum in support of the proposed findings and conclusions.

§ 10.154 Initial decision of administrative law judge.

(a) The administrative law judge shall make an initial decision in the case. The decision will include (a) a statement of findings and conclusions, as well as the reasons or basis therefore with appropriate references to the record, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of suspension or exclusion from practice, an order of reprimand, or an order dismissing the complaint. The administrative law judge shall file the decision with the Director and shall transmit a copy to the

representative of the Director and to the respondent. In the absence of an appeal to the Commissioner, the decision of the administrative law judge will, without further proceedings, become the decision of the Commissioner of Patents and Trademarks thirty (30) days from the date of the decision of the administrative law judge.

(b) The initial decision of the administrative law judge shall explain the reason for any penalty or reprimand, suspension or exclusion. In determining any penalty, the following should normally be considered:

(1) The public interest;

(2) The seriousness of the violation of the Disciplinary Rule;

(3) The deterrent effects deemed necessary; and

(4) The integrity of the legal profession; and

(5) Any extenuating circumstances.

§ 10.155 Appeal to the Commissioner.

(a) Within thirty (30) days from the date of the initial decision of the administrative law judge under § 10.154, either party may appeal to the Commissioner. An appeal by the respondent will be filed with the Director in duplicate and will include exceptions to the decisions of the administrative law judge and supporting reasons for those exceptions. If the Director files the appeal, the Director shall serve a copy of the appeal. Within thirty (30) days after receipt of an appeal or copy thereof, the other party may file a reply brief, in duplicate with the Director. If the Director files the reply brief, the Director shall serve a copy of the reply brief. Upon the filing of an appeal and a reply brief, if any, the Director shall transmit the entire record to the Commissioner.

(b) The appeal will be decided by the Commissioner on the record made before the administrative law judge.

(c) The Commissioner may order reopening of a disciplinary proceeding in accordance with the principles which govern the granting of new trials. Any request to reopen a disciplinary proceeding on the basis of newly discovered evidence must demonstrate that the newly discovered evidence could not have been discovered by due diligence.

§ 10.156 Decision of the Commissioner.

(a) An appeal from an initial decision of the administrative law judge shall be decided by the Commissioner. The Commissioner may affirm, reverse, or modify the initial decision or remand the matter to the administrative law judge for such further proceedings as the Commissioner may deem appropriate. Entry of a decision by the Commissioner is a final agency action in a disciplinary proceeding. In making a final decision, the Commissioner shall review the record or those portions of the record as may be cited by the parties in order to limit the issues. The Commissioner shall transmit a copy of the final decision to the Director and to the respondent.

(b) A final decision of the Commissioner may dismiss a disciplinary proceeding, reprimand a practitioner, or may suspend or exclude the practitioner from practice before the Office.

§ 10.157 Review of Commissioner's final decision.

(a) Review of the Commissioner's final decision in a disciplinary case may be had by a petition filed in the United States District Court for the District of Columbia. See 35 U.S.C. 32 and Local Rule 1–26 of the United States District Court for the District of Columbia.

(b) The Commissioner may stay a final decision pending review of the Commissioner's final decision.

§ 10.158 Suspended or excluded practitioner.

(a) A practitioner who is suspended or excluded from practice before the Office under § 10.156(b) shall not engage in unauthorized practice of patent, trademark and other non-patent law before the Office.

(b) Unless otherwise ordered by the Commissioner, any practitioner who is suspended or excluded from practice before the Office under § 10.156(b) shall:

(1) Within 30 days of entry of the order of suspension or exclusion, notify all bars of which he or she is a member and all clients of the practitioner for whom he or she is handling matters before the Office in separate written communications of the suspension or exclusion and shall file a copy of each written communication with the Director.

(2) Within 30 days of entry of the order of suspension or exclusion, surrender a client's active Office case files to (i) the client or (ii) another practitioner designated by the client.

(3) Not hold himself or herself out as authorized to practice law before the Office.

(4) Promptly take any necessary and appropriate steps to remove from any telephone, legal, or other directory any advertisement, statement, or representation which would reasonably suggest that the practitioner is authorized to practice patent, trademark or other non-patent law before the Office, and within 30 days of taking those steps, file with the Director an affidavit describing the precise nature of the steps taken.

(5) Not advertise the practitioner's availability or ability to perform or render legal services for any person having immediate, prospective, or pending business before the Office.

(6) Not render legal advice or services to any person having immediate, prospective, or pending business before the Office as to that business.

(7) Promptly take steps to change any sign identifying a practitioner's or the practitioner's firm's office and the practitioner's or the practitioner's firm's stationery to delete therefrom any advertisement, statement, or representation which would reasonably suggest that the practitioner is authorized to practice law before the Office.

(8) Within 30 days, return to any client any unearned funds, including any unearned retainer fee, and any securities and property of the client.

(c) A practitioner who is suspended or excluded from practice before the Office and who aids another practitioner in any way in the other practitioner's practice of law before the Office, may, under the direct supervision of the other practitioner, act as a para-legal for the other practitioner or perform other services for the other practitioner which are normally performed by lay-persons, *provided:*

(1) The practitioner who is suspended or excluded is:

(i) A salaried employee of:

(A) The other practitioner;

(B) The other practitioner's law firm; or

(C) A client-employer who employs the other practitioner as a salaried employee;

(2) The other practitioner assumes full professional responsibility to any client and the Office for any work performed by the suspended or excluded practitioner for the other practitioner;

(3) The suspended or excluded practitioner, in connection with any immediate, prospective, or pending business before the Office, does not:

(i) Communicate directly in writing, orally, or otherwise with a client of the other practitioner;

(ii) Render any legal advice or any legal services to a client of the other practitioner; or

(iii) Meet in person or in the presence of the other practitioner with:

(A) Any Office official in connection with the prosecution of any patent, trademark, or other case;

(B) Any client of the other practitioner, the other practitioner's law

firm, or the client-employer of the other practitioner;

(c) Any witness or potential witness which the other practitioner, the other practitioner's law firm, or the other practitioner's client-employer may or intends to call as a witness in any proceeding before the Office. The term "witness" includes individuals who will testify orally in a proceeding before, or sign an affidavit or any other document to be filed in, the Office.

(d) When a suspended or excluded practitioner acts as a para-legal or performs services under paragraph (c) of this section, the suspended or excluded practitioner shall not thereafter be reinstated to practice before the Office unless:

(1) The suspended or excluded practitioner shall have filed with the Director an affidavit which (i) explains in detail the precise nature of all para-legal or other services performed by the suspended or excluded practitioner and (ii) shows by clear and convincing evidence that the suspended or excluded practitioner has complied with the provisions of this section and all Disciplinary Rules, and

(2) The other practitioner shall have filed with the Director a written statement which (i) shows that the other practitioner has read the affidavit required by subparagraph (d)(1) of this section and that the other practitioner believes every statement in the affidavit to be true and (ii) states why the other practitioner believes that the suspended or excluded practitioner has complied with paragraph (c) of this section.

§ 10.159 Notice of suspension or exclusion.

(a) Upon issuance of a final decision reprimanding a practitioner or suspending or excluding a practitioner from practice before the Office, the Director shall give notice of the final decision to appropriate employees of the Office and to interested departments, agencies, and courts of the United States. The Director shall also give notice to appropriate authorities of any State in which a practitioner is known to be a member of the bar and any appropriate bar association.

(b) The Director shall cause to be published in the *Official Gazette* the name of any practitioner suspended or excluded from practice. Unless otherwise ordered by the Commissioner, the Director shall publish in the *Official Gazette* the name of any practitioner reprimanded by the Commissioner.

(c) The Director shall maintain records, which shall be available for public inspection, of every disciplinary proceeding where a practitioner is reprimanded, suspended, or excluded unless the Commissioner orders that the proceeding be kept confidential.

§ 10.160 Petition for reinstatement.

(a) A petition for reinstatement of a practitioner suspended for a period of less than five years will not be considered until the period of suspension has passed.

(b) A petition for reinstatement of a practitioner excluded from practice will not be considered until five years after the effective date of the exclusion.

(c) An individual who has resigned under § 10.133 or who has been suspended or excluded may file a petition for reinstatement. The Director may grant a petition for reinstatement when the individual makes a clear and convincing showing that the individual will conduct himself or herself in accordance with the regulations of this part and that granting a petition for reinstatement is not contrary to the public interest. As a condition to reinstatement, the Director may require the individual to:

(1) Meet the requirements of § 10.7, including taking and passing an examination under § 10.7(b) and

(2) Pay all or a portion of the costs and expenses, not to exceed $1,500, of the disciplinary proceeding which led to suspension or exclusion.

(d) Any suspended or excluded practitioner who has violated the provisions of § 10.158 during his or her period of suspension or exclusion shall not be entitled to reinstatement until such time as the Director is satisfied that a period of suspension equal in time to that ordered by the Commissioner or exclusion for five years has passed during which the suspended or excluded practitioner has complied with the provisions of § 10.158.

(e) Proceedings on any petition for reinstatement shall be open to the public. Before reinstating any suspended or excluded practitioner, the Director shall publish in the *Official Gazette* a notice of the suspended or excluded practitioner's petition for reinstatement and shall permit the public a reasonable opportunity to comment or submit evidence with respect to the petition for reinstatement.

§ 10.161 Savings clause.

(a) A disciplinary proceeding based on conduct engaged in prior to the effective date of these regulations may be instituted subsequent to such effective date, if such conduct would continue to justify suspension or exclusion under the provisions of this part.

(b) No practitioner shall be subject to a disciplinary proceeding under this part based on conduct engaged in before the effective date hereof if such conduct would not have been subject to disciplinary action before such effective date.

10.162–10.169 [Reserved]

10.170 Suspension of rules.

(a) In an extraordinary situation, when justice requires, any requirement of the regulations of this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of any party, including the Director or the Director's representative, subject to such other requirements as may be imposed.

(b) Any petition under this section will not stay a disciplinary proceeding unless ordered by the Commissioner or an administrative law judge.

Dated: December 21, 1984.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

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Part III

Environmental Protection Agency

40 CFR Part 61

National Emission Standards for Hazardous Air Pollutants; Standards for Radionuclides; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2764-7]

National Emission Standards for Hazardous Air Pollutants; Standards for Radionuclides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rules.

SUMMARY: On April 6, 1983, the Environmental Protection Agency, pursuant to Section 112 of the Clean Air Act, published in the **Federal Register** proposed standards for sources of emissions of radionuclides to air. These included the following source categories: (1) Department of Energy (DOE) facilities; (2) Nuclear Regulatory Commission (NRC)-licensed facilities and non-DOE Federal facilities; (3) elemental phosphorus plants; and (4) underground uranium mines. Subsequently, on October 23, 1984, the Agency withdrew its proposed standards for the first three source categories on the grounds that current emission control and operational practices provide an ample margin of safety in protecting the public health from the hazards associated with exposure to airborne radionuclides from these sources. EPA continues to believe existing emissions from these sources are so low that the public health is already protected with an ample margin of safety, even without regulations. EPA also concluded it was impossible at the time to issue a legally valid final standard for uranium mines.

However, the U.S. District Court for the Northern District of California has ordered the Agency to either promulgate standards for the first three source categories by January 10, 1985, or to find that radionuclides are clearly not a hazardous pollutant, in essence "delisting" the pollutant from regulatory consideration under Section 112 of the Act. EPA believes that this order exceeds the District Court's jurisdiction and is appealing it to the Court of Appeals for the Ninth Circuit. As set forth in its withdrawal decision, EPA believes that, although emission levels from these three source categories are not hazardous, radionuclides cannot properly be delisted under Section 112 because radionuclide emissions from uranium mines appear to reach hazardous levels that warrant regulation. Under the provisions of the Court's order, however, the Agency is nonetheless required to issue standards governing these three source categories. Accordingly, the Agency is promulgating final rules for DOE facilities, NRC-licensed and non-DOE Federal facilities, and elemental phosphorus plants. EPA continues to believe that its original position was correct and intends to pursue its appeal of the District Court's order. The Court also ordered EPA to promulgate final standards for underground uranium mines. EPA expects to promulgate these standards by April 10, 1985, the date specified in the Court order.

EFFECTIVE DATE: Final rules are effective on February 6, 1985. For existing sources, the standards shall not apply until 90 days after the effective date.

The information collection requirements contained in 40 CFR 61.94, 61.95, 61.96, 61.97, 61.104, 61.105, 61.107, 61.108, 61.123, 61.124, 61.125, 61.126, and, as they apply to radionuclide sources, 61.07, 61.09, 61.10, and 61.13 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them.

ADDRESSES: The rulemaking record is contained in Docket No. A-79-11. This docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery One, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: James M. Hardin, Environmental Standards Branch (ANR-460), Criteria and Standards Division, Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557-8977.

SUPPLEMENTARY INFORMATION:

I. Supporting Documents

A final Background Information Document has been prepared and single copies may be obtained by writing the Program Management Office, Office of Radiation Programs (ANR-458), U.S. Environmental Protection Agency, Washington, D.C. 20460, or by calling (703) 557-9351. Please refer to "NESHAPS—Radionuclides: Background Information Document for Final Rules, Volumes 1 and 2, [EPA 520/1-84-022-1, EPA 520/1-84-022-2], October 1984. Volume 1 of the Background Information Document contains a complete description of the Agency's methodology used in its risk assessment of the hazards associated with airborne emissions of radionuclides. Volume 2 contains a description of how the Agency applied this methodology to each source category subject to this rulemaking.

The Agency has also prepared a final economic analysis of the impact of its standards on the elemental phosphorus industry, entitled "Regulatory Impact Analysis of Environmental Standards for Elemental Phosphorus Plants" [EPA 520/1-84-025], October 1984. In addition, a final report on control technology for radionuclide emissions to air at DOE facilities has been completed and is entitled "Control Technology for Radioactive Emissions to the Atmosphere at U.S. Department of Energy Facilities" [PNL-4621], October 1984. Single copies of both reports may be obtained from the Program Management Office, Office of Radiation Programs.

The Agency's decision to withdraw its proposed standards for radionuclide emissions from elemental phosphorus plants, DOE facilities, and NRC-licensed and non-DOE Federal facilities was published in the **Federal Register** on October 31, 1984 (43906). The notice contains a complete history of the rulemaking up to the withdrawal action, a summary of the major issues raised in public comments and the Agency's responses, alternatives considered, and the Agency's rationale for its decision to withdraw the proposed standards. Single copies of this document may be obtained by contacting the Program Management Office, Office of Radiation Programs.

II. History of Standards Development

On April 6, 1983, EPA announced in the **Federal Register** its proposed standards for sources of emissions of radionuclides from four categories: (1) DOE facilities; (2) NRC-licensed facilities and non-DOE Federal facilities; (3) elemental phosphorus plants; and (4) underground uranium mines. The notice also identified several additional source categories which emit radionuclides. However, the Agency concluded that good reasons existed to propose not to regulate these categories, which included: (1) coal-fired boilers; (2) the phosphate industry; (3) other extraction industries; (4) uranium fuel cycle facilities, uranium mill tailings, and management of high-level radioactive waste; and (5) low energy accelerators (48 FR 15076, April 6, 1983). At the time of proposal, these nine source categories were considered to be all that might potentially release radionuclides to air at levels that could warrant regulatory attention.

On February 17, 1984, the Sierra Club filed suit to compel final action in the U.S. District Court for the Northern

District of California, pursuant to the citizens' suit provision of the Act (*Sierra Club* v. *Ruckelshaus*, No. 84-0656 WHO). On July 25, 1984, the Court granted Sierra Club's summary judgment motion and ordered EPA to promulgate standards or make a finding that radionuclides are not a hazardous air pollutant within 90 days of the date of the order.

On October 23, 1984, EPA withdrew its proposed standards for radionuclide emissions from the following categories: (1) elemental phosphorus plants; (2) DOE facilities; (3) NRC-licensed facilities and non-DOE Federal facilities; and (4) underground uranium mines. The Agency also affirmed its original decision not to regulate emissions from the five other source categories considered (49 FR 43906, October 31, 1984). The proposed standards for the first three categories were withdrawn because the Administrator determined that current practice provides an ample margin of safety in protecting the public health from the hazards associated with exposure to radionuclides from these sources.

In the case of underground uranium mines, the Administrator withdrew the proposed standard because it did not meet the legal requirements of section 112 of the Clean Air Act. Simultaneous with this action, the Agency published an Advance Notice of Proposed Rulemaking for radon-222 emissions from underground uranium mines to solicit additional information on control methods such as bulkheading and other forms of operational controls for radon-222 which would meet the legal requirements of section 112 (49 FR 43915, October 31, 1984).

On October 31, 1984, the U.S. District Court, Northern District of California issued an order requiring the Administrator and the Agency to show cause why they should not be held in contempt of the Court's July 25 order. A Court hearing was held on November 21, 1984, to consider the issue. In a ruling on December 11, 1984, the Court found the Administrator and the Agency in contempt and ordered the following remedial action:

1. (a) Issue within 30 days of the date of the order final radionuclide emission standards for DOE facilities, NRC-licensed and non-DOE Federal facilities, and elemental phosphorus plants, and

(b) Issue within 120 days of the date of the order final radionuclide emission standards for uranium mines; or

2. Make a finding based on the information presented at hearings during the rulemaking, that radionuclides are clearly not a hazardous pollutant.

On December 21, 1984, EPA requested a stay of the District Court's order; this request was denied on January 3, 1985. The Agency subsequently requested a stay from the 9th Circuit Court of Appeals on January 8, 1985. This request was also denied. However, the Court did allow the Agency an additional seven days to provide time for further appeal to the U.S. Supreme Court. These efforts also failed. Therefore, to comply with the District Court's EPA is promulgating standards for radionuclide emissions to air from DOE facilities, NRC-licensed and non-DOE Federal facilities, and elemental phosphorus plants. Litigation regarding these three standards is continuing.

III. Summary of Decision

As stated above, EPA withdrew proposed standards for the three categories that are the subject of this notice based on the judgment that emissions from these source categories are presently controlled at levels that provide an ample margin of safety in protecting public health from the hazards associated with exposure to airborne radionuclides. In reaching this judgment, EPA considered the available evidence, including public comments on its proposed standards and information developed since that proposal.

