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federal register

Tuesday
March 12, 1985

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-303]

Citrus Canker Quarantine and Regulations; Certification Under the Regulatory Flexibility Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Certification under the Regulatory Flexibility Act.

SUMMARY: This document gives notice that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has certified that the interim rule established to prevent the spread of the citrus canker bacteria from Florida to noninfested areas in the United States does not have a significant economic impact on a substantial number of small entities.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5533.

SUPPLEMENTARY INFORMATION: On September 19, 1984, APHIS published an interim rule in the **Federal Register** (49 FR 36623-36626) adding a new "Subpart—Citrus Canker" (contained in 7 CFR 301.75 *et seq.*, and referred to below as regulations) which prohibited the interstate movement from anywhere in Florida of articles designated as regulated articles except under certain circumstances. The regulations were established in order to prevent the interstate spread of citrus canker from infested areas in Florida to noninfested areas of the United States.

Section 301.75-2 of the regulations designates the following articles as regulated articles:

Section 301.75-2

(a) Plants and any plant parts, including fruit and seeds, of any of the following:

Calamondin orange (*Citrus mitis*)
Citrus citron (*Citrus medica*)
Grapefruit (*Citrus paradisi*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Mandarin orange (Tangerine) (*Citrus reticulata*)
Pummelo (*Shaddock*) (*Citrus maxima*)
Sour orange (*Citrus aurantium*)
Sweet orange (*Citrus sinensis*)
Tangelo (*paradisi x. c. reticulata*)
Temple orange (*reticulata x. c. sinensis*)
Trifoliate orange (*Poncirus trifoliata*)

(b) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) when it is determined by an inspector that it presents a risk of spread of the citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this Subpart.

Articles are designated as regulated articles in § 301.75-2(a) if it is determined, based on research and experience, that they are articles likely to cause the artificial spread of the citrus canker. In addition, since other products, articles, or means of conveyance could, under certain circumstances, be found to present a risk of spreading the citrus canker, these other articles are regulated by paragraph (b). Articles regulated by paragraph (b) are determined to present a risk of spread of the citrus canker by an inspector on a case-by-case basis since it cannot be anticipated specifically which other products, articles, or means of conveyance, if any, would present such a risk.

The regulations provide special provisions in § 301.75-4 allowing regulated articles to be moved interstate from a quarantined area for scientific and experimental purposes. In addition, § 301.75-5 of the regulations allow fruit designated as a regulated article to be moved interstate from a quarantined area interstate to any State or Territory other than to American Samoa, Arizona, California, Hawaii, Louisiana, Puerto Rico, or Texas (referred to below as citrus producing States and Territories) if moved pursuant to a limited permit issued and attached in accordance with § 301.75-7 of the regulations, and if not unloaded in any of the jurisdictions listed above without permission from an inspector. Fruit moved interstate under a limited permit is also prohibited from being moved interstate from a nonquarantined area to any citrus producing State or Territory (see 49 FR 43448-43449).

Under § 301.75-5(b) of the regulations, a limited permit shall be issued by an inspector for the movement of fruit designated as a regulated article if such inspector:

(1) Determines that the fruit originated in an area found to be free of citrus canker disease based on surveys conducted by inspectors appointed by the Deputy Administrator,

(2) Determines that the fruit is free of leaves, litter, and stems other than stems less than one inch in length attached to the fruit, and

(3) Determines that the fruit has been treated by a thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least two minutes.

Basis of Certification

An analysis of the impact the regulations would have on small entities has been completed and, for reasons explained below, the Administrator of the Animal and Plant Health Inspection Service has determined that the regulations would not have a significant economic impact on a substantial number of small entities.

Specifically, with regard to nursery stock designated as regulated articles, a review of the Florida Nursery Industry indicates that, although there are over 7,000 certified wholesale and wholesale/retail nurseries in Florida, only 141 nurseries [or about 1.8 percent of all nurseries in Florida, and 3.1 percent of all wholesale and wholesale/retail nurseries in Florida] are certified to produce nursery stock designated as regulated articles for commercial groves in Florida. In addition to these wholesale and wholesale/retail nurseries, other nurseries produce nursery stock for ornamental plantings. It appears that many of the wholesale and wholesale/retail nurseries are small

entities. However, it appears that the primary market for all nursery stock designated as regulated articles is in Florida, although prior to the establishment of the regulations, very small amounts of such Florida nursery stock were sold for use in citrus groves in Louisiana, Texas, Hawaii, Puerto Rico, and American Samoa. Also, only an insignificant number of nurseries that produced nursery stock for ornamental plantings move such nursery stock interstate. Therefore, it has been determined that regulations affecting the productions or sale of nursery stock will not have a significant economic impact on a substantial number of small entities.