In the case of DOE facilities and NRC-licensed and non-DOE Federal facilities, the risk was judged too small to warrant regulation. Since the beginning of regulation under section 112, EPA has interpreted this section as not requiring regulation in cases where the risks from a category of sources do not exceed a certain minimum threshold. Indeed, contrary interpretations lead to results that are hard to defend from any logical or policy perspective. The risks presented by radionuclide emissions from these source categories are not as great as risks that EPA has found insufficient to trigger regulation in prior rulemakings under section 112. The health gains from regulation, as represented by the difference between the risk before and after regulation, are smaller still.

In the case of elemental phosphorus plants, the risks are also very small. In addition, the cost of controls compared to the amount that the risk is reduced is far higher than EPA has imposed in prior regulatory decisions under section 112.

At the same time, EPA believed that radionuclides could not properly be delisted because a fourth category of sources, uranium mines, did emit radionuclides in amounts that appeared to warrant regulation.

None of these circumstances has changed since October 23. EPA continues to believe that its original position was correct and hopes that future litigation will permit the Agency to return to that position. However, the District Court's December 11 order and the subsequent denials of stays, compel issuance of standards for these three categories absent a decision by EPA to delist radionuclides. For the reasons discussed in detail in the Advance Notice of Proposed Rulemaking for underground uranium mines and the **Federal Register** notice published on October 31, EPA cannot conclude that radionuclides are clearly not hazardous, and thereby delist.

The standards established today limit radionuclide emissions from DOE facilities to an amount that causes a dose equivalent rate of 25 mrem/y to the whole body or a dose equivalent rate of 75 mrem/y to the critical organ of any member of the public. This standard excludes doses due to radon-220, radon-222, and their respective decay products. For NRC-licensed and non-DOE Federal facilities, EPA is promulgating a standard which limits radionuclide emissions from these facilities to an amount that causes a dose equivalent rate of 25 mrem/y to the whole body or a dose equivalent rate of 75 mrem/y to the critical organ of any member of the public. This standard also excludes doses due to radon-220, radon-222, and their respective decay products. EPA will grant a waiver of the limits of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public and issue alternative standards, if a facility operator demonstrates that no member of the public will receive a continuous exposure of more than 100 mrem/y effective dose equivalent and a noncontinuous exposure of more than 500 mrem/y effective dose equivalent from all sources, excluding natural background and medical procedures. In the case of elemental phosphorus plants, EPA is promulgating a standard which limits the total emissions of polonium-210 from calciners and nodulizing kilns at these plants to 21 Ci/y. These limits will assure that emissions do not increase over present levels.

IV. Rationale for Standards

A. Department of Energy Facilities

The DOE administers many government-owned, contractor-operated facilities that emit readionuclides to the air. Operations at these facilities include research and development, production of nuclear weapons, enrichment of uranium and production of plutonium for nuclear weapons and reactors, and

processing, storing, and disposing of radioactive wastes. These facilities are on large sites, some of which cover hundreds of square miles in remote areas, and are located in about 20 different states. Some smaller facilities resemble typical industrial sites and are located in suburban areas.

The Agency estimates that the total population risk from radionuclide emissions to air from all DOE facilities is about 0.07 fatal cancer cases per year, or one case every 14 years. The risk to nearby individuals exposed to the most concentrated of the plants' emission is about one in ten thousand to seven in ten thousand.

DOE facilities currently operate under a policy of keeping radionuclide emissions "as low as reasonably achievable" (ALARA). This policy has generally led to low emissions from most facilities and EPA expects that this current policy will continue.

The Agency is promulgating a final standard that will limit radionuclide emissions to air from DOE facilities to that amount which will cause a dose equivalent of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. These limits generally reflect current emission levels achieved by existing control technology and operating practices at DOE facilities.

This final rule does not apply to radon-220, radon-222 and their respective decay products. These radionuclides are exempted because the Agency currently has very little information regarding the emissions of these radionuclides from DOE facilities. However, available information suggests that the DOE facilities that are covered by this standard are likely only to have relatively small total quantities of materials containing radium-224 and radium-226, the sources of radon-220 and radon-222, respectively. The quantities of these materials will be much smaller than uranium mill tailings piles, for example. In practice, EPA expects DOE will seal up all significant sources of radon emissions to air or take other appropriate control action as part of their ALARA program. In addition, it would not be appropriate to establish a dose equivalent standard for radon-220 and radon-222 because radon decay products cause exposure primarily to only a small part of the lung—the bronchial epithelia cells. Such an exposure cannot be accurately expressed as a dose equivalent to the lung.

For DOE facilities that exceed the limits of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public, EPA will issue alternative standards, if DOE demonstrates that no member of the public will receive a continuous exposure of more than 100 mrem/y effective dose equivalent and a noncontinuous exposure of more than 500 mrem/y effective dose equivalent from all sources, excluding natural background and medical procedures. This provision applies to those specific DOE facilities where emissions may exceed the limits of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. These provisions embody the recommendations of the National Council on Radiation Protection and Measurements for exposure to external radiation ("Control of Air Emissions of Radionuclides," National Council on Radiation Protection and Measurements, September 18, 1984).

B. Nuclear Regulatory Commission-Licensed Facilities and Non-DOE Federal Facilities

NRC-licensed and non-DOE Federal facilities include research and test reactors, shipyards, the radiopharmaceutical industry, and other research and industrial facilities. This category includes both facilities licensed by NRC and facilities licensed by a State under an agreement with NRC. These facilities number in the thousands and are located in all fifty States. Uranium fuel cycle facilities are not included because radionuclide emissions from these facilities are limited by standards promulgated previously by EPA (40 CFR Part 190).

The Agency estimates that the total population risk from radionuclide emissions to air from all NRC-licensed facilities and non-DOE Federal facilities is no more than 0.001 fatal cancer case per year, or one case every one thousand years. The risk to nearby individuals exposed to the most concentrated of the plants' emissions is about two in one hundred thousand.

The NRC and all non-DOE Federal facilities currently operate under a policy of keeping radionuclide emissions "as low as reasonably achievable" (ALARA). This policy has generally led to low emissions from most facilities and the Agency expects that this policy will continue.

The Agency is promulgating a final standard that will limit radionuclide emissions to air from these facilities to that amount which will cause a dose equivalent of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. These limits reflect current emission levels achieved by existing control technology and operating practices at NRC-licensed facilities and non-DOE Federal facilities.

This standard, similarly, does not apply to radon-220, radon-222, and their respective decay products. Facilities covered by this standard are likely only to have relatively small quantities of the sources of these radionuclides and are expected to take appropriate control action to limit emissions as part of the NRC's ALARA program.

For facilities that exceed the limits of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public, EPA will issue alternative standards, if a facility operator demonstrates that no member of the public will receive a continuous exposure of more than 100 mrem/y effective dose equivalent and a noncontinuous exposure of more than 500 mrem/y effective dose equivalent from all sources, excluding natural background and medical procedures. This provision applies to those specific NRC-licensed and non-DOE Federal facilities where emissions may exceed 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. These provisions embody the recommendations of the National Council on Radiation Protection and Measurements for exposure to external radiation ("Control of Air Emissions of Radionuclides," National Council on Radiation Protection and Measurements, September 18, 1984).

After reviewing comments, EPA has concluded that the great majority of NRC-licensed facilities are licensed to possess such small quantities of radionuclides, that even given the most conservative assumptions, they are unlikely to emit radionuclides at a level that would violate the standard during normal operation. Therefore, these facility owners will not be required to submit an initial report (40 CFR 61.10). EPA has established a simple procedure (40 CFR 61.106) to exempt most of these licensees from the initial reporting requirements of the Clean Air Act. EPA expects that all but a few (less than 100) facilities licensed by the NRC could make use of this exemption; the remainder are major facilities using large amounts of radionuclides. Radiation safety personnel at these facilities are expected to have the skill necessary to demonstrate compliance.

Many facilities are licensed by NRC to obtain and use sealed sources of radionuclides. Such sources have no potential to routinely release radionuclides to air and have, therefore, been exempted from this final rule. In addition, low energy accelerators have

been exempted because EPA concluded that emissions from these sources are negligible (49 FR 43906, October 31, 1984).

C. Elemental Phosphorus Plants

There are six elemental phosphorus plants in the United States which process phosphate rock into elemental phosphorus that is used in the production of phosphoric acid, phosphate-based detergents, and organic chemicals. Some of the uranium decay products, polonium-210 and lead-210, contained in the phosphate rock are volatilized by the high temperatures in the plant calciners.

The Agency estimates that the total population risk from radionuclide emissions to air from all elemental phosphorus plants in about 0.06 fatal cancer cases per year, or one case every seventeen years. The risk to nearby individuals exposed to the most concentrated of the plants' emissions is about one in one thousand.

The Agency is promulgating a standard which limits the total emissions of polonium-210 from calciners and nodulizing kilns at these plants to 21 Ci/y. This standard reflects current emission levels achieved by existing control technology and operating practices at elemental phosphorus plants.

The areas surrounding two plants, the FMC plant in Pocatello, Idaho, and the Monsanto plant in Soda Springs, Idaho, are characterized by high total levels of radiation from a variety of sources. The storage and widespread use of slag and possibly other waste products from these plants have significantly increased the natural background radiation levels in parts of the communities. In particular, phosphate slag from these plants has been widely used as aggregate in road and house construction in these areas. EPA and the State of Idaho will initiate a total assessment of the various sources and will investigate ways to reduce or prevent risks from growing.

V. Miscellaneous

A. Docket

The docket is an organized and complete file of all information considered by EPA in the development of the standards. The docket allows interested persons to identify and locate documents so they can effectively participate in the rulemaking process. It also serves as the record for judicial review.

Transcripts of the hearings, all written statements, the Agency's response to comments, and other relevant documents have been placed in the docket and are available for inspection and copying during normal working hours.

B. General Provisions

The general provisions of 40 CFR Part 61, Subpart A apply to all sources regulated by this rule.

C. State Implementation of Enforcement and Emission Standards

Under section 112(d)(1) of the Act, any State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds a State's procedure for implementing the standard adequate, the Federal authority then is delegated to the State. To streamline this procedure, some of EPA's Regional offices have entered into agreements with certain States for "automatic" delegation of new section 112 standards. Under this arrangement, States are delegated authority to implement and enforce all new section 112 standards when they are issued.

The Agency has decided that "automatic" delegation shall not be made for the radionuclide final rules. When EPA entered into these agreements, the State's capabilities and expertise with respect to radionuclides were not considered. Therefore, States must reapply for delegation in the case of radionuclide final rules.

D. Measurement Techniques and Waivers of Compliance

The Agency recognizes that today's notice does not contain descriptions of EPA's approved measurement techniques for measuring emissions and estimating dose. The Agency will publish a list shortly of methods it believes suitable for the purpose of implementing its final rules for DOE facilities and NRC-licensed and non-DOE Federal facilities. Owners of such facilities are invited to submit procedures for inclusion on this list of Agency approved procedures. Submissions should be sent to the Director, Criteria and Standards Division (ANR-460), Office of Radiation Programs, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

This rule is effective immediately for new sources and after 90 days for existing facilities. Those facilities that are not in compliance with the final rule based on information currently available to them and who may wish to request a waiver from the Administrator under the provisions of section 112(c)(1) shall follow the procedures established under § 61.10 for waiver of compliance, as modified in this rule.

E. Communications

Communications with the Administrator regarding the reporting and recordkeeping requirements of this rule, as well as requests for waivers, shall follow the provisions of § 61.10, except as otherwise noted in this rule.

F. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, requires that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as defined in section 1(b) of the Executive Order because the annual effect of the rule on the economy will be less than $100 million. Also, it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region. Further, it will not result in any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. Under Executive Order 12291, this regulation was submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response to those comments are included in the docket.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980 U.S.C. 3501, *et seq.*, the information collection provisions in this rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approves them. A notice of that approval will be published in the **Federal Register**. Further, EPA will not require reporting until it publishes the list of acceptable measurement techniques described in §§ 61.93 and 61.103.

H. Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" in connection with any rulemaking for which there is a statutory requirement that a general notice of proposed rulemaking be published. The "initial regulatory flexibility analysis" describes the effect of the proposed rule on small business entities.

However, section 604(b) of the Regulatory Flexibility Act provides that section 603 "shall not apply to any proposed . . . rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA believes that virtually all small businesses covered by this final rule already comply. Therefore, this rule will have little or no impact on small businesses. A small business is one that has 750 employees or fewer.

For the preceding reasons, I certify that this rule will not have significant economic impact on a substantial number of small entities.

I. Judicial Review

Judicial review of these standards is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of today's publication date. The requirements established in this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce them.

List of Subjects in 40 CFR Part 61

Air pollution control, Hazardous materials, Asbestos, Beryllium, Mercury, Vinyl chloride, Benzene, Arsenic, Radionuclides.

Dated: January 17, 1985.

Lee M. Thomas,

Acting Administrator.

PART 61—[AMENDED]

Part 61 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. *By adding Subparts H, I, and K to read as follows:*

Subpart H—National Emission Standard for Radionuclide Emissions From Department of Energy (DOE) Facilities

Sec.

Subpart I—National Emission Standard for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H

Sec.

* * * * *

Subpart K—National Emission Standard for Radionuclide Emissions From Elemental Phosphorus Plants

* * * * *

Authority: Secs. 112 and 301(a), Clean Air Act, as amended (42 U.S.C. 7412, 7601(a)).

Subpart H—National Emission Standard for Radionuclide Emissions From Department of Energy (DOE) Facilities

§ 61.90 Designation of facilities.

The provisions of this subpart apply to all facilities that are owned or operated by the Department of Energy, except any facility regulated under 40 CFR Parts 190, 191, or 192.

§ 61.91 Definitions.

(a) "Dose equivalent" means the product of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body. The unit of the dose equivalent is the rem.

(b) "Critical organ" means the most exposed human organ or tissue exclusive of the integumentary system (skin) and the cornea.

(c) "Radionuclide" means any nuclide that emits radiation. (A nuclide is a species of atom characterized by the constitution of its nucleus and hence by the number of protons, the number of neutrons, and the energy content.)

(d) "Whole body" means all human organs or tissue exclusive of the integumentary system (skin) and the cornea.

(e) "Effective dose equivalent" means the sum of the products of the dose equivalents to individual organs and tissues and appropriate weighing factors representing the risk relative to that for an equal dose to the whole body.

§ 61.92 Emission standard.

Emissions of radionuclides to air from DOE facilities shall not exceed those amounts that cause a dose equivalent of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. Doses due to radon-220, radon-222, and their respective decay products are excluded from these limits.

§ 61.93 Emission monitoring and compliance procedures.

To determine compliance with the standard, radionuclide emissions shall be determined and dose equivalents to members of the public shall be calculated using EPA approved sampling procedures, EPA models AIRDOS–EPA and RADRISK, or other procedures, including those based on environmental measurements, that EPA has determined to be suitable. Compliance with this standard will be determined by calculating the dose to members of the public at the point of maximum annual air concentration in an unrestricted area where any member of the public resides or abides.

List of approved methods: [Reserved]

§ 61.94 Reporting.

(a) The following provisions of § 61.10 are applicable to DOE-owned facilities: paragraphs (b)–(d).

(b) The following provisions are also applicable:

(1) The owner or operator of any existing source, or any new source to which a standard prescribed under this part is applicable which had an initial startup which preceded the effective date of a standard prescribed under this part shall, within 90 days after the effective date, provide the following information in writing to the Administrator:

(i) Name and address of the owner or operator.

(ii) The location of the source.

(iii) The types of radionuclides emitted by the stationary source and the annual quantity (in Ci/y for the most recent calendar year) of each radionuclide emitted.

(iv) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of such source. Identify each point of emission for each hazardous pollutant.

(v) Estimate of dose equivalent rate to the member of the public at the point of maximum annual air concentration in an unrestricted area where an individual resides or abides.

(vi) A description of the existing control equipment for each emission point.

(A) Primary control device(s) for radionuclide emissions.

(B) Secondary control device(s) for radionuclide emissions.

(C) Estimated control efficiency (percent) for each control device.

(vii) A statement by the owner or operator of the source as to whether he can comply with the standards prescribed in this part within 90 days of the effective date.

All information collection provisions in this subpart are not effective until the Office of Management and Budget approves them.

(c) In addition to the reporting requirements described in paragraphs (a) and (b) of this section, DOE shall submit to EPA an annual report, by June 1, 1986, and annually thereafter, that includes the results of monitoring emissions from points subject to this final rule and associated dose calculations. This information shall be based on data collected during the calendar year immediately preceding the required date of submission of the annual report. This report shall be sent to the Assistant Administrator for Air and Radiation (ANR-443), U.S. Environmental Protection Agency, Washington, D.C. 20460.

§ 61.95 Recordkeeping. [Reserved]

§ 61.96 Waiver of compliance.

To request a waiver, applicants shall provide the information required in § 61.11 and § 61.94 (a) and (b). Waiver requests shall be sent to the Assistant Administrator for Air and Radiation (ANR-443), U.S. Environmental Protection Agency, Washington, D.C. 20460.

§ 61.97 Alternative emission standards.

If a facility may exceed the values established in § 61.92, DOE may apply to EPA for an alternative emission standard. The Administrator will review such applications and will establish an appropriate alternative emission standard that will ensure that no member of the public being exposed to emissions from the facility will receive a continuous exposure of than 100 mrem/y effective dose equivalent and a noncontinuous exposure of more than 500 mrem/y effective dose equivalent from all sources, excluding natural background and medical procedures.

The application shall include the following:

(a) An assessment of the additional effective dose equivalents to the individual receiving maximum exposure from the facility due to all other sources.

(b) The information required in § 61.94.

(c) The effective dose equivalent shall be calculated using the following weighting factors:

Organ	Weighting factor
[Reserved]	[Reserved]

Requests for alternative emission standards shall be sent to the Assistant Administrator for Air and Radiation (ANR-443), U.S. Environmental Protection Agency, 401 M Street, Washington, D.C. 20460.

§ 61.98 Exemption from reporting and testing requirements of 40 CFR 61.10.

Facilities having emissions of radionuclides to air that do not exceed those amounts that cause a dose equivalent of 5 mrem/y to the whole body or 15 mrem/y to the critical organ of any member of the public residing or abiding at the point of maximum annual air concentration in an unrestricted area, are exempt from the reporting requirements of 40 CFR 61.10.

Subpart I—National Emission Standard for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H

§ 61.100 Designation of facilities.

The provisions of this subpart apply to NRC-licensed facilities and to facilities owned or operated by any Federal agency other than the Department of Energy that emit radionuclides to air. This subpart does not apply to facilities regulated under 40 CFR Parts 190, 191, or 192, to any low energy accelerator, or to any user of the sealed radiation sources.

§ 61.101 Definitions.

(a) "Agreement State" means any State with which the Atomic Energy Commission or the Nuclear Regulatory Commission has entered into an effective agreement under subsection 274(b) of the Atomic Energy Act of 1954, as amended.

(b) "Dose equivalent" means the product of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body. The unit of dose equivalent is the rem.

(c) "NRC-licensed facility" means any facility licensed by the Nuclear Regulatory Commission or any Agreement State to receive title to, receive, possess, use, transfer, or deliver any source, byproduct, or special nuclear material, except facilities regulated by 40 CFR Parts 190, 191, or 192.

(d) "Critical organ" means the most exposed human organ or tissue exclusive of the integumentary system (skin) and the cornea.

(e) "Radionuclide" means any nuclide that emits radiation. (A nuclide is a species of atom characterized by the constitution of its nucleus and hence by the number of protons, the number of neutrons, and the energy content.)

(f) "Whole body" means all organs or tissues exclusive of the integumentary system (skin) and the cornea.

(g) "Effective dose equivalent" means the sum of the products of the dose equivalents to individual organs and tissues and appropriate weighting factors representing the risk relative to that for an equal dose to the whole body.

§ 61.102 Emission standard.

Emissions of radionuclides to air from facilities subject to this subpart shall not exceed those amounts that cause a dose equivalent of 25 mrem/y to the whole body or 75 mrem/y to the critical organ of any member of the public. Doses due to radon-220, radon-222, and their respective decay products are excluded from these limits.

§ 61.103 Emission monitoring and compliance procedures.

To determine compliance with the standard, radionuclide emissions shall be determined and dose equivalent to members of the public shall be calculated using EPA-approved sampling procedures, EPA codes AIRDOS-EPA and RADRISK, or other procedures, including those based on environmental measurements, that EPA has determined to be suitable. In most cases, compliance with this standard will be determined by calculating the dose to members of the public at the point of maximum annual air concentration in an unrestricted area where any member of the public resides or abides.

List of approved procedures: [Reserved]

§ 61.104 Reporting. [Reserved]

§ 61.105 Recordkeeping. [Reserved]

§ 61.106 Exemption from reporting and testing requirements of 40 CFR 61.10.

Facilities in possession of a radionuclide in annual quantities less than the activity shown in Table 1 are exempt from the reporting requirements of 40 CFR 61.10. If a facility possesses more than one radionuclide, and the sum of the annual amount possessed divided by the equivalent activity in Table 1 is summed for all radionuclides in possession, and the sum is less than unity, then the facility is exempt from the reporting requirements of 40 CFR 61.10. For radionuclides not on this list, a facility may apply to the Administrator for an exemption from the reporting requirements.

Table 1 [Reserved]

§ 61.107 Waiver of compliance.

(a) To request a waiver, applicants shall follow the requirements of § 61.10 (b)–(d).

(b) The following provisions also apply:

(1) the owner or operator of any existing source, or any new source to which a standard prescribed under this part is applicable which had an initial startup which preceded the effective date of a standard prescribed under this part shall, within 90 days after the effective date, provide the following information in writing to the Administrator:

(i) Name and address of the owner or operator.

(ii) The location of the source.

(iii) The types of radionuclides emitted by the stationary source and the annual quantity (in Ci/y for the most recent calendar year) of each radionuclide emitted.

(iv) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of such source. Identify each point of emission for each hazardous pollutant.

(v) Estimate of dose equivalent rate to the member of the public at the point of maximum annual air concentration in an unrestricted area where any member of the public resides or abides.

(vi) A description of the existing control equipment for each emission point.

(A) Primary control device (s) for radionuclide emissions.

(B) Secondary control device(s) for radionuclide emissions.

(C) Estimated control efficiency (percent) for each control device.

(vii) A statement by the owner or operator of the source as to whether he can comply with the standards prescribed in this part within 90 days of the effective date.

§ 61.108 Alternative emission standard.

If a facility may exceed the emission standard established in § 61.102, the operator may apply to EPA for an alternative emission standard. The Administrator will review such applications and will establish an appropriate alternative emission standard that will ensure that no member of the public being exposed to emissions from the facility receives a continuous exposure of more than 100 mrem/y effective dose equivalent and a noncontinuous exposure of more than 500 mrem/y effective dose equivalent from all sources, excluding natural background and medical procedures. The application shall include the following:

(a) An assessment of the additional effective dose equivalents to the member of the public receiving maximum exposure from the facility due to all other sources. The natural radiation background shall be part of this assessment.

(b) The information required in § 61.107.

(c) The effective dose equivalent shall be calculated using the following weighting factors:

Organ	Weighting factor
[Reserved]	[Reserved]

Requests for alternative emission standards shall be sent to the Assistant Administrator for Air and Radiation (ANR–443), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. This action shall be taken, for existing facilities by April 17, 1985.

Subpart K—National Emission Standard for Radionuclide Emissions From Elemental Phosphorus Plants

§ 61.120 Applicability.

The provisions of this subpart are applicable to owners and operators of calciners and nodulizing kilns at elemental phosphorus plants.

§ 61.121 Definitions.

(a) "Elemental phosphorus plant" means any facility that processes phosphate rock to produce elemental phosphorus using pyrometallurgical techniques.

(b) "Calciner" or "Nodulizing kiln" means a unit in which phosphate rock is heated to high temperatures to remove organic material and/or to convert it to a nodular form. For the purpose of this subpart, calciners and nodulizing kilns are considered to be similar units.

(c) "Curie" is a unit of radioactivity equal to 37 billion nuclear transformations (decays) per second.

§ 61.122 Emission standard.

Emissions of polonium-210 to air from calciners and nodulizing kilns at an elemental phosphorus plant shall not exceed a total of 21 curies in a calendar year.

§ 61.123 Emission testing.

(a) Unless a waiver of emission testing is obtained under § 61.13, each owner or operator of an elemental phosphorus plant shall test emissions from his plant according to the following requirements:

(1) Within 90 days of the effective date of this standard for a source that has an initial start-up date preceding the effective date of this standard; or

(2) Within 90 days of start-up for a source, that has an initial startup after the effective date of the standard.

(b) The Administrator shall be notified at least 30 days prior to an emission test so that EPA may, at its option, observe the test.

(c) An emission test shall be conducted at each operational calciner or nodulizing kiln. If emissions from a calciner or nodulizing kiln are discharged through more than one stack, then an emission test shall be conducted at each stack and the total emission rate from the calciner or kiln shall be the sum of the emission rates from each of the stacks.

(d) Each emission test shall consist of three valid sampling runs. The phosphate rock processing rate during each run shall be recorded. An emission rate in curies per metric ton of phosphate rock processed shall be calculated for each run. The average of all three runs shall apply in computing the emission rate for the test. The annual polonium-210 emission rate from a calciner or nodulizing kiln shall be determined by multiplying the measured polonium-210 emission rate in curies per metric ton of phosphate rock processed by the annual phosphate rock processing rate in metric tons. In determining the annual phosphate rock processing rate, the values used for operating hours and operating capacity shall be values that will maximize the expected processing rate. For determining compliance with the emission standard of Section 61.122 the total annual emission rate is the sum of the annual emission rates for all operating calciners or nodulizing kilns.

(e) If the owner or operator changes his operation in such a way as to increase his emissions of polonium-210, such as changing the type of rock processed, the temperature of the calciners or kilns, or increasing the annual phosphate rock processing rate, then a new emission test shall be conducted under these conditions.

(f) Each owner or operator of an elemental phosphorus plant shall furnish the Administrator a written report of the results of the emission test within 60 days of conducting the test.

(g) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available for inspection by the Administrator for a minimum of 2 years.

All information collection provisions in this subpart are not effective until the Office of Management and Budget approves them.

§ 61.124 Test methods and procedures.

(a) Each owner or operator of a source required to test emissions under § 61.213, unless an equivalent or alternate method has been approved by the Administrator, shall use the following test methods:

(1) Test Method 1 of Appendix A to Part 60 shall be used to determine sample and velocity traverses;

(2) Test Method 2 of Appendix A to Part 60 shall be used to determine velocity and volumetric flow rate;

(3) Test Method 3 of Appendix A to Part 60 shall be used for gas analysis.

(4) Test Method 5 of Appendix A to Part 60 shall be used to collect particulate matter containing the polonium-210; and

(5) Test Method 111 of Appendix B to this part shall be used to determine the polonium-210 emissions.

§ 61.125 Monitoring of operations.

(a) The owner or operator of any source subject to this subpart using a wet-scrubbing emission control device shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be certified by the manufacturer to be accurate with ±250 pascals (±1 inch of water). Records of these measurements shall be maintained at the source and made available for inspection by the Administrator for a minimum of 2 years.

(b) The owner or operator of any source subject to this subpart using an electrostatic precipitator control device shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the primary and secondary current and the voltage in each electric field. Baseline operating values for these parameters shall be maintained with ±30 percent of their baseline operating values.

(c) For the purpose of conducting an emission test under Section 61.123, the owner or operator of any source subject to the provisions of this subpart shall install, calibrate, maintain, and operate a device for measuring the phosphate rock feed to any affected calciner or nodulizing kiln. The measuring device used must be accurate to within ±5 percent of the mass rate over its operating range.

§ 61.126 Waiver of compliance.

(a) To request a waiver, applicants shall follow the requirements of § 61.10(b)–(d).

(b) The following provisions also apply:

(1) The owner or operator of any existing source, or any new source to which a standard prescribed under this part is applicable which had an initial startup which preceded the effective date of a standard prescribed under this part shall, within 90 days after the effective date, provide the following information in writing to the Administrator:

(i) Name and address of the owner or operator.

(ii) The location of the source.

(iii) The annual quantity of polonium-210 emitted (in Ci/y for the most recent calendar year).

(iv) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of such source. Identify each point of emission for each hazardous pollutant.

(v) The average amount of polonium-210 being processed by the source over the last 12 months preceding the date of the report.

(vi) A description of the existing control equipment for each emission point.

(A) Primary control device(s) for radionuclide emissions.

(B) Secondary control device(s) for radionuclide emissions.

(C) Estimated control efficiency (percent) for each control device.

(vii) A statement by the owner or operator of the source as to whether he can comply with the standards prescribed in this part within 90 days of the effective date.

2. Appendix B to Part 61 is amended by adding Test Method 111 as follows:

Appendix B—[Amended]

Method 111—Determination of Polonium-210 Emissions From Stationary Sources

Performance of this method should not be attempted by persons unfamiliar with the use of equipment for measuring radioactive disintegration rates.

1.0 *Applicability and Principle.*

1.1 Applicability

This method is applicable to the determination of polonium-210 emissions in particulate samples collected in stack gases. Samples should be analyzed within 30 days of collection to minimize error due to growth of polonium-210 from any lead-210 present in the sample.

1.2 Principle

A particulate sample is collected from stack gases as described in Method 5 of Appendix A to 40 CFR Part 60. The polonium-210 in the sample is put in solution, deposited on a metal disc, and the radioactive disintegration rate measured. Polonium in acid solution spontaneously deposits on surfaces of metals that are more electropositive than polonium. This principle is routinely used in the radiochemical analysis of polonium-210.

2.0 *Apparatus.*

2.1 Alpha spectrometry system consisting of a multichannel analyzer, biasing electronics, silicon surface barrier detector, vacuum pump and chamber.

2.2 Constant temperature bath at 85 °C.

2.3 Polished silver discs, 3.8 cm diameter, 0.4 mm thick with a small hole near the edge.

2.4 Glass beakers, 400 ml, 150 ml.

2.5 Hot plate, electric.

2.6 Fume hood.

2.7 Telfon[1] beakers, 150 ml.

2.8 Magnetic stirrer.

2.9 Stirring bar.

2.10 Plastic or glass hooks to suspend plating discs.

2.11 Internal proportional counter for measuring alpha particles.

2.12 Nuclepore[1] filter membranes, 25 mm diameter, 0.2 micrometer pore size or equivalent.

2.13 Planchets, stainless steel, 32 mm diameter with 1.5 mm lip.

2.14 Transparent plastic tape, 2.5 cm wide with adhesive on both sides.

2.15 Epoxy spray enamel.

2.16 Suction filter apparatus for 25 mm diameter filter.

2.17 Wash bottles, 250 ml capacity.

2.18 Plastic graduated cylinder, 25 ml capacity.

3.0 *Regents.*

3.1 Ascorbic acid, Reagent grade.

3.2 Ammonium hydroxide (NH_4OH) 15 M, Reagent grade.

3.3 Distilled water meeting ASTM specifications for Type 3 Reagent Water. ASTM Test Method D 1193–77 (incorporated by reference-Section 61.18).

3.4 Ethanol (C_2H_5OH), 95 percent, Reagent grade.

3.5 Hydrochloric acid (HCl), 12 M, Reagent grade.

3.6 Hydrochloric acid, 1 M, dilute 83 ml of the 12 M Reagent grade HCl to 1 liter with distilled water.
3.7 Hydrofluoric acid (HF), 29 M, Reagent grade.
3.8 Hydrofluoric acid, 3 M, dilute 52 ml of the 29 M Reagent grade HF to 500 ml with distilled water. Use a plastic graduated cylinder and storage bottle.
3.9 Lanthanum carrier, 0.1 mg La^{+3}/ml. Dissolve 0.078 gram Reagent grade lanthanum nitrate, $La(NO_3)_3$-$6H_2O$ in 250 ml of 1 M HCl.
3.10 Nitric acid (HNO_3), 16 M, Reagent grade.
3.11 Perchloric acid (HNO_4), 12 M, Reagent grade.
3.12 Polonium-209 solution.
3.13 Commercial silver cleaner.
3.14 Degreaser.
3.15 Standard solution of plutonium or americium.
3.16 Volumetric flask, 100 ml, 250 ml.
4.0 *Procedure.*
4.1 Sample Preparation
4.1.1 Place filter collected by EPA Method 5 of Appendix A to 40 CFR Part 60 in Teflon beaker, add 30 ml of 29 M hydrofluoric acid, and evaporate to *near* dryness on hot plate in a properly operating fume hood. *Caution:* Do not allow residue to go to dryness and overheat. This will result in a loss of polonium.
4.1.2 Repeat the procedure described in Section 4.1.1 until the glass fiber filter is dissolved.
4.1.3 Add 100 ml of 16 M nitric acid to residue in Teflon beaker and evaporate to near dryness. *Caution:* Do not allow residue to go to dryness and overheat.
4.1.4 Add 50 ml of 16 M nitric acid to residue from Section 4.1.3 and heat to 85 °C.
4.1.5 Transfer acid solution into a 150 ml glass beaker and add 10 ml of 12 M perchloric acid.
4.1.6 Heat acid mixture until dense perchloric acid fumes are evolved.
4.1.7 Dilute sample with 1 M HCl to a volume of 250 ml in a volumetric flask.
4.2 Sample Screening
The samples are checked for radioactivity levels to avoid contaminaton of the alpha spectrometry system. Use the following screening method:
4.2.1 Twenty ml of 1 M HCl are added to a 150 ml beaker.
4.2.2 One ml of the lanthanum carrier solution, 0.1 mg lanthanum per ml, is added to beaker.
4.2.3 A 1 ml aliquot of solution from Section 4.1.7 is added to the beaker.
4.2.4 Three ml of 15 M ammonium hydroxide are added to the beaker.
4.2.5 The solution from Section 4.2.4 is allowed to stand for a minimum of 30 minutes.
4.2.6 The solution is filtered through a filter membrane using suction.
4.2.7 The membrane is washed with 10 ml of distilled water and 5 ml of ethanol.

[1] Mention of registered trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

4.2.8 The membrane is allowed to air dry and then mounted, filtration side up, on a planchet lined with double-side plastic tape.
4.2.9 The membrane is radioassayed using an internal proportional alpha counter.
4.2.10 The activity of the original solution from Section 4.1.7 is calculated using Eq. 111-1.

(Eq. 111-1)

$$P = \frac{250\ C_S - C_B}{2.22\ E_f\ A_L\ T}$$

where:
P = total activity of original solution from Section 4.1.7, in pCi.
C_S = total counts of screening sample.
C_B = total counts of procedure background. (See 4.6).
E_f = counting efficiency as determined in Section 8.0, counts per minute per disintegration per minute.
2.22 = disintegrations per minute per picocurie.
A_L = aliquot used in Section 4.2.3 in ml if different from 1 ml.
T = counting time in minutes for sample and background (which must be equal).
250 = volume of solution from Section 4.1.7 in ml.

4.2.11 Determine the aliquot volume of solution from Section 4.1.7 to be analyzed for polonium-210 using results of the calculation described in Section 4.2.10. The aliquot used should contain an activity between 1 and 4 picocuries.