With regard to fruit designated as regulated articles (primarily citrus fruit), it also appears that the regulations will not have a significant effect on a substantial number of small entities. Specifically, the regulations affect only fresh fruit and less than 20 percent of Florida citrus fruit is sold fresh. Further, the regulations permit fresh fruit designated as a regulated article to be shipped interstate if certain conditions are met including the requirement that the fresh fruit not be shipped directly or indirectly to other citrus producing states. Shipments of fresh fruit from Florida to other citrus producing states have historically only involved about 1 percent of the total Florida citrus production. Therefore, it appears that, although many of the entities that produce or sell citrus fruit may be small, the regulations will not have a significant economic impact on these entities or any other small entities.

Further, with regard to seeds designated as regulated articles, it appears that prior to the establishment of the regulations, there were an insignificant amount of such seeds shipped interstate from Florida.

Certification

Therefore, under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service, has determined, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the citrus canker interim rule does not have a significant economic impact on a substantial number of small entities.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 85-5722 Filed 3-11-85; 8:45 am]

BILLING CODE 3410-34-M

7 CFR Parts 301, 318, and 319

[Docket No. 84-338]

Deletion of Approved Treatments Using EDB on Citrus Fruits, Papayas, and Other Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the "Mexican Fruit Fly Quarantine and Regulations," the "Hawaiian Fruits and Vegetables" quarantine and regulations, the "Fruits and Vegetables from Puerto Rico or Virgin Islands" quarantine and regulations, and the "Fruits and Vegetables" quarantine and regulations by deleting provisions providing for the use of ethylene dibromide (EDB) as a fumigant on certain fruits and vegetables as a condition of their movement into the United States or interstate. This action is necessary because such uses of EDB are no longer approved by the Environmental Protection Agency.

EFFECTIVE DATE: The effective date of this document is March 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: Charles M. Amyx, Senior Staff Officer, Technology Analysis and Development Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 671, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8896.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Mexican Fruit Fly Quarantine and Regulations" (7 CFR 301.64 et. seq.), in "Subpart—Hawaiian Fruits and Vegetables" quarantine and regulations (7 CFR 318.13 et. seq.), in "Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands" quarantine and regulations (7 CFR 318.58 et. seq.), and in "Subpart—Fruits and Vegetables" quarantine and regulations (7 CFR 319.56 et. seq.) contain provision approving treatments for citrus fruits, papayas, mangoes, and other fruits and vegetables. This document removes from the regulations all but four ethylene dibromide (EDB) treatments that have been approved as a fumigant for certain fruits and vegetables as a condition of importation into the United States or movement interstate. Treatments approving the use of EDB in Mexico on mangoes from Mexico, and the use of EDB in Central America, the West Indies and Brazil on mangoes from these countries have not been deleted for reasons discussed below.

Action by EPA

Prior to September 1, 1984, EDB had been approved for use as a fumigant on citrus fruits, papayas, mangoes, and other tropical fruits and vegetables because of its effectiveness in destroying the fruit flies known to infest these fruits and vegetables. However, on September 1, 1984, the Environmental Protection Agency (EPA) cancelled the registration of EDB as a post harvest fumigant in the United States for all citrus fruits, papayas, mangoes, and other fruits and vegetables, except when used as a quarantine fumigant for exported citrus fruits and papayas (see 48 FR 46234 through 46248 and 49 FR 14182 through 14186). Also, on September 1, 1984, the tolerances established by EPA in 40 CFR 180.397 for residues of EDB per se in or on papayas and citrus fruit expired (see 49 FR 22083 through 22085), and on January 23, 1985, the tolerances established by EPA in 40 CFR 180.146 for residues of total combined bromine and for residues of inorganic bromides in or on plums and certain other tropical fruits and vegetables (but not on mangoes) fumigated with EDB expired (see 50 FR 2981 through 2982). As a result of these actions by EPA, the use of EDB in the manner described in the treatments below are no longer approved by EPA for use as a fumigant. As such, these treatments are no longer approved by USDA as a condition of movement of certain fruits and vegetables into the United States or interstate. This document therefore deletes these treatments from the regulations.