(Eq. 111-2)

$$A_S = \frac{250\ (\text{desired picocuries in aliquot})}{P}$$

A_S = aliquot to be analyzed in ml.
P = total activity, as calculated with Eq. 111-1.
4.3 Preparation of silver disc for spontaneous electrodeposition.
4.3.1 Clean both sides of disc with a mild abrasive commercial silver cleaner.
4.3.2 Clean both sides of disc with degreaser.
4.3.3 Place disc on absorbent paper and spray one side with epoxy spray enamel. This should be carried out in a well-ventilated area, with the disc lying flat to keep paint on one side only.
4.3.4 Allow paint to dry for 24 hours before using disc for deposition.
4.4 Sample Analysis
4.4.1 Add the aliquot of solution from Section 4.1.7 to be analyzed as determined in Section 4.2.11 to a suitable 200 ml container to be placed in a constant temperature bath. Note, aliquot volume may require a larger container.
4.4.2 Add an aliquot of polonium-209 tracer solution (see Section 7.0) that contains approximately the same amount of activity as that in the aliquot of the sample to be analyzed as determined in Section 4.2.11.
4.4.3 If necessary, bring the volume to 100 ml with 1 M HCl. If the aliquot volume exceeds 100 ml, use total aliquot.
4.4.4 Add 200 mg of ascorbic acid and heat solution to 85 °C in a constant temperature bath.
4.4.5 Stirring of the solution must be maintained while the solution is in the constant temperature bath for plating.
4.4.6 Suspend a silver disc in the heated solution using a glass or plastic rod with a hook inserted through the hole in the disc. The disc should be totally immersed in the solution at all time.
4.4.7 Maintain the disc in solution for 3 hours while stirring.
4.4.8 Remove the silver disc, rinse with distilled water and allow to air dry at room temperture.
4.5 Measurement of Polonium-210
4.5.1 Place the silver disc, with deposition side (unpainted side) up, on a planchet and secure with double-side plastic tape.
4.5.2 Place the planchet with disc in alpha spectrometry system and count for 1000 minutes.
4.6 Determination of Procedure Background
Background counts used in all equations are determined by performing the specific analysis required using the analytical reagents only. This should be repeated every 10 analyses.
4.7 Determination of Instrument Background
Instrument backgrounds of the internal proportional counter and alpha spectrometry system should be determined on a weekly basis. Instrument background should not exceed procedure background. If this occurs, it may be due to a malfunction or contamination.
5.0 *Calculation of Polonium-210 Activity.*
5.1 Calculate the activity of polonium-210 on a sample filter using Eq. 111-13

Eq. 111-3

$$A = \frac{C_T - C_B\ L}{2.22\ E_Y\ E_C\ T\ D}$$

where:
A = picocuries of polonium-210 per filter.
C_T = total counts in polonium-210 spectral region.
C_B = procedure background counts in polonium-210 spectral region.
L = dilution factor. This is the volume in ml of solution in Section 4.1.7 (250 ml) divided by volume in ml used in Section 4.4.1.
2.22 = disintegrations per minute per picocurie.
E_Y = fraction of polonium recovered on the planchet. Given by:

$$E_T = \frac{B_T - B_B}{2.22\ F\ E_C\ T}$$

where:

B_T = polonium-209 tracer counts in sample.
B_B = procedure background counts measured in polonium-209 spectral region.
F = activity in picocuries of polonium-209 added to sample—from Eq. 111-7.
2.22 = disintegrations per minute per picocurie.
E_C = See below.
T = See below.
E_C = counting efficiency of detector used, given by Eq. 111-6, as counts per minute per disintegration per minute.
T = counting time, specified in Section 4.5.2 and 7.11 as 1000 minutes for all alpha spectrometry sample and background counts.
D = decay correction for time "t" (in days) from sample collection to sample counting, given by: $D = e^{-0.0027t}$

5.2 Procedure for Calculating Emission Rate in Curies per Metric Ton of Phosphate Rock Processed

Calculate the polonium-210 emission per metric ton of rock processed from each run at each stack using equation 111-4. The emission rate from each stack is determined by averaging the emission rates calculated for each of the three runs at each stack.

(Eq. 111-4)

$$R_S = \frac{1 \times 10^{-12}\ A\ Q_{SD}}{V_{SD}\ M_H}$$

Where:

R_S = emission rate from stack, in curies of polonium-210 per metric ton of rock processed.
A = picocuries of polonium-210 in filter sample as determined by A in Eq. 111-3.
Q_{SD} = volumetric flow rate of effluent stream in dry standard m^3/hr as determined by Method 2 of Appendix A to 40 CFR Part 60.
V_{SD} = total volume of air sample in dry standard m^3 as determined by Method 5 of Appendix A to 40 CFR Part 60.
M_H = rock processing rate during sampling in metric tons/hr.
1×10^{-12} = curies per picocurie.

5.3 Average Stack Emission Rate Calculation

Determine the average stack emission rate from the average of the three emission rates calculated in Section 5.2. Perform these calculations for each stack of each calciner.

5.4 Calciner Emission Rate Calculation

Determine each calciner's emission rate (X_I) by taking the sum of the emission rates from all stacks of each calciner.

5.5 Annual Polonium-210 Emission Calculation

Determine the annual elemental phosphorus plant emissions of polonium-210 by taking the sum of emission rates at each calciner (X_I in 5.4) and multiplying this sum by the annual metric tons of phosphate rock processed by that calciner, according to Eq. 111-5.

(Eq. 111-5)

$$S = X_1\ M_1 + X_2\ M_2 + \ldots + X_N\ M_N$$

Where:

S = annual polonium-210 emissions in curies from the elemental phosphorus plant.
X_I = emission rate from a calciner (I) in curies per metric ton, as determined in Section 5.4.
N = number of calciners at the elemental phosphorus plant.
M_I = phosphate rock processed per year, in metric tons for each calciner.

6.0 *Standardization of Alpha Spectrometry System.*

6.1 Obtain a standardized solution of an alpha-emitting actinide element such as plutonium-239 or americium-241. Add a quantity of the standardized solution to a 100 ml volumetric flask so that the final concentration when diluted to a volume of 100 ml will be approximately 1 pCi/ml. Add 10 ml of 16 M HNO_3 and dilute to 100 ml with distilled water.
6.2 Add 20 ml of 1 M HCl to each of six 150 ml beakers.
6.3 Add 1.0 ml of lanthanum carrier, 0.1 mg lanthanum per ml, to the acid solution in each beaker.
6.4 Add 1.0 ml of actinide solution from Section 6.1 to each beaker.
6.5 Add 5.0 ml of 3 M HF to each beaker.
6.6 Cover beakers and allow solutions to stand for a minimum of 30 minutes.
6.7 Filter each solution through a filter membrane using this suction filter apparatus.
6.8 After each filtration, wash the filter membrane with 10 ml of distilled water and 5 ml of ethanol.
6.9 Allow the filter membrane to air dry on the filter apparatus.
6.10 Carefully remove the filter membrane and mount with double-side tape on the inner surface of a planchet. Mount filter with filtration side up.
6.11 Place planchet in an alpha spectrometry system and count each planchet for 1000 minutes.
6.12 The counting efficiency of each detector can be calculated using Eq. 111-6.

(Eq. 111-6)

$$E_C = \frac{C_S - C_B}{2.22\ A_A\ T}$$

where:

C_S = gross counts in actinide peak.
C_B = background counts in same peak area as C_S.
2.22 = disintegrations per minute per picocurie.
A_A = picocuries of actinide added.
E_C = counting efficiency, counts per minute per disintegration per minute.
T = counting time in minutes, specified in Section 6.11 as 1000 minutes.

6.13 Determine the average counting efficiency for each detector by calculating the average of the six determinations.

7.0 Preparation of Standardized Solution of Polonium-209.

7.1 Obtain polonium-209 solution from an available supplier. Add a quantity of the Po-209 solution to a 100 ml volumetric flask so that the final concentration when diluted to a 100 ml volume will be approximately 1 pCi/ml. Add 10 ml of 16 M HNO_3 and dilute to 100 ml with distilled water.
7.2 Add 20 ml of 1 M HCl to each of six 150 ml beakers.
7.3 Add 1.0 ml of lanthanum carrier, 0.1 mg lanthanum per ml, to the acid solution in each beaker.
7.4 Add 1.0 ml of polonium-209 tracer from Section 7.1 to each beaker.
7.5 Add 3.0 ml of 15 M ammonium hydroxide to each beaker.
7.6 Cover beakers and allow to stand for a minimum of 30 minutes.
7.7 Filter the contents of each beaker through a separate filter membrane.
7.8 After each filtration, wash membrane with 10 ml of distilled water and 5 ml of ethanol.
7.9 Allow filter membrane to dry on filter apparatus.
7.10 Carefully remove the filter membrane and mount with double-side tape on the inner surface of a planchet. Mount filter with filtration side up.
7.11 Place planchet in alpha spectrometry system and count each planchet for 1000 minutes.
7.12 The activity of the polonium solution can be calculated using Eq. 111-7.

(Eq. 111-7)

$$F = \frac{C_S - C_B}{2.22\ E_C\ T}$$

where:

F = activity of polonium-209 solution, in pCi.
C_S = gross counts of polonium-209 in the 4.88 MeV region of the spectrum in the counting time T.
C_B = background counts in the 4.88 MeV region of spectrum the in the counting time T.
2.22 = disintegrations per minute per picocurie.
E_C = counting efficiency of detector used, counts per minute per disintegration per minute.
T = counting time, specified in Section 7.11 as 1000 minutes.

7.13 Determine the average activity of the polonium-209 solution from the six determinations.
7.14 Aliquots of the solution from Section 7.1 are to be used as tracer with each polonium-210 analysis.

8.0 Standardization of Internal Proportional Counter.

8.1 Obtain a standardized solution of an alpha-emiting actinide element such as plutonium-239 or americium-241. Add a quantity of the standardized solution to a 100 ml volumetric flask so that the final concentration when diluted to a 100 ml volume will be approximately 100 pCi/ml. Add 10 ml of 16 M HNO_3 and dilute to 100 ml with distilled water.

8.2 Add 20 ml of 1 M HCl to each of six 150 ml beakers.

8.3 Add 1.0 ml of lanthanum carrier, 0.1 mg lanthanum per ml, to the acid solution in each beaker.

8.4 Add 1.0 ml of the actinide solution from Section 8.1 to each beaker.

8.5 Add 5.0 ml of 3 M HF to each beaker.

8.6 Cover beakers and allow solutions to stand for a minimum of 30 minutes.

8.7 Filter each solution through a filter membrane using the suction filter apparatus.

8.8 After each filtration, wash membrane with 10 ml of distilled water and 5 ml of ethanol.

8.9 Allow filter membrane to dry on filter apparatus.

8.10 Carefully remove filter membrane and mount with double-side tape on the inner surface of a planchet. Mount filter with filtration side up.

8.11 Place planchet in internal proportional counter and count for 100 minutes.

8.12 The counting efficiency of the internal proportional counter is determined as follows from the six samples:

(Eq. 111–8)

$$E_R = \frac{C_S - C_B}{2.22\ A_A\ T}$$

where:

E_i = counting efficiency of proportional counter, counts per minute per disintegration per minute.

C_S = gross counts of standard.

C_B = gross counts of procedure background.

2.22 = disintegrations per minute per picocurie.

A_A = picocuries of actinide added.

T = counting time in minutes, specified in Section 8.11 as 100 minutes.

8.13 Determine the average counting efficiency of the six determinations.

9.0 *Quality Assurance.*

9.1 General Requirements

9.1.1 All analysts using this method are required to demonstrate their ability to use the method and to define their respective accuracy and precision criteria.

9.1.2 The minimum requirements for the establishment of accuracy and precision criteria is four replicate analyses of an externally prepared performance evaluation sample.

9.2 Specific Requirements

9.2.1 Each sample will be analyzed in duplicate.

9.2.2 Every tenth sample will be an externally prepared performance evaluation sample submitted by the Quality Assurance Officer.

9.2.3 Duplicate measurements are considered acceptable when the difference between them is less than two standard deviations as described in EPA 600/4–77–001 or subsequent revisions.

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Part IV

Department of Labor

Office of the Secretary

29 CFR Part 20
Debt Collection Act of 1982; Final Rules

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 20

Debt Collection Act of 1982; Final Rule; Disclosure of Information to Credit Reporting Agencies

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365), and other applicable authority, authorizes the Federal government to disclose to credit reporting agencies information concerning claims owed the United States by debtors. This final rule establishes the procedures the Department of Labor will follow in making disclosures of information on debtors to credit reporting agencies.

EFFECTIVE DATE: March 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel, telephone (202–523–7721), Office of the Solicitor, Department of Labor, Room N–2428, 200 Constitution Avenue NW., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to employ various debt collection techniques commonly available to the private sector. Among these techniques are those for disclosing the names, debt information, and the addresses of individuals to consumer credit reporting agencies and use of collection agencies.

Section 3 of the Debt Collection Act, and other applicable authority, permits agencies to disclose information to credit reporting agencies. To insure against indiscriminate disclosures of consumer debt information, the Debt Collection Act places limitations on the disclosure process affecting both the timing and content of the disclosure.

This final rule establishes the procedures the Department of Labor will employ to disclose information on individual debtors to consumer credit reporting agencies, and commercial debtors to commercial credit reporting agencies.

This rule was originally published for public comment as a proposed rule in the **Federal Register** on September 18, 1984. Comments were to be submitted to the Labor Department, in duplicate, on or before November 2, 1984. One comment was received on this subpart. The commenter questioned whether a debt would be considered overdue if it is under appeal. The commenter expressed concern that reporting a debt to a credit reporting agency under this circumstance could adversely affect the debtor's credit rating.

We have reviewed the regulations under this subpart and find that, as provided in the DOJ/GAO Federal Claim Collection Standards, they are "based on and consistent" with the DOJ/GAO standards (see 49 FR 8899). We also find that, consistent with the DOJ/GAO standards, the Department's regulations comprehensively deal with the issue of fairness to debtors on claims the Department may report to a credit reporting agency. Thus, the regulations require that the Department: (1) Ensure the continued accuracy of calculations and records relating to its claims, (2) promptly follow-up on any claim by a debtor that the agency's records are in error, and (3) promptly notify the credit reporting agency of any substantial change in the status or amount of the claim. Also, under section 20.9 of the regulations, the Department may waive the reporting of a debt to a credit reporting agency where, in the particular circumstances of the case, such action is otherwise appropriate and the reporting would not be in the best interests of the United States. In view of the foregoing, we do not believe that a change in the Department's proposed regulations is necessary on this matter.

Executive Order 12291

The final rule is not a "major rule" under Executive Order 12291 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 the United States-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 final 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, 94 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 final rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1225–0030.

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Credit, Administrative practice and procedure, Claims.

Accordingly, Subtitle A of Title 29 of the Code of Federal Regulations is amended as set forth below.

Part 20, consisting of Subpart A, is added to Title 29 Subtitle A to read as follows:

PART 20—DEBT COLLECTION ACT OF 1982

Subpart A—Disclosure of Information to Credit Reporting Agencies

Sec.

Authority: Pub. L. 97–365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711 *et seq.*

Subpart A—Disclosure of Information to Credit Reporting Agencies

§ 20.1 Purpose and scope.

The regulations in this subpart establish procedures to implement section 3 of the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3711(f). This statute, and other applicable authority, authorizes Department heads to disclose to credit reporting agencies information concerning claims owed the United States under programs administered by the Department head. This disclosure is limited to certain information and must be in accordance with procedures set forth in the Debt Collection Act and other applicable laws. This subpart specifies the agency procedures and debtor rights that will be followed in making a disclosure to a credit reporting agency.

§ 20.2 Definitions.

For purposes of this subpart—

(a) The term "commercial debt" means any non-tax business debt in

excess of $100, arising from loans, loan guarantees, overpayments, fines, penalties or other causes.

(b) The term "consumer debt" means any non-tax debt of an individual in excess of $100, arising from loans—loan guarantees, overpayments, fines, penalties, or other causes.

(c) A debt is considered delinquent if it has not been paid by the date specified in the agency's initial demand letter (§ 20.4), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Department of Labor, or any agency thereof.

(d) The term "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

§ 20.3 Agency responsibilities.

(a) As authorized by law, each Department of Labor agency may report all delinquent consumer debts to consumer credit reporting agencies and may also report all commercial debts to appropriate commercial credit reporting agencies.

(b) Information provided to a consumer credit reporting agency on delinquent consumer debts from a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, must be maintained by the Department of Labor in accordance with that Act, except as otherwise modified by law. Furthermore, no disclosure may be made until the appropriate notice of system of records has been amended in accordance with 5 U.S.C. 552a(e)(11).

(c) The Assistant Secretary for Administration and Management, or his or her designee, shall have the responsibility for obtaining satisfactory assurances from each credit reporting agency to which information will be provided, concerning compliance by the credit reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) and any other Federal law governing the provision of credit information.

(d) The information disclosed to the credit reporting agency is limited to: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (2) the amount, status, and history of the claim, and (3) the Department of Labor agency or program under which the claim arose.

(e) The agency official providing information to a credit reporting agency: (1) Shall promptly disclose to each credit reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim; and (2) shall within 30 days whenever feasible, or otherwise promptly verify or correct, as appropriate, information concerning the claim upon the request of any such credit reporting agency for verification of any or all information so disclosed.

(f) Each Department of Labor agency is responsible for ensuring the continued accuracy of calculations and records relating to its claims, and for the prompt notification to the credit reporting agency of any substantial change in the status or amount of the claim. The agencies shall promptly follow-up on any allegation made by a debtor that the records of the agency concerning a claim are in error. Agencies should respond promptly to communications from the debtor, within 30 days whenever feasible.

(g) The agency official responsible for providing information to a consumer credit reporting agency shall take reasonable action to locate the individual owing the debt prior to disclosing any information to a consumer credit reporting agency.

§ 20.4 Determination of delinquency; notice.

(a) The agency head (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor of the consequences of failure to cooperate. In accordance with guidelines established by the Assistant Secretary for Administration and Management, a total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, it necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be proceded by other appropriate actions, including immediate referral for litigation.

(b) Prior to disclosing information to a consumer credit reporting agency in accordance with this subpart, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the claim is valid and overdue. In cases where the debt arises under programs of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management or his or her designee may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency, or official, shall have responsibility for carrying out the provisions of this subpart.

(c) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the agency official responsible for disclosure of the debt to a consumer credit reporting agency shall send written notice to the individual debtor informing such debtor:

(1) Of the basis for the indebtedness;

(2) That the payment of the claim is overdue;

(3) That the agency intends to disclose to a consumer credit reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;

(4) Of the specific information intended to be disclosed to the credit reporting agency;

(5) Of the rights of such debtor to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and of the name of an agency employee who can provide a full explanation of the claim;

(6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and,

(7) Of the date on which or after which the information will be reported to the consumer credit reporting agency.

(d) Where the disclosure concerns a commercial debt, the responsible agency head (or designee) shall send written notice to the commercial debtor informing such debtor of the information discussed in paragraphs (c)(1), (4), (5), and (6) of this section.

(e) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to waiver, assessment of interest, penalties and administrative costs, administrative offset, and salary offset to the extent that such inclusion is appropriate and practicable.

(f) The responsible agency head (or designee) shall exercise due care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

§ 20.5 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the notice specified in § 20.4, the debtor may request to examine and copy the information to be disclosed to the consumer credit reporting agency, in accordance with 5 U.S.C. 552a.

§ 20.6 Opportunity for repayment.

The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the head of the agency and is in a written form signed by such debtor. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

§ 20.7 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the initial decision concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the initial determination. If the debtor alleges that specific information to be disclosed to a credit reporting agency is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that (1) an applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (2) an individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or (3) in other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Upon receipt of a timely request for review, the agency shall suspend its schedule for disclosure of a delinquent consumer debt to a consumer credit reporting agency until such time as a final decision is made on the request.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to credit reporting agencies. The notification shall, also if appropriate, indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the initial decision concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information to be disclosed to a credit reporting agency.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

(Approved by the Office of Management and Budget under control number 1225-0030)

§ 20.8 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the responsible Department of Labor agency shall make the disclosure of information on the debtor to the credit reporting agency. Such disclosure to consumer credit reporting agencies shall be made on or after the date specified in the § 20.4 notification to the individual owing the claim, and shall be comprised of the information set forth in the initial determination, or any modification thereof.

(b) This section shall not apply to individual debtors when—

(1) Such debtor has repaid or agreed to repay his or her obligation, and such agreement is still valid, as provided in § 20.6; or

(2) Such debtor has filed for review of the claim under § 20.7(b), and the reviewing official or employee has not issued a decision on the review.

(c) In addition, the agency may determine not to make a disclosure of information to a credit reporting agency when the agency, on its own initiative, is reviewing and has not concluded such review of its initial determination of the claim under § 20.7(f).

§ 20.9 Waiver of credit reporting.

The agency head (or designee) may waive reporting a commercial debt or delinquent consumer debt to a credit reporting agency, if otherwise appropriate and if reporting the debt would not be in the best interests of the United States.

§ 20.10 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding, written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation, including the designation of credit reporting agencies authorized to receive and disseminate information under this subpart.

Signed at Washington, D.C., this 1st day of February 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-2970 Filed 2-5-85; 8:45 am]

BILLING CODE 4510-23-M

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29 CFR Part 20

Debt Collection Act of 1982; Final Rule; Administrative Offset

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365) authorizes the Federal government to collect debts owed it by means of administrative offset. This final rule establishes the procedures the Department of Labor will follow in making an administrative offset.

EFFECTIVE DATE: March 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel, telephone (202–523–7721), Office of the Solicitor, Department of Labor, Room N–2428, 200 Constitution Avenue NW., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to employ various debt collection techniques commonly available to the private sector. Among these techniques are those for the administrative offset against payments to be made to a debtor by the United States on such matters as on a federal loan, contract or grant, or on an income maintenance payment, using procedures established by Section 10 of the Debt Collection Act.

This final rule establishes the procedures the Department of Labor will employ in making an administrative offset.

This rule was originally published for public comment as a proposed rule in the **Federal Register** on September 18, 1984. Comments were to be submitted to the Labor Department, in duplicate, on or before November 2, 1984. No public comments were received, and no substantive changes have been made to the rule from its publication as a proposed rule.

Executive Order 12291

The final rule is not a "major rule" under Executive Order 12291 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 the United States-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 final 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. No. 96–354, 94 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 final rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1225–0030.

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Credit, Administrative practice and procedure, Claims.

Accordingly, Part 20 of Title 29 of the Code of Federal Regulations is amended as set forth below.

Subpart B, is added to Title 29 Subtitle A to read as follows:

PART 20—DEBT COLLECTION ACT OF 1982

Subpart B—Administrative Offset

Sec.

Authority: Pub. L. 97–365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711 *et seq.*

Subpart B—Administrative Offset

§ 20.19 Purpose and scope.

The regulations in this subpart establish procedures to implement section 10 of the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3716(d). Among other things, this statute authorizes the head of each agency to collect a claim arising under an agency program by means of administrative offset, except that no claim may be collected by such means if outstanding for more than 10 years after the agency's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the government who were charged with the responsibility to discover and collect such debts. This subpart specifies the agency procedures that will be followed by the Department of Labor for an administrative offset.

§ 20.20 Definitions.

For purposes of this subpart—

(a) The term "administrative offset" means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owned the United States by that person; and

(b) The term "person" does not include any agency of the United States, or any state or local government.

(c) The terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

(d) A debt is considered delinquent if it has not been paid by the date specified in the agency's initial demand letter (§ 20.22), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Department of Labor, or any agency thereof.

§ 20.21 Agency responsibilities.

(a) Each Department of Labor agency which has delinquent debts owed under its program is responsible for collecting its claims by means of administrative offset, in accordance with guidelines established by the Assistant Secretary for Administration and Management.

(b) Before collecting a claim by means of administrative offset, the responsible agency must ensure that administrative

offset is feasible, allowable and appropriate, and must notify the debtor of the Department's policies for collecting a claim by means of administrative offset.

(c) Whether collection by administrative offset is feasible is a determination to be made by the creditor agency on a case-by-case basis, in the exercise of sound discretion. Agencies shall consider not only whether administrative offset can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, agencies may give due consideration to the debtor's financial condition, and are not required to use offset in every instance in which there is an available source of funds. Agencies may also consider whether offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated.

(d) Before advising the debtor that the delinquent debt will be subject to administrative offset, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the debt is valid and overdue. In the case where a debt arises under the programs of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management, or his or her designee, may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency (or agencies), or official (or officials), shall have responsibility for carrying out the provisions of this subpart.

(e) Administrative offset shall be considered by agencies only after attempting to collect a claim under Section 3(a) of the Federal Claims Collection Act, except that no claim under this Act that has been outstanding for more than 10 years after the Government's right to collect the debt first accrued may be collected by means of administrative offset, unless facts material to the right to collect the debt were not known and could not reasonably have been known by the official of the Agency who was charged with the responsibility to discover and collect such debts. When the debt first accrued should be determined according to existing laws regarding the accrual of debts, such as under 28 U.S.C. 2415.

§ 20.22 Notifications.

(a) The agency head (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send appropriate written demands to the debtor in terms which inform the debtor of the consequences of failure to cooperate. In accordance with guidelines established by the Assistant Secretary for Administration and Management, a total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the agency official responsible for collection of the debt shall send written notice to the debtor, informing such debtor as appropriate:

(1) Of the nature and amount of the indebtedness;

(2) That the agency intends to collect, as appropriate, interest, penalties and administrative costs; and, in accordance with guidelines of the Assistant Secretary for Administration and Management, of the applicable standards for collecting such payments;

(3) Of the date by which payment is to be made (which normally should be not more than 30 days from the date that the initial notification was mailed or hand-delivered);

(4) Of the agency's intention to collect by administrative offset and of the debtor's rights in conjunction with such an offset;

(5) Of the debtor's entitlement to waiver, where applicable, and of the debtor's rights in conjunction with waiver;

(6) Of the debtor's opportunity to enter into a written agreement with the agency to repay the debt;

(7) Of the rights of such debtor to a full explanation of the claim, of the opportunity to inspect and copy the agency records with respect to the claim and to dispute any information in the records of the agency concerning the claim;

(8) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and

(9) Of the date on which or after which an administrative offset will begin.

(c) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to disclosures to credit reporting agencies, salary offset, and assessment of interest, penalties and administrative costs, to the extent inclusion of such is appropriate and practicable.

(d) The responsible agency head (or designee) shall exercise due care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(e) The agency responsible for collecting the claim shall, in the initial demand letter to the debtor, provide the name of an agency employee who can provide a full explanation of the claim.

§ 20.23 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the initial demand letter specified in § 20.22, the debtor may request to examine and copy agency records pertaining to the debt.

§ 20.24 Opportunity for repayment.

(a) The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the agency head (or designee) and is in a written form signed by such debtor. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should effect an offset unless the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 20.25 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the determination concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the determination. If the debtor alleges that the agency's information relating to the debt is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that (1) an applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (2) an individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or (3) in other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Agencies may effect an administrative offset against a payment to be made to a debtor prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the agency's ability to collect the debt; for example, if the time before the payment is to be made would not reasonably permit the completion of due process procedures. Offset prior to completion of due process procedures must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not owed to the agency should be promptly refunded.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which administrative offset will begin. The notification shall also, if appropriate, indicate any changes in the information to the extent such information differs from that provided in the initial notification under § 20.22.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the determination concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information on which the debt is based.

(Approved by the Office of Management and Budget under control number 1225–0030)

§ 20.26 Request for waiver or administrative review.

(a) If the statute under which waiver or administrative review is sought is "mandatory," that is, if it prohibits the agency from collecting the debt prior to the agency's consideration of the request for waiver or review (see *Califano* v. *Yamasaki*, 442 U.S. 682 (1979)), then collection action must be suspended until either (1) the agency has considered the request for waiver/review, or (2) the applicable time limit for making the waiver/review request, as prescribed in the agency's regulations, has expired and the debtor, upon proper notice, has not made such a request.

(b) If the applicable waiver/review statute is "permissive," that is, if it does not require all requests for waiver/review to be considered, and if it does not prohibit collection action pending consideration of a waiver/review request (for example, 5 U.S.C. 5584), collection action may be suspended pending agency action on a waiver/review request based upon appropriate consideration, on a case-by-case basis, as to whether:

(1) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(2) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail; and

(3) Collection of the debt will cause undue hardship.

(c) If the applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected prior to agency consideration of the debtor's waiver/review request in the event the agency acts favorably on it, collection action should ordinarily be suspended, without regard to the factors specified in paragraph (b) of this section, unless it appears clear, based on the request and the surrounding circumstances, that the request is frivolous and was made primarily to delay collection.

§ 20.27 Cooperation with other DOL agencies and federal agencies.

(a) Appropriate use should be made of the cooperative efforts of other DOL agencies and Federal agencies in effecting collection by administrative offset. Generally, agencies should comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable regulations or the request would otherwise be contrary to law or the best interests of the United States.

(b) Unless otherwise prohibited by law, a DOL agency may request that monies due and payable to a debtor by another DOL agency or a Federal agency outside the Department be administratively offset in order to collect debts owed the creditor DOL agency by the debtor. In requesting an administrative offset, the creditor DOL agency must provide the DOL agency or other Federal agency holding funds of the debtor with written certification stating (1) that the debtor owes the creditor agency a debt (including the amount of debt); and (2) that the creditor agency has complied with the applicable Federal Claims Collection Standards, including any hearing or review.

§20.28 DOL agency as organization holding funds of the debtor.

(a) Whenever a DOL agency is holding funds of a debtor from which administrative offset is sought by another DOL agency or other Federal agency, the DOL agency holding funds should not initiate the requested offset until it has been provided by the creditor organization with an appropriate written certification that the debtor owes a debt (including the amount) and that applicable provisions of the Federal Claims Collection Standards have been fully complied with.

(b) Moreover, the DOL agency holding funds of the debtor should determine whether collection by offset would be in the best interests of the United States; for example, if the debtor is a contractor for the DOL agency holding funds, whether administrative offset would impair the contractor's ability to perform

under the terms of the contract. The creditor organization should be notified promptly of the determination.

§ 20.29 Notice of offset.

Prior to effecting an administrative offset, the agency holding funds of a debtor should advise the debtor of the impending offset. This notice should state that the debtor has been provided his/her rights under the Federal Claims Collection Standards, that a determination has been made that collection by administrative offset would be in the best interests of the United States, the amount of the offset, and the source of funds from which the offset will be made.

§ 20.30 Multiple debts.

When collecting multiple debts by administrative offset, agencies should apply the recovered amounts to those debts, in accordace with the best interests of the Unted States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 20.31 Administrative offset against amounts payable from Civil Service Retirement and Disability fund.

(a) Unless otherwise prohibited by law, agencies may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, an agency shall include a written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The requesting agency has complied with all applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The requesting agency has complied with the requirements of the applicable provisions of the Federal Claims Collection Standards, including any required hearing or review.

(c) Once an agency decides to request administrative offset under paragraph (a) of this section, it should make the request as soon as practical after completion of the applicable due process procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor becomes eligible and requests to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) In accordance with procedures established by the Office of Personnel Management, agencies may request an offset from the Civil Service Retirement and Disability Fund prior to completion of due process procedures.

(e) If the requesting agency collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the agency shall act promptly to modify or terminate its request for offset under paragraph (a).

§ 20.32 Liquidation of collateral.

An agency holding security or collateral which may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure should do so by such procedures if the debtor fails to pay the debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure. The agency should provide the debtor with reasonable notice of the sale, an accounting of any surplus proceeds, and any other procedures required by contract or law. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

§ 20.33 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. Agencies should obtain and may require financial statements from debtors who represent that they are unable to pay the debt in one lump sum. Agencies which agree to accept payment in regular installments should obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payment of less than $50 per month should be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause. An agency holding an unsecured claim for administrative collection should attempt to obtain an executed confess-judgment note, comparable to the Department of Justice Form USA-70a, from a debtor when the total amount of the deferred installments will exceed $750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, agencies should provide their debtors with written explanation of the consequences of signing the note, and should maintain documentation sufficient to demonstrate that the debtor has signed the note knowingly and voluntarily. Security for deferred payments other than a confess-judgment note may be accepted in appropriate cases. An agency may accept installment payments notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security, at the agency's option.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 20.34 Exclusions.

(a) Agencies are not authorized by section 10 of the Debt Collection Act of 1982 (31 U.S.C. 3716) to use administrative offset with respect to (1) debts owed by any State or local Government; (2) debts arising under or payments made under the Social Security Act, the Internal Revenue Code

of 1954, or the tariff laws of the United States; or (3) any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. However, unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority, pursuant to this paragraph or agency regulations established pursuant to such other statutory authority.

(b) This section should not be construed as prohibiting use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in the preceding paragraph unless the debt "arose under" those laws.

(c) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

§ 20.35 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the utilization of any other administrative remedy which may be available.

§ 20.36 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided under some other statutory or regulatory authority, the agency is not required to duplicate those efforts before taking administrative offset.

§ 20.37 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation.

Signed at Washington, D.C., this 1st day of February 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-2971 Filed 2-5-85; 8:45 am]

BILLING CODE 4510-23-M

29 CFR Part 20

Debt Collection Act of 1982; Final Rule; Interest, Penalties and Administrative Costs

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97-365) authorizes the Federal government to assess interest, penalties and administrative costs against debtors with respect to debts owed the United States. This final rule establishes the standards and procedures the Department of Labor will utilize in assessing such charges under the Debt Collection Act.

EFFECTIVE DATE: March 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel (202-523-7721), Office of the Solicitor, Department of Labor, Room N-2428, 200 Constitution Ave., N.W., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97-365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to assess interest, penalties and administrative costs on delinquent debts owed to the United States. Such charges are to be assessed at the rates established by and in accordance with the terms of the Debt Collection Act, unless otherwise provided by law. It should be noted that where another rate, other than the Debt Collection Act rate, is specifically established by law with respect to a certain delinquent debt, that rate will be assessed by the Labor Department on the debt; however, these regulations will otherwise apply to such an assessment, unless otherwise provided by law.

This final rule establishes the policies and procedures the Department of Labor will employ in assessing interest, penalties and administrative costs with respect to delinquent debts arising under programs of the Department of Labor.

This rule was originally published for public comment in the **Federal Register** on September 18, 1984. Comments were to be submitted to the Labor Department in duplicate, on or before November 2, 1984. Two public comments were received suggesting changes to the regulation.

One commenter was concerned because the definition section did not note that state and local governments are outside the purview of coverage under 31 U.S.C. 3717. However, because this matter is explicitly covered in the exemption section of the regulations (§ 20.51), further reference to this fact in the definition section appears to be unnecessary. Also, the commenter noted that, in the exemption section, the **Federal Register** printed our reference to 31 U.S.C. 3717 as 32 U.S.C. 3717. That typographical error has been corrected.

Another commenter expressed the view that, in § 20.51(b) of the regulations, the Department erred in providing that authority to charge state and local governments interest on delinquent debts is granted to DOL under common law. However, § 20.51(b) does not state that, under the common law, the Department has the authority to charge interest on debts owed by state and local govenments. Rather, the section states that the Department may assess interest on debts not subject to 31 U.S.C. 3717 *"to the extent authorized* under common law or other applicable statutory authority" (emphasis added). This language is identical to that used in the Federal Claims Collection Standards, issued jointly by the Department of Justice and the General Accounting Office (see 49 FR 8901). Accordingly, the Department deems that no change in its proposed regulations is necessary on this matter.

The same commenter also asserts that it is fundamentally unfair for the Department to "initiate collection efforts and assess interest before the agency had allowed the potential debtor to exhaust administrative remedies." The commenter argues that this policy interferes with due process and could inhibit the audit resolution process. However, it should be noted, that, under § 20.61 of the regulations, agencies are not required to assess interest and related charges while an administrative appeal is pending, but may waive interest and charges pending an administrative appeal where such action is appropriate and in accordance with the regulations. Finally, it should be noted that, as provided by the DOJ/GAO Federal Claim Collection Standards, the Department's proposed regulations under this subpart are "based on and consistent" with the DOJ/GAO standards (see 49 FR 8889). Accordingly, we have determined that no change in the Department's proposed regulations is necessary with regard to this matter.

Executive Order 12291

The final rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect in the economy of $100 million or more; (2) a major increase in costs of 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 the United States-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 final 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. No. 96-354, 94 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 final rule does not, in itself, impose any regulatory requirements that will have a significant economic impact upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

Information collection requirements contained in this requlation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 1225-0030.

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Credit, Administrative practice and procedure, Claims.

Accordingly, Part 20 of Title 29 of the Code of Federal Regulations is amended as set forth below.

Subpart C, is added to Title 29, Subtitle A, to read as follows:

PART 20—DEBT COLLECTION ACT OF 1982

* * * * *

Subpart C—Interest, Penalties and Administrative Costs

Sec.

Authority: Pub. L. 97-365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711, *et seq.*

Subpart C—Interest, Penalties and Administrative Costs

§ 20.50 Purpose and scope.

The regulations in this subpart establish the policies and procedures to implement section 11 of the Debt Collection Act of 1982 (Pub. L. 97-365), 31 U.S.C. 3717. Among other things, this statute authorizes the head of each agency to assess interest, penalties and administrative costs against debtors with respect to delinquent debts arising under the agency's program. This subpart establishes the standards and procedures that will be followed by the Department of Labor in assessing such charges.

§ 20.51 Exemptions.

(a) The provisions of 31 U.S.C. 3717 do not apply:

(1) To debts owed by any State or local government;

(2) To debts arising under contracts which were executed prior to, and were in effect on [i.e., were not completed as of], October 25, 1982;

(3) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or

(4) To debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(b) Agencies are authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

§ 20.52 Definitions.

For purposes of this subpart—

(a) The terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization or entity, except another federal agency.

(b) A debt is considered delinquent if it has not been paid by the date specified in the agency's initial demand letter (§ 20.54), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under payment agreement with the Department of Labor, or any agency thereof.

§ 20.53 Agency responsibilities.

(a) The Department of Labor agency responsible for administering the program under which a delinquent debt arose shall assess interest and related charges on the debt, in accordance with guidelines established by the Assistant Secretary for Administration and Management. In the case where a debt arises under the program of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management, or his or her designee, may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency, or official, shall have responsibility for carrying out the provisions of this subpart.