Approved Treatments

The following provisions prescribing the use of EDB are being deleted from the regulations by this document:

1. Section 301.64-10(b) (Subpart—Mexican Fruit Fly) which had listed the use of EDB as an approved treatment on grapefruits, oranges, plums and tangerines as a condition of their movement interstate from areas in Texas to prevent the spread of Mexican fruit fly [*Anastrepha ludens* (Loew)];

2. Section 318.13–4b (Subpart—Hawaiian Fruits and Vegetables) which had listed the use of EDB as an approved treatment on bitter melons, Cavendish bananas, Hawaiian Bluefield bananas (Gros Michel), apple bananas, green cooking bananas, fresh litchi nuts, cucumbers, papayas, pineapples (other than smooth cayenne), string beans, and zucchini squash as a condition of their movement interstate from Hawaii to prevent the spread of the Mediterranean fruit fly [*Ceratitis capitata* (Wied.)], the melon fly [*Dacus cucurbitae* (Coq.)], and the Oriental fruit fly [*Dacus dorsalis* (Hendl)];

3. Section 318.58–3d (Subpart—Fruits and Vegetables from Puerto Rico, or Virgin Islands) which had listed the use of EDB as an approved treatment on mangoes as a condition of their movement interstate from Puerto Rico to prevent the spread of Mexican fruit fly and West Indian fruit fly (*A. obliqua*);

4. Section 319.56–2e (Subpart—Fruits and Vegetables) which had listed the use of EDB as an approved treatment on oranges, grapefruits and tangerines from Mexico, Belize (British Honduras), Honduras, El Salvador, Guatemala, and Panama as a condition of their movement into the United States to prevent the introduction of fruit flies of the genus Anastrepha;

5. Section 319.56–2i (Subpart—Fruits and Vegetables) which had listed the use of EDB as an approved treatment at a port of entry in the United States on mangoes from Central America, the West Indies, and Brazil as a condition of their movement into the United States to prevent the introduction of the Mediterranean fruit fly and fruit flies of the genus Anastrepha;

6. Section 319.56–2j (Subpart—Fruits and Vegetables) which had listed the use of EDB as an approved treatment at a port of entry in the United States on mangoes and plums from Mexico, and on plums from Guatemala as a condition of their movement into the United States to prevent the introduction of fruit flies of the genus Anastrepha; and

7. Section 319.56–2p (Subpart—Fruits and Vegetables) which had listed the use of EDB as an approved treatment on oranges, grapefruits, citrons (*Citrus medica*), and tangerines from any country where Mediterranean fruit fly exists as a condition of their entry into the United States to prevent the introduction of the Mediterranean fruit fly.

Note that use of EDB on mangoes is still permitted by EPA if the fumigation is conducted outside of the United States and if the residue level of EDB on such mangoes does not exceed established tolerances.[1] However, fumigation conducted outside of the United States on mangoes with EDB as a condition of entry into the United States must be performed at facilities approved by USDA. The USDA has approved facilities in Brazil, and in countries in Central America and in the West Indies, for use in fumigating mangoes from these countries with EDB as a condition of entry into the United States (see §§ 319.56–2i and 319.56–2j). For these reasons, this document does not delete from the regulations that portion of § 319.36–2j which pertains to use of EDB in Mexico on mangoes from Mexico, or that portion of § 319.56–2i which pertains to use of EDB on mangoes in countries in Central America, the West Indies, and Brazil on mangoes from these countries (references to such treatments for plums from Guatemala and Mexico, and treatments of EDB at the ports of entry in §§ 319.56–2i and 319.56–2j are deleted).

Miscellaneous Changes

In addition to the deletions described above, this document amends the regulations by making certain miscellaneous changes, including renumbering sections in each of the amended subparts.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this final action. It is necessary to make this interim rule effective immediately. Because of action taken by EPA under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 et seq.; referred to below as FIFRA), EDB may no longer be used as an approved treatment for certain fruits and vegetables as a condition of their movement into the United States or interstate.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This document merely reflects action taken by EPA under FIFRA to disallow the use of EDB in the United States as a fumigant on certain fruits and vegetables. Also, for this reason, no analysis of this action has been made under the Regulatory Flexibility Act.

List of Subjects

7 CFR Part 301

Agricultural commodities, Mexican fruit fly, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation.