(b) Before assessing any charges on a delinquent debt, the responsible agency must notify the debtor of the Department's policies for assessing interest, penalties and administrative costs and must ensure that the debt is overdue for the respective periods specified in these regulations.

(c) Each Department of Labor agency is responsible for ensuring the continued accuracy of calculations and records relating to its assessment of charges, and for the prompt notification of the debtor of any substantial change in the status or amount of the claim. As appropriate, the Agencies should promptly follow up on any allegation made by a debtor that principal or charges is in error. Agencies should respond promptly to communication from the debtor, within 30 days whenever feasible.

§ 20.54 Notification of charges.

The agency head (or designee) responsible for carrying out the provisions of this subpart shall mail or hand-deliver an initial demand for payment to the debtor. In the initial demand, the debtor shall be notified that interest on the debt will start to accrue from the date on which the notice is mailed or hand-delivered, but that payment of interest will be waived if the debt is paid by the due date, or within 30 days of the date of notice, if no due date is specified. The initial demand shall also state that administrative costs

of recovering the delinquent debt will be assessed if payment is not received by the due date.

§ 20.55 Second and subsequent notifications.

(a) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the responsible agency head (or designee) shall send progressively stronger second and subsequent demands for payment, if payment or other appropriate response is not received within the time specified by the initial demand. Unless a response to the first or second demand indicates that a further demand would be futile or the debtor's response does not require rebuttal, the second and subsequent demands shall generally be made at 30 day intervals from the first, and shall state that a 6 percent per annum penalty will be assessed after the debt has been delinquent 90 days, accruing from the date it became delinquent. The second and subsequent demands shall also identify the amount of interest then accrued on the debt, as well as administrative costs thus far assessed. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to waiver of the indebtedness, administrative offset, salary offset and disclosure of information to credit reporting agencies, to the extent that such inclusion is appropriate and practicable.

§ 20.56 Delivery of notices.

The responsible agency head (or designee) shall exercise due care to ensure that demand letters are dated and mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

§ 20.57 Accrual of interest.

Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor, using the most current address that is available to the agency.

§ 20.58 Rate of interest.

(a) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury as published in the Federal Register (as of the date the notice is sent), unless another rate is specified by statute, regulations or preexisting contract condition. The Office of the Assistant Secretary for Administration and Management will notify agencies promptly of the current Treasury rate. The responsible agency may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States, and such rate is agreed to by the Assistant Secretary for Administration and Management (or his designee). The rate of interest prescribed in section 6621 of the Internal Revenue Code shall be sought for backwages recovered in litigation by the Department.

(b) The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the agency may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed.

(c) Interest shall not be assessed on interest, penalties or administrative costs required by this subpart. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

§ 20.59 Assessment of administrative costs.

(a) The Department of Labor agency responsible for collecting the claim shall assess against debtors charges to cover administrative costs incurred as a result of the delinquent debt; that is, the additional costs incurred in processing and handling the debt because it became delinquent. Calculation of administrative costs shall be based on cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency.

(b) In addition to assessing the costs listed in the administrative cost fee schedule, the responsible agency may include the costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to delinquency.

(c) The Assistant Secretary for Administration and Management shall issue each year a schedule providing the costs associated with various common activities required to collect delinquent debts.

§ 20.60 Application of partial payments to amounts owed.

When a debt is paid in partial or installment payments, amounts received by the responsible agency should be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

§ 20.61 Waiver.

(a) The Department of Labor agency responsible for collecting the claim shall waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. This 30-day period may be extended for another 30 days on a case-by-case basis, if the agency reasonably determines that such action is appropriate, and is in accordance with these regulations. Also, the responsible agency may waive charges assessed under this subpart, based on criteria specified in the Federal Claims Collection Standards relating to the compromise of claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience or not be in the best interests of the United States. Waiver under the first sentence of this paragraph is mandatory. Under the second and third sentences waiver is permissive and may be exercised only in accordance with the standards set by these regulations.

(b) Agencies may waive interest and other charges under appropriate circumstances, including, for example, (1) pending consideration of a request for reconsideration, administrative review, or waiver under a permissive statute, (2) if the agency has accepted an installment plan, there is no fault or lack of good faith on the part of the debtor, and the amount of interest is large enough in relation to the size of the debt and the amount of the installments that the debtor can reasonably afford to pay so that the debt can never be repaid, or (3) if repayment of the full amount of the debt is made after the date upon which interest and other charges became payable and the estimated costs of

recovering the residual interest balance exceed the amount owed the Agency.

(c) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended.

§ 20.62 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation.

Signed at Washington, D.C., this 1st day of February, 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-2972 Filed 2-5-85; 8:45 am]

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federal register

Wednesday
February 6, 1985

Part V

Department of Transportation

14 CFR Parts 251, 261, 287, 291, 296, 298, 299, 303, and 380

Implementation of Civil Aeronautics Board Sunset Act of 1984; Transfer of Antitrust Authority of the Federal Aviation Act of 1958 From Civil Aeronautics Board to Department of Transportation; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 251, 261, 287, 291, 296, 298, 299, 303, and 380

[Docket No. 42825; Notice No. 85-1]

Implementation of the Civil Aeronautics Board Sunset Act of 1984; Transfer of Antitrust Authority Under Sections 408, 409, 412 and 414 of the Federal Aviation Act of 1958 From the Civil Aeronautics Board to the Department of Transportation.

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: On January 1, 1985, the authority of the Civil Aeronautics Board (CAB) to approve and grant antitrust immunity to certain aviation-related agreements, mergers, consolidations, acquisitions of control and interlocking relationships transferred to the Department of Transportation. In order to implement this authority, the Department is proposing regulations that (1) specify the information that must be submitted when Department approval is sought; (2) set out the procedures to be followed when an application for approval has been filed; and (3) exempt certain transactions and relationships from the requirement to obtain Department approval. The proposed regulations are, in most respect, very similar to existing regulation of the same subject matter, and were drafted in cooperation with the Antitrust Division, Department of Justice.

DATE: Comments on the proposed rule must be received on or before March 8, 1985.

ADDRESS: Comments should be directed to the Docket Clerk, Room 4107, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Warren Dean, Assistant General Counsel for International Law (202) 426-2972, or Vance Fort, Director, Special Programs, Office of the Assistant Secretary for Policy and International Affairs, (202) 426-4341, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This proposed action has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, this proposed rule would not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These proposed regulations primarily would adopt former CAB regulations, in accordance with the authority to enforce certain laws that was transferred from the CAB to the Department of Transportation. In some instances, the extent of regulation would be reduced by these regulations. Accordingly, a regulatory impact analysis is not required.

This proposed regulation is significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because it involves important Departmental policies. Its economic impact should be minimal and a full regulatory evaluation is not required.

This proposed action would not have an adverse economic impact on small entities. I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. It would continue a former CAB exemption for the most common form of small entity in the airline industry—air taxi operators.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

The collection of information requirements in this proposed action have been submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be directed to Sam Fairchild, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. It would be appreciated if a copy of any comments sent to OMB is also sent to the DOT rules docket.

Comments Invited

Interested persons are invited to participate in this rulemaking action 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. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: Comments on Docket No. 42825. The postcard will be date/time stamped and returned to the commenter. All communications received between the specified opening and closing dates for comments will be considered by the Secretary before taking action on any further rulemaking. Also, this proposal 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 DOT personnel concerned with this rulemaking will be filed in the docket.

Background

Pursuant to the Airline Deregulation Act (Pub. L. No. 95-504, October 24, 1978) ("ADA") as amended by the Civil Aeronautics Board Sunset Act of 1984 (Pub. L. No. 98-443, October 4, 1984 ("Sunset Act")), on January 1, 1985, the authority of the Civil Aeronautics Board ("CAB") under sections 408, 409, 412 and 414 of the Federal Aviation Act, as amended, transferred to the Department of Transportation ("Department" or "DOT"). Section 408 prohibits airline consolidations, mergers, and acquisitions of control unless DOT makes certain statutory findings and approves the transaction. (Hereinafter, the term "mergers" includes all transactions covered by section 408.) Section 409 prohibits certain interlocking relationships without DOT approval. Section 412 concerns intercarrier agreements and provides standards for determining whether such agreements should be approved or disapproved. Section 414 allows DOT to grant antitrust immunity to an approved section 408, 409 or 412 transaction. Prior to January 1, 1985, these statutes were administered by the CAB. Under the provisions of the Sunset Act, however, this authority will lapse on January 1, 1989, with the exception of sections 412 and 414 as they apply to foreign air transportation.

The Secretary has delegated by regulation (49 CFR Part 1, 49 FR 50994, December 31, 1984) the responsibility for the transferring CAB functions, including the antitrust authority implemented in this part, to the Assistant Secretary. Consistent with

well-established management principles of the Department and the specific terms of that delegation, the Secretary may exercise this authority in lieu of the Assistant Secretary. Accordingly, the Secretary may take any action which the Assistant Secretary is authorized to take under the provisions of Part 303, whenever the Secretary deems it appropriate.

Amendment to DOT Order 5610.1C

Existing DOT Orders will be amended to continue CAB practice by establishing that action on an application under section 408, 409, 412 or 414 is normally an action that does not require any environmental review.

Discussion of Proposed Changes to Former CAB Regulations

In order to implement the Department's responsibilities under these statutory provisions, it is proposed that Part 303 of Title 14 of the Code of Federal Regulations, 14 CFR Part 303 be revised. Parts 251 and 287 (Interlocking Relationships); 261 (agreements) and 299 (Aircraft) of Title 14 would be deleted. As explained below, former CAB regulations Parts 302, Subparts L and P, (agreements) and 315 (mergers) already have been recodified in Part 303 (50 FR 2374, January 16, 1985). Individual provisions of other parts will also be affected. The specific provisions of Part 303 are explained in detail below. In amending 14 CFR Parts 300–326, 50 FR 2374, January 16, 1985, which recodified former CAB regulations, 14 CFR Parts 302, Subparts L and P, and 315 in a new Part 303, DOT noted that the change was on interim one only, pending finalization of this rulemaking. The changes described in this NPRM would replace in its entirety, the Part 303 issued at 50 FR 2374, January 16, 1985.

14 CFR Part 303 (New)

Subpart A

This proposed subpart sets forth general provisions, such as the purpose of the regulation and definitions. It also sets forth the basic requirement that an application must be filed, and specifies general requirements governing all types of applications. It defines hearing to include either a show cause proceeding or a full evidentiary hearing, whichever the Assistant Secretary for Policy and International Affairs (Assistant Secretary) determines to be appropriate in a particular case.

Unless otherwise provided, all applications should conform to the requirements of 14 CFR Part 302 (50 FR 2374, January 16, 1985). As in the case of all other orders issued by the Secretary (and formerly by the CAB), under the provisions of the Federal Aviation Act, orders issued pursuant to this Part are subject to judicial review in the manner provided in section 1006 of the Act (49 U.S.C. 1486).

This proposed subpart would also require applicants who seek antitrust immunity to include in their applications a statement of justification for granting such immunity. If further specifies that applications for antitrust immunity must indicate whether the applicants seek full immunity or only immunity from private treble damage actions, and, in most cases, specify the duration of the requested immunity. In addition, the proposed regulation would reserve the right of the Assistant Secretary to revoke any antitrust immunity that was procured through a material misrepresentation of fact.

The proposal also would authorize the Assistant Secretary after notice and hearing to withdraw prospectively any immunity that is no longer justified under the provisions of section 414. It is anticipated that the Department will proceed promptly to review outstanding CAB orders granting antitrust immunity in connection with any order approved under section 412 and relating to interstate and overseas air transportation to determine whether to withdraw such antitrust immunity entirely or confer immunity from private treble damage actions only. This will provide an orderly transaction towards the expiration of the authority to provide immunity for agreements relating to interstate and overseas air transportation on January 1, 1989. The Department may proceed to review a previously conferred immunity either by show cause proceedings (section 303.44) or hearing case (section 303.45), but ordinarily will initiate such proceedings by order to show cause. In any proceeding to review previously conferred antitrust immunity, the proponents of such immunity shall bear the burden of justifying continued immunity under the standards of section 414 of the Act, as in the case of a new application.

Finally, this proposed subpart sets forth a transition rule whereby the record of an application pending at the time that Part 303 is revised would be transferred in full to the Department to be considered under the revised Part 303.

Subpart B

This proposed subpart specifies the information that would have to be filed when a party seeks approval of a merger or similar transaction under section 408. Currently, 14 CFR Part 303 sets forth the information that DOT requires with Section 408 applications. As noted, the current Part 303 recodified the CAB's regulations contained in Part 315. The Department proposes to adopt the former CAB regulation with three modifications. First, a current airline schedule and a current tariff or price list would be required. Both are needed to analyze competition, particularly at airport "hubs", and the production of this information would not burden applicants. See proposed § 303.13(e) and (f). Second, the current requirement to produce documents relating to any potential adverse impact of the merger caused by an increase in operating costs or a decrease in the quantity or quality of air service would be deleted because it is not needed in considering most merger applications. Potential increases in operating costs and/or decreases in air service do not ordinarily raise competitive concerns. If such information becomes relevant to the approval of a proposed merger, it could be obtained through other means when necessary. See proposed § 303.16. Third, the Department proposes not to adopt current 14 CFR 303.33(e) (50 FR 2374, January 16, 1985) because it is largely duplicative of other information required to be produced.

Subpart C

This proposed subpart sets forth the information that would have to be submitted when a party requests approval for an interlocking relationship under Section 409. The regulations on Section 409 applications are currently set forth at 14 CFR Part 251. The Department proposes to adopt those regulations with several modifications. First, a portion of the regulations concerning reports filed under section 407 of the Act, 49 U.S.C. 1377, would be deleted, since the portions of that provision concerning domestic aviation were repealed on January 1, 1983. Second, those portions of the regulations concerning the format of section 409 applications and the general conditions applicable to approved applications would be deleted, since these matters are covered elsewhere in the Department's proposed regulations. Finally, a provision of the regulations relating to applications filed prior to March 10, 1942, would be deleted as being no longer current.

Subpart D

This proposed subpart describes the type of information that would have to be included in an application for approval of an inter-carrier agreement under section 412. The regulations on

section 412 applications are published in 14 CFR Part 261 (concerning agreements already in effect) and 14 CFR Part 303 Subparts A and B (concerning agreements submitted for approval prior to implementation). The Department's proposed regulations on section 412 applications are similar to those adopted by the CAB, but differ in some respects. First, the Department would combine Part 261 and Subparts A and B of Part 303 into a single subpart. Second, the provisions of the CAB regulations concerning the authentication of contracts and agreements would be reworded and condensed. Third, language would be added to include requests for authority to discuss possible cooperative working arrangements within the scope of the regulations. Fourth, the requirements for serving copies of section 412 applications would be changed to reflect the sunset of the CAB and the new responsibilities of the Department of Transportation. Finally, certain procedural provisions would be deleted because they are covered in 14 CFR Part 302.

Subpart E

This proposed subpart sets forth the procedures that would have to be followed after an application has been filed under sections 408, 409 or 412. Within ten days after an application is filed, the Assistant Secretary would determine whether the application is in substantial compliance with the requirements of proposed § 303.05. If the application is sufficient, the Department would give the public notice that an application has been filed and afford interested persons the opportunity to comment on the application. If the application concerns a section 408 transaction, the notice would be published in the **Federal Register**. Notice of applications under sections 409 and 412 would ordinarily be posted in the Department's Documentary Services Division, but might on occasion be published in the **Federal Register**. During the comment period, interested persons would be permitted to explain their support for or opposition to the transaction and state whether there are any material facts in dispute that would justify a hearing.

Following the conclusion of the comment period, the regulations would provide a variety of options to the Assistant Secretary. In the case of applications filed under sections 409 and 412, there is no statutory requirement for a hearing. Accordingly, after expiration of the comment period on such applications, the proposed regulations would authorize the Assistant Secretary either to approve or disapprove an application without further inquiry. The proposed regulations, however, would also give the Assistant Secretary the option of either ordering that an evidentiary hearing be held or issuing an order to show why an application should not be summarily approved or disapproved.

Unlike sections 409 and 412, section 408 directs that a hearing be held before deciding whether to approve or disapprove most section 408 applications. Section 408, however, does not specify the particular type of hearing (formal or informal) that is required. Accordingly, hearings may in certain cases be conducted on an informal basis. The proposed regulations would provide that when a section 408 application does not appear to raise factual issues that need to be resolved in a full evidentiary hearing, the Assistant Secretary may satisfy the hearing requirement by issuing an order to show cause. Such an order would contain a tentative decision and would give both opponents and proponents of the application an opportunity to file written comments on the tentative decision. Such orders to show cause would be issued either at the time of the initial publication of notice of the application or after receipt of initial comments on an application. The proposed regulation would also provide that in appropriate cases the Assistant Secretary may exercise his or her authority under section 408(b)(2) either to approve or disapprove, without a hearing, section 408 applications that do not affect the control of air carriers directly involved in the operation of aircraft.

This proposed subpart also sets out the procedures to be followed when the Assistant Secretary determines that a full evidentiary hearing is necessary. In such cases, an administrative law judge would be appointed, and would conduct a hearing in accordance with section 7 of the Administrative Procedure Act (5 U.S.C. 556) and the rules of practice in 14 CFR Part 302. The Assistant General Counsel for Aviation Enforcement and Proceedings, DOT, would be made a part to any hearing held under these regulations, and the Assistant Attorney General, Antitrust, would have the right to intervene as a party. The Administrative Law Judge would render a recommended decision, and the final decision would be made by the Assistant Secretary. The Secretary may make the decision in lieu of the Assistant Secretary in cases involving significant issues of national transportation policy.

Subpart F

Proposed Subpart F would continue the exemptions from section 408 and 409 that the CAB granted to certain classes of carriers and transactions. The existing exemptions of air taxi operators, domestic cargo air carriers, charter operators and acquisitions of aircraft continue to be appropriate—these matters raise no competitive concerns—and they would be continued.

Currently, the rules that exempt air taxi operators and charter operators from section 408 (14 CFR Parts 298 and 380) tie the exemptions to the requirements of the underlying rules, which include may restrictions that are unrelated to antitrust considerations. The merger exemptions for air taxi operators and charter operators need not be contingent on these factors. Therefore, the Department proposes simply to exempt from section 408 any charter operator or air taxi operator that does not operate an aircraft designed to have a maximum passenger capacity of more than 60 seats.

The rule that exempts all-cargo carriers from section 408 (14 CFR Part 291) does not exempt acquisitions involving foreign air carriers. To implement the Department's responsibilities under section 408, this distinction is not necessary. There is no justification for treating acquisitions involving foreign firms differently than acquisitions involving domestic firms, other than concerns pertaining to air carrier compliance with the citizenship requirements of the Act. Therefore, the Department proposes to expand the all-cargo carrier exemption to encompass such transactions as well. Air carriers are cautioned, however, that a transaction to which section 408 applies that involves a foreign air carrier or other foreign citizen may affect their U.S. citizenship under the Act (and hence their certificate to engage in air transportation) and may require a filing under 14 CFR 204.4.

Proposed § 303.53 of these regulations would create an exemption from section 409 for all persons. Most interlocking relationships within the scope of section 409 raise no competitive concerns and do not warrant close government supervision. If a particular interlocking relationship exempted under this regulation does present a competitive

problem, it would be subject to the antitrust laws. In such a case, however, the parties to the transaction would still have the option of filing their section 409 agreement with the Department under proposed Subpart C of these regulations for the purpose of obtaining antitrust immunity.

This subpart further specifies that any person may apply for an exemption from any of the requirements relating to section 408. The Assistant Secretary may grant an exemption, if he or she determines that an exemption is consistent with the public interest, and he or she may attach conditions to an exemption. The Department contemplates that petitions for exemption will be filed when there is plainly no anticompetitive effect from the proposed transaction or when there are other circumstances that would warrant an exemption. Antitrust immunity would not be granted with an exemption.

Finally, the subpart specifies that an exemption does not confer any immunity under the antitrust laws, and provides for the termination of exemptions.

List of Subjects in 14 CFR Part 303

Organizations and functions, Authority delegations, Air transportation, Air carriers, Air taxis, Common carriers, Administrative practice and procedure.

Therefore, under the authority of 49 U.S.C. Subtitle I, 1378, 1379, 1382, 1384, 1386 and 1551, it is proposed that Title 14 of the Code of Federal Regulations be amended as follows:

1. The following amendments are issued under authority of 49 U.S.C. Subtitle I, 1378, 1379, 1382, 1384, 1386 and 1551.

2. The following regulatory parts, subparts, sections and paragraphs would be removed:

(a) Parts 251, 261, 287, and 299, would be removed.

(b) Sections 291.33, 291.35, 296.11, 298.12, 298.14, 298.92, 380.21, 380.22, and 380.44, would be removed and marked "[Reserved]."

(c) Sections 291.31(a)(5), and § 298.11(g) would be removed, and §§ 291.31(b), 291.32(a) 291.32(b), 296.10(b), 296.10(c), and 380.20(b) would be removed and marked "[Reserved]."

3. Part 303 would be revised to read as follows:

PART 303—REVIEW OF AIR CARRIER AGREEMENTS, MERGERS, ACQUISITIONS OF CONTROL, CONSOLIDATIONS AND INTERLOCKING RELATIONSHIPS

Subpart A—General Provisions

Sec.

Subpart B—Section 408 Applications

Subpart C—Section 409 Applications

Subpart D—Section 412 Applications

Subpart E—Procedures Upon Application

Subpart F—Exemptions

Authority: 49 U.S.C. Subtitle I, 1378, 1379, 1382, 1384, 1386 and 1551.

Subpart A—General Provision

§ 303.01 Purpose.

These regulations set forth the procedures by which applications may be made to the Department of Transportation under sections 408, 409, 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1378, 1379, 1382 and 1384) and procedures governing proceedings to enforce these provisions. These regulations also grant exemptions from sections 408 and 409 for certain types of transactions.

§ 303.02 Definitions.

(a) The term "Act" refers to the Federal Aviation Act, as amended. (49 U.S.C. 1301 *et seq.*)

(b) The term "Assistant Secretary" means the Assistant Secretary for Policy and International Affairs, or his delegate. As provided in 49 C.F.R. 1.43, the Secretary may exercise any authority in lieu of the Assistant Secretary under the provisions of this Part.

(c) The term "documents" means (1) all written, recorded, transcribed or graphic matter including letters, telegrams, memoranda, reports, studies, forecasts, lists, directives, tabulations, logs, or minutes and records of meetings, conferences, telephone or other conversations or communications; and (2) all information contained in data processing equipment or materials. The term does not include daily or weekly statistical reports in whose place an annual or monthly summary is submitted.

(d) The term "Documentary Services Division" means the Documentary Sevices Division of the Office of the Assistant General Counsel for Regulation and Enforcement.

(e) The term "hearing" means either a show cause proceeding as provided in § 303.44 or a full evidentiary hearing as provided in § 303.45, whichever is determined by the Assistant Secretary to be appropriate.

(f) The term "section 408 transaction" means any transaction or relationship made unlawful by section 408(a) of the Act if not approved under section 408(b) of the Act. (49 U.S.C. 1378 (a) and (b))

(g) The term "section 409 transaction" means any transaction or relationship made unlawful by section 409 of the Act if not approved under that section. (49 U.S.C. 1379).

(h) The term "section 412 transaction" means any contract, agreement or discussion of a cooperative working arrangement within the scope of Section 412 of the Act. (49 U.S.C. 1382).

(i) The term "standard labor protection provisions" means the labor protection provisions imposed by the Civil Aeronautics Board in the *Pan-American-Acquisition of Control and Merger with National Case*, CAB Order 79–12–163/164/165 (October 24, 1979).

§ 303.03 Requirement to file application.

All persons who seek approval of, or antitrust immunity for, a section 408, 409 or 412 transaction must file with the Documentary Services Division an application that conforms to the requirements set forth in § 303.05

§ 303.04 General rules governing application content, procedure and conditions of approval.

(a) Unless specifically exempted by these regulations or by an order of the Assistant Secretary, each person filing an application pursuant to § 303.03 shall prepare and file the application in the manner specified in this section. Each such application shall also contain the information required by the subpart of this part applicable to the type of transaction for which approval is requested. The subparts applicable to each type of transaction are as follows:

(1) Section 408 transactions: Subpart B;

(2) Section 409 transactions: Subpart C; and

(3) Section 412 transactions: Subpart D.

An application may be deemed incomplete if it is not in substantial compliance with these requirements.

(b) The parties to the transaction may file either separate applications or one joint application so long as all the information required herein is submitted for each party to the transaction; except, in the case of non-consensual Section 408 transactions, the applicant shall be required to provide the information required herein for its target company only to the extent that such information is available to it. The Assistant Secretary or Administrative Law Judge, if the matter has been assigned to a Judge, upon initiative or application may order the target company or other persons to submit some or all of the information required by this subpart, or other information under 14 CFR 302.19.

(c) The application shall be indexed to correspond to the individual subsections of the applicable subpart. Each page of the application and each document submitted with the application shall be marked with the name, initials, or some other identifying symbol of the applicant. The application shall also indicate the date of preparation and the name and corporate position of the preparer and recipient of each document submitted.

(d) Where the required information is in data processing equipment, on microfilm, or is otherwise not eye-readable, the applicant shall provide such information in eye-readable form.

(e) The information provided by the applicant shall be updated in a timely fashion throughout the period of consideration of the application.

(f) If any information or documents required by the applicable subpart are not available, the applicants shall file an affidavit executed by the individual responsible for the search explaining why they cannot be produced.

(g) The Assistant Secretary or the Administrative Law Judge may order any applicant to submit information in addition to that required by the applicable subpart.

(h) An applicant may withhold a document required by this part on the grounds that it is privileged, but each document so withheld shall be identified and the applicant shall supply a brief description of the nature of the document, a written statement indicating the basis of the privilege claimed, and the names of the preparers and recipients of the document. If any interested party contests the assertion of privilege, the document shall be promptly submitted to the Assistant Secretary, or the Administrative Law Judge, if the matter has been assigned to a Judge. Where appropriate, an *in camera* inspection may be ordered.

(i) A copy of the complete application shall be sent to Chief, Transportation Section, Antitrust Division of the Department of Justice, at the same time as it is filed with the Documentary Services Division.

(j) Upon request, the complete application shall promptly be made available by the applicant to any person who has petitioned to intervene under these regulations. The applicant shall have copies of the complete application for available distribution and shall, if requested, be responsible for expeditiously providing the application to any requesting person, whether or not a party.

(k) Unless otherwise specified in this subpart, all applications shall conform generally to the requirements set forth in 14 CFR Part 302, Subpart A.

(l) In exceptional circumstances, the Assistant Secretary may waive or alter the procedural requirements of this part to permit a transaction to proceed on an expedited basis.

§303.05 Applications requesting antitrust immunity.

(a) Each application must state explicitly whether or not the applicant seeks antitrust immunity under the provisions of section 414 of the Act. If antitrust immunity is requested, the application should specify whether the applicant seeks full immunity or immunity only from the provisions of sections 4, 4a and 4c of the Clayton Act, 15 U.S.C. 15, 15a, 15c. Each application seeking antitrust immunity shall contain a statement explaining why the applicant believes immunity is in the public interest and necessary in order for the transaction to proceed.

(b) Any application for antitrust immunity filed in connection with an application under section 412 (relating to interstate and overseas air transportation) shall specify the duration of such requested immunity, in no event to extend beyond January 1, 1989.

(c) Any material misrepresentation of fact in such an application shall be grounds for rescission *nunc pro tunc* of any antitrust immunity granted as a result of the misrepresentation.

§ 303.06 Review of antitrust immunity.

The Assistant Secretary may initiate a proceeding to review any antitrust immunity previously conferred by the CAB or the Department in any section 408, 409 or 412 transaction. The Assistant Secretary may terminate or modify such immunity if the Assistant Secretary finds after notice and hearing that the previously conferred immunity is not consistent with the provisions of section 414. In any proceeding to review such immunity the proponents of the immunity will have the burden of justifying the continuation of previously conferred immunity under the provision of section 414.

§303.07 Transitional rule.

If a section 408, 409, or 412 application or a request for antitrust immunity under section 414 is pending on the date this part is adopted, such application or request shall be deemed made pursuant to the provisions of this part.

Subpart B—Section 408 Applications

§ 303.10 General provisions concerning contents of applications.

A section 408 application shall contain the following general information:

(a) The names and mailing addresses of the parties to the transaction and the names, titles, and duties of the officers and directors of each corporation.

(b) A description of the transaction, including the exchange ratio, the terms of any tender offer, and the form of financing.

(c) A copy of the final or most recent draft agreement between the parties relating to the transaction.

(d) The percentage of the outstanding voting securities of either corporation that is owned or controlled by the other corporation or by its officers or directors. The application shall also set forth the consideration paid for these securities, the date and method of their purchase, and the form of payment.

(e) A list of all officers and directorships held in any other corporation which is a common carrier or is substantially engaged in the business of aeronautics by officers or directors of any party to the transaction.

(f) A list of all other financial relationships between the parties to the transaction, or between their officers, directors or major shareholders.

(g) All studies, reports and analyses regarding the proposed transaction or the other party to the transaction made by or for an applicant within 3 years preceding the application. These materials shall include, but not be limited to, any discussion of the proposed transaction or other party to the proposed transaction with respect to—

(1) Competition, markets, market shares, actual competitors or potential entrants;

(2) Potential for sales growth or expansion into new markets;

(3) Efficiencies or costs of the proposed transaction; or4

(4) The financial condition or operation strengths or weaknesses of the proposed partner or target company.

(h) If the applicant is relying for approval of the proposed transaction on a claim that that transaction would meet significant transportation needs of the public and that these needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects, all studies, reports and analyses made within 2 years proceeding the filing of the application regarding other possible mergers, consolidations, or acquisitions that it had considered. Any other evidence that applicants wish the Department to consider in addition to that required by this subpart shall also be filed with the application. This evidence shall include all exhibits, data, and testimony on which the applicant intends to base its direct case and the names and addresses of all witnesses whom it will seek to call in the event that an oral evidentiary hearings is held. An applicant is not precluded from later filing answers, replies, rebuttal exhibits, or testitnony.

§ 303.11 Financial information.

A Section 408 application shall contain the following financial information:

(a) The following reports filed with the United States Securities and Exchange Commission within three years prior to the date of the application:

(1) All reports filed on Form 10K;

(2) All registration statements and all reports filed on Forms 10Q and 8K;

(3) All proxy statements; and

(4) All schedules 14 D–1 with all amendments.

(b) Annual reports to shareholders for the three years preceding the application.

§ 303.12 Equipment and facilities information.

A section 408 application shall include the following equipment information:

(d) A list of aircraft owned or leased by the applicant by aircraft type and age.

(e) If the aircraft is leased from others, the owner of the aircraft and the terms of the lease; if the applicant leases aircraft to others, the lessee and the terms of the lease.

(f) A detailed description of all plans and orders for the acquisition, lease or major modifications of flight equipment, including the price and projected delivery date of any aircraft.

(g) A detailed description of all plans and agreements for the sale or lease of aircraft.

(e) A list and description of airport terminal and landing facilities, including terms of tenure.

§ 303.13 Competitive information.

A section 408 application shall contain the following competitive information:

(a) Separate lists of all non-stop city-pairs (1) that are served by the applicant, (2) that are served by the other party to the proposed transaction, and (3) into which the applicant or the other party to the proposed transaction is considering entry, at the time of the application.

(b) All studies, reports, and analyses that were submitted to the applicant's chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, within two years prior to the filing of the application, that discuss route development, internal expansion, service expansion or the marketing plans or strategies of the applicant.

(c) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the following subjects in relation to any area served by both parties (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical areas):

(1) Competition;

(2) The possibility of new entry;

(3) Profitability or yield;

(4) Fare levels or availability of discount fares;

(5) Capacity or scheduling;

(6) Load factors or break-even levels;

(7) Identity of potential entrants; or

(8) Possible responses to new entry or to changes in a competitor's fares, scheduling, capacity or number of discount seats offered.

(d) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the topics listed in § 303.13(c) in relation to any area served by the other party to the proposed transaction (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area).

(e) A copy of the company's flight schedule effective at the time of the application.

(f) A copy of the company's tariffs or list of applicable fares as of the time of the application.

§ 303.14 Availability of resources.

A section 408 application shall contain a detailed description of the following for each airport served by both parties to the proposed transaction:

(a) The availability of fuel and the policy of fuel suppliers as to the supply and price of fuel to new entrants.

(b) The availability of landing slots at any of the airports that have access allocated by the FAA or are otherwise restricted.

(c) The environmental constraints on each airport that limit or regulate additional service, whether of new entrants to the airport or of expanded service by incumbents. The report on environmental constraints shall include a description of any regulation that affects airport use, including but not limited to noise, air, and surface pollution.

(d) Airport constraints as to the size or type of aircraft than can be operated at the airport, including, but not limited to, such considerations as runway length, availability of ramp space, and safety considerations.

(e) Any constraints with respect to terminal facilities, including but not limited to counter or ticketing space, gate space, baggage or cargo consolidation space, and ramp space.

§ 303.15 Potential public benefits of the proposed transaction.

(a) If a section 408 applicant intends to rely on public benefits to justify approval of its proposed transaction, the applicant shall described those benefits in detail and include all documents submitted to its chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss the following subjects:

(1) Any decrease in operating costs or increase in operating efficiencies. This should include an estimate of when the savings will be realized;

(2) Service benefits and proposed changes in price/quality options;

(3) Any enhancement of competition and the regions where that enhancement will occur; or

(4) Any changes in employment opportunities.

(b) The applicant shall provide all data, and set forth the method of calculation, upon which its claims of benefits rely.

(c) In describing the public benefits, the applicant shall distinguish between a one-time cost saving or benefit resulting from the transaction and continuing operational efficiencies or benefits.

§ 303.16 Potential impact of the proposed transaction.

A section 408 application shall include all documents that were submitted to the applicant's chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss the following in relation to the proposed transaction:

(a) Any lessening of competition as a result of the proposed merger.

(b) Any costs that would result from labor protective provisions that are necessary to complete the transaction.

§ 303.17 Labor relations.

A section 408 application shall provide the following labor relations information:

(a) Whether the surviving carrier will accept standard labor protective provisions as a condition of approval of the transaction, and the estimated costs of those provisions.

(b) The number of employees, by each class or craft, employed by each party to the transaction, and the number of employees by class or craft in their employ but on furlough. With respect to those employees on furlough, applicants shall indicate the reasons for such furlough and the order of recall (and the basis thereof) of these employees.

(c) Whether any plans exist for the dismissal, displacement, transfer, reduction of flying time or furlough of any employees in any class or craft as a result of operating changes which would flow from the proposed transaction. If so, applicants shall list for each such class or craft the number of employees affected, the type of action (*e.g.*, dismissal, transfer, furlough, etc.) anticipated, and the manner in which the plans would be implemented.

(d) Applicants' position with respect to the survivability of existing collective bargaining agreements when the merger becomes effective.

(e) Copies of the collective bargaining agreements applicants have with the different classes of employees.

§ 303.18 Fuel consumption.

(a) A section 408 application shall estimate the amount of fuel that would be consumed by—

(1) The consolidated or commonly controlled entities during the next calendar year following approval; and

(2) Each carrier individually during the next calendar year following disapproval.

(b) With both estimates in paragraph (a) of this section, the applicant shall include a statement as to the availability of the required fuel.

§ 303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Whenever a proposed section 408 transaction is subject to the premerger notification requirements of Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a, a complete copy of such application shall also be filed with the Attorney General and the Federal Trade Commission pursuant to the requirements of 15 U.S.C. 18a(c)(6) and the regulations promulgated thereunder.

Subpart C—Section 409 Applications

§ 303.20 General provisions concerning contents of applications.

(a) All transactions within the scope of section 409 of the Act are exempted from the requirements of that provision by § 303.53, but are not granted antitrust immunity. Persons seeking approval of a section 409 transaction for purposes of obtaining antitrust immunity under section 414 of the Act must file an application containing the following information:

(1) The full name, place or residence, and citizenship of the individual applicant;

(2) The name and address of the major business or professional activity of the individual applicant;

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship occupied by the individual applicant which has been approved or exempted by the Civil Aeronautics Board or the Department of Transporation. This description shall include the date and manner of the individual applicant's election or appointment to the position or positions which he or she occupies or seeks to occupy, and shall state the name or names of the persons primarily responsible, directly or indirectly, for his or her election or appointment. It shall also include a statement of his or her present or contemplated duties in connection with the interlocking relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto;

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics other than as an air carrier, or person whose principal business, in purpose or in fact, is the holding of stock in, or control of any other person substantially engaged in the business of aeronautics;

(5) The name and address of each business (including but not limited to corporations, partnerships, trusts, etc.) of which the individual applicant is an officer, director, partner, trustee, receiver, manager, attorney, agent, or controlling stockholder or employee, the general character of each such business and a description of the individual applicant's financial interest therein.

(6) A complete description of any benefit and of the amount of, and basis for, any money or think of value (i) received by the individual applicant during the last year from each air carrier applicant and from any person with whom the individual applicant has or seeks to have an interlocking relationship, whether for service, reimbursement of expenses or otherwise, and (ii) which the applicant contemplates receiving from any such

person during the continuance of the interlocking relationship;

(7) The names and titles of all officers and directors of each air carrier applicant, and of each person with whom the individual applicant has or seeks to have an interlocking relationship;

(8) The names (i) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any air carrier applicant and (ii) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any person with whom an interlocking relationship is sought by such application to be approved, together with the number of shares of each class of stock held by each of such stockholders and the percentage which such shares bear to the total number of shares of the same class authorized and outstanding. (If all or any part of such shares are held for the account of any person other than the holder, the names of such persons shall be disclosed. If the applicant, after making all reasonable efforts, is unable to obtain disclosure of such information with respect to any of the persons classified under paragraph (a)(8)(ii) of this section, the application shall state specifically the efforts made to obtain such information and the reasons why such efforts were unsuccessful);

(9) A description of the shares of stock or other interests held by each air carrier applicant or for its account in persons other than itself; and

(10) Except in the case of interlocking relationships described in § 303.21, a full description of any professional, financial or other business transactions or arrangements which have been entered into within one year prior to the date of the filing of the application by each air carrier applicant with the individual applicant and by each air carrier applicant or individual applicant with any person with whom the individual applicant has or seeks to have an interlocking relationship, together with a full statement as to any such transactions or arrangements which it is contemplated may be entered into while such interlocking relationship continues.

(b) Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval of the interlocking relationship.

§ 303.21 Approval of systems of affiliated and subsidiary companies.

(a) In the event that an individual occupies or seeks to occupy an interlocking relationship falling within the purview of section 409(a) of the Act which involves only the holding by him or her of the position of officer or director in two or more companies within the same system of affiliated and subsidiary companies (as defined in paragraph (b) of this section), an application for approval of such relationships need not comply with the requirements of § 303.20(a)(10) but shall comply with all other requirements of that section. Such application shall also include—

(1) Such information as is necessary to disclose the fact that the companies in which the individual applicant occupies or seeks to occupy the interlocking relationships are members of the system of affiliated and subsidiary companies as defined in this section; and

(2) A statement that the individual applicant does not occupy or seek to occupy any interlocking relationship falling within the purview of section 409(a) of the Act other than those within the same system of affiliated and subsidiary companies.

(b) The individual applicant may include in any application made by him or her pursuant to this part a request for an order authorizing him or her to hold generally, in addition to the positions so specifically requested, directorships or offices within the same system of affiliated and subsidiary companies, and it shall not be necessary to file a separate application with respect to each such relationship. Any applicant assuming a directorship or office pursuant to such authorization shall, not later than 15 days after assuming such directorship or office, make or cause to be made a full and complete report thereof to the Assistant Secretary. As used in this part, the term "system affiliated and subsidiary companies" shall include only a specified company and those companies of which it, directly or indirectly through one or more intermediate companies, owns 50 percent or more of the voting capital stock issued by such companies.

§ 303.22 Uninterrupted tenure; no new applications required.

After the individual applicant has been authorized by the Assistant Secretary to hold a particular position, further application in connection with each successive term will not be required so long as the individual continues in uninterrupted tenure of such position, unless otherwise ordered by the Assistant Secretary.

§ 303.23 Notice of changes in positions.

In the event of the individual applicant's resignation, withdrawal, or failure of reelection or reappointment with respect to any of the positions for which approval has been granted, or in the event of any other material or substantial change therein, the individual and each air carrier applicant shall promptly and not more that 30 days after any such change occurs give notice thereof to the Assistant Secretary, setting forth fully the details of any such change.

§ 303.24 Extent of authorization to hold position.

An order by the Assistant Secretary authorizing an individual applicant to hold the position of director of a company will be construed as sufficient to authorize the individual applicant to serve also as chairman of the board of directors or as a member or chairman of any committee or committees of such board.

Subpart D—Section 412 Applications

§ 303.30 General provisions concerning contents of applications.

A section 412 application shall contain the following general information:

(a) The name, mailing address and primary line of business of each party to the contract, agreement or request for authority to discuss a possible cooperative working arrangement.

(b) If the contract or agreement for which approval is sought is not evidenced by a resolution of an air carrier association, the application shall contain a copy of the contract or agreement that is certified to be true and complete by each party to the contract of agreement. If the contract or agreement is set forth in an exchange of correspondence, copies of all such correspondence must be submitted and must be certified as true and complete by all parties to the contract or agreement. If the contract or agreement is oral, a memorandum fully describing the agreement must be submitted and must be certified as true and complete by all parties to the contract or agreement. If approval is sought for a request for authority to discuss a possible cooperative working arrangement, the application shall contain a complete description of the possible cooperative working arrangement and all matters to be discussed. The description shall be certified to be true and complete by each party to the proposed discussion.

(c) If the contract, agreement or request for authority to discuss a cooperative working arrangement is evidenced by a resolution or other action of an air carrier association, the application shall contain the resolution or other action and a certification by an authorized employee of the association that the resolution or other action was duly adopted on a certain date. The authorized employee shall also specify in such certification the name of each air carrier that concurred in such resolution or other action and the name of each air carrier member that did not occur. Contracts, agreements and requests for authority to discuss cooperative working arrangements may be filed in this manner only if the Association has complied with 14 CFR Part 263.

§ 303.31 Justification for the application.

A section 412 application shall explain the nature and purpose of the contract, agreement or request to discuss a cooperative working arrangement and describe how it changes any price, rule or practice existing under a previously-approved application. The application shall also contain factual material, documentation and argument in support of the application. If the applicants intend to rely on public benefits to justify approval they shall describe these benefits in detail.

§ 303.32 Service of the application.

A section 412 application described in § 303.30(c) and any related pleadings, other than IATA rate conference agreements and amendments thereto, shall also be served on any person or organization that has previously advised the air carrier association of its desire for service of such agreements. Each application shall contain the names of all persons served and a notice that any party in interest may within 21 days of the date of the application file comments with the Assistant Secretary in support or opposition to the application.

§ 303.33 Modifications and cancellations.

This subpart also applies to all modifications or cancellations of contracts or agreements or requests for authority to discuss a possible cooperative working arrangement.

Subpart E—Procedures Upon Application and Review

§ 303.40 Determination of compliance.

(a) Within 10 days after an application is filed pursuant to § 303.03, the Assistant Secretary shall determine whether the application complies with the requirements of § 303.05.

(b) If the Assistant Secretary determines that the application is incomplete it may be dismissed without prejudice. If the application is dismissed, any statutory time period for completion of proceedings will not begin to run until a completed application is filed.

§ 303.41 Notice.

(a) *Section 408 applications.* If the Assistant Secretary determines that a section 408 application is in substantial compliance with § 303.05, he shall cause to be published in the **Federal Register** notice that the application has been filed, that it may be reviewed in the Documentary Services Division, and that interested parties may comment on the application or request a hearing within a specified time period. Such notice shall also be provided directly to the Assistant Attorney General, Antitrust, the Chairman of the Federal Trade Commission, and, if the application concerns carriers engaged in foreign air transportation, the Secretary of State. When the materials submitted with a section 408 application demonstrate the absence of anticompetitive effects arising from the proposed transaction, the Assistant Secretary may also incorporate in such notice an order to show cause why the transaction should not be approved. (*See* § 303.44).

(b) *Section 409 and 412 applications.* If the Assistant Secretary determines that a section 409 or section 412 application is in compliance with § 303.05, he shall cause to be posted on a public bulletin board in the Documentary Services Division a notice that the application has been filed, that it may be reviewed in the Documentary Services Division and that interested parties may comment on the application or request a hearing within a specified time period. Such notice shall be provided directly to the Assistant Attorney General, Antitrust, the Secretary of State and the Chairman of the Federal Trade Commission and to any other person who requests that his/her name be included on a subscription list for such notices. Any notice under this subsection may also contain an order to show cause why the application should not be approved or disapproved. In appropriate cases, particularly when a section 409 or 412 application concerns a matter of broad public significance, the Assistant Secretary may cause the notice of an application and the request for public comment to be published in the **Federal Register.**

§ 303.42 Comments on application.

(a) After publication of notice in the **Federal Register** or public posting of an application or issuance of an order to show cause pursuant to § 303.41, any person may file comments, responses thereto, requests for a hearing or responses to an order to show cause within the period specified in the **Federal Register** or public posting.

(b) Comments supporting or opposing an application or proposing conditions and response thereto shall state with particularity the factual basis on which the person commenting relies, and provide affidavits or other material in support of the factual basis, if appropriate.

(c) Requests for a hearing must set out with specificity the material issues of fact in dispute that cannot be resolved without a hearing. Vague, unsupported allegations will not suffice.

§ 303.43 Action following the comment period.

(a) *Section 408 applications.* After the period for which comments or requests for a hearing are due concerning a section 408 application, the Assistant Secretary shall issue an order to show cause, or an order instituting a full evidentiary hearing. If an order to show cause has previously been published pursuant to § 303.41(a), the Assistant Secretary may proceed by order of approval or disapproval. When a proposed transaction is within the scope of subsection 408(b)(2) of the Act, the Assistant Secretary may also proceed either by order of approval or by order of disapproval, if notice of an intention to issue such an order was published in the **Federal Register** at least 30 days in advance of the issuance of such an order.

(b) *Section 409 and 412 applications.* After the period for which comments, requests for a hearing or responses to an order to show cause are due concerning a section 409 or 412 application, the Assistant Secretary may proceed by order requesting further information or justification or by order of approval or disapproval or, in appropriate cases, may proceed by order to show cause or by order instituting a full evidentiary hearing.

(c) Notice to the public of any full evidentiary hearing or order to show cause concerning an application shall be made by publication in the Federal **Register.**

§ 303.44 Show cause proceedings.

If the Assistant Secretary determines that an application, or review of a previously granted application, will be

considered in a show cause proceeding, a tentative decision shall be issued inviting interested persons to show cause why the tentative decision should not be made final. Interested persons may respond to the order within the time specified in the order. Replies to such responses shall be permitted within the time specified in the order. Persons wishing to introduce additional facts into the record should incorporate such information in their responses or replies by affidavit. In the case of applications, show cause orders may be issued either at the time of initial publication or posting of notice of the application, or after the receipt of initial comments on the application.

§ 303.45 Hearing Cases.

(a) If the Assistant Secretary determines that an application, or review of a previous granted application, should be the subject of a full evidentiary hearing, he shall issue an order so stating. This order shall set forth the issues that are to be considered in such hearing.

(b) Within ten days after the issuance of an order for a full evidentiary hearing, the Chief Administrative Law Judge shall appoint an Administrative Law Judge to conduct such hearing in accordance with section 7 of the Administrative Procedure Act, 5 U.S.C. 556, and the Rules of Practice in Part 302 of this chapter.

(c) The applicants and the Assistant General Counsel for Aviation Enforcement and Proceedings shall be parties in any full evidentiary hearing held under these regulations. The Assistant Attorney General, Antitrust, shall be a party upon notice filed with the Administrative Law Judge. Other persons may intervene as parties as provided by Part 302, Subpart A of this chapter.

(d) Within the time specified in the order instituting the full evidentiary hearing, the Administrative Law Judge shall recommend to the Assistant Secretary that the application be approved or denied or that the previously granted exemption approval or immunity should be terminated or continued in accordance with the standards of the Act. The recommendation shall be in writing, shall be based solely on the hearing record, and shall include a statement of the Administrative Law Judge's findings and conclusions, and the reasons or basis therefore, on all material issues of fact, law or discretion presented on the record. Copies of the recommendation shall be filed and sent to each party.

(e) Within 14 days after the date the Administrative Law Judge files his or her recommendation, any party may file written exceptions to the recommendation for consideration by the Assistant Secretary. Within 21 days after the service date of the judge's recommendation, any party may file a brief in support of or in opposition to any exceptions. Parties shall then have 15 days in which to file responses to any such exceptions. These times may be altered by order of the Assistant Secretary, who may also authorize the filing of reply briefs.

§ 303.46 Decision by the Assistant Secretary.

The Assistant Secretary shall decide, on the basis of the record and in accordance with the procedures prescribed in Part 302 of this chapter, whether to grant or deny, in whole or in part, the application. A copy of the Assistant Secretary's final decision shall be served on all parties.

Subpart F—Exemptions

§ 303.50 Exemption for air taxi operators.

(a) *Definition.* "Air taxi operator" means an air carrier that directly engages in the air transportation of persons but that does not operate any aircraft designed to have a maximum passenger capacity of more than 60 seats.

(b) *Exemption.* Parties to a transaction to which section 408 applies only by reason of the involvement of one or more air taxi operators are exempted from the operation of section 408.

§ 303.51 Exemption for cargo transportation.

(a) *Definition.* "Cargo transportation" means the carriage by aircraft of property or mail, or both, as a common carrier for compensation or hire. This term means direct and indirect cargo air transportation and includes commerce moving partly by aircraft and partly by other forms of transportation, as well as commerce moving wholly by aircraft.

(b) *Exemption for air carriers.* Parties to a transaction to which section 408 applies solely by reason of the involvement of cargo transportation operations are exemption from the operation of section 408. This exemption does not apply to any transactions that affect passenger air transportation. This exemption does not affect the requirements of 14 CFR 204.4 for transactions involving foreign air carriers or other foreign citizens.

§ 303.52 Exemption for aircraft acquisitions.

(a) *Definitions.* For the purposes of this section "Aircraft" means any aircraft, as defined in the Act, together with spare parts and accessories maintained for installation or use on it.

(b) *Exemption.* All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any transaction that involves only the purchase, lease, or lease with purchase option of aircraft.

§ 303.53 Exemption for interlocking relationships.

Air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and their respective officers, members, stockholders and directors are exempted from the operation of section 409 of the Act

§ 303.54 Petitions for exemption for section 408 transactions.

(a) Any person may file with the Department of Transportation a petition for an exemption from the operation of section 408 of the Act.

(b) A petition for exemption shall contain the following:

(1) A brief, clear description of the transaction or relationship for which an exemption is sought, including, if relevant, a copy of any agreement memorializing such transaction on relationship;

(2) An identification of the parties involved in the transaction or relationship; and

(3) An explanation of why an exemption is in the public interest, including (i) why it is needed, (ii) why it is appropriate, and (iii) a description of any effects on competition from the transaction or relationship (In providing this description, parties should consider the information required in a section 408 application, as set forth in §§ 303.10 through 303.19 of this part, and determine whether any portion of that information should be supplied).

(c) A notice of any petition for exemption shall be published in the **Federal Register**, together with notice of any hearing which the Assistant Secretary determines to be appropriate.

(d) Any person may comment on any petition for exemption within ten days from the date of publication in the **Federal Register**, or such other time as is specified in the **Federal Register** notice.

(e) The Assistant Secretary shall issue a decision on an exemption petition after any comments have been received, granting the exemption if found to be in the public interest, with conditions if he or she finds certain conditions appropriate, or denying the petition.

(f) If a petition for exemption is denied, approval for the transaction or relationship may be requested as provided in these regulations.

(g) A grant of exemption under this section does not confer any immunity from the antitrust laws, nor does it reflect the enforcement intentions of the Department of Justice under the antitrust laws with respect to the transaction.

§ 303.55 Effects of exemption on antitrust laws.

Any exemption provided under this subpart does not confer any immunity under the antitrust laws. Antitrust immunity may be requested by filing an application under the provision of subparts A and B.

§ 303.56 Termination of exemption.

The Assistant Secretary may terminate any exemptions provided under this subpart with respect to any transaction the Assistant Secretary determines, after notice and hearing, to be inconsistent with the provisions of the Act or the public interest.

Issued in Washington, D.C., on February 1, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 85-2966 Filed 2-5-85; 8:45 am]

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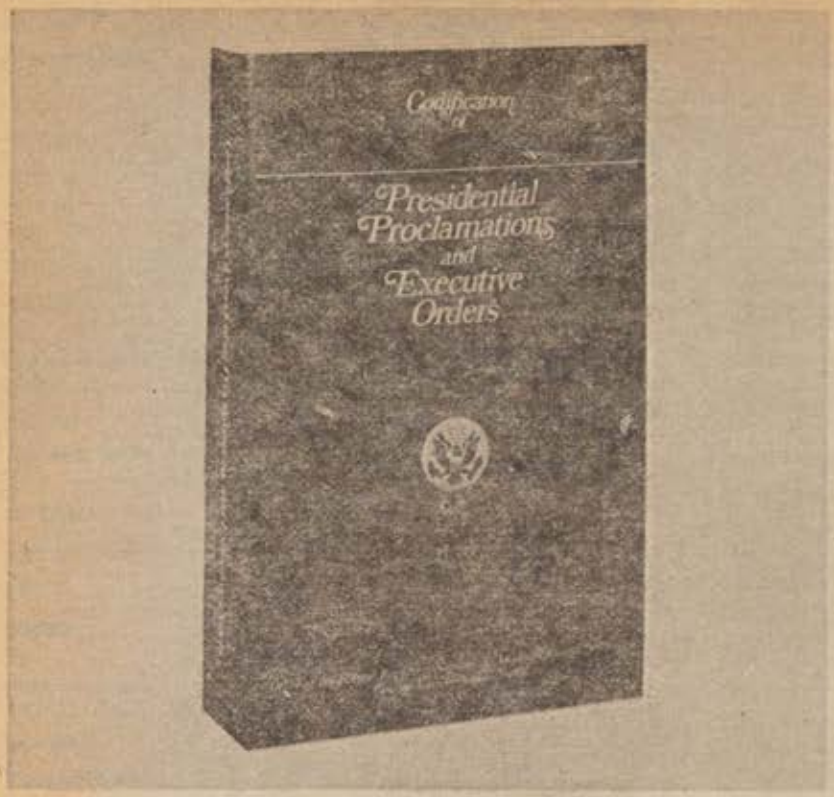

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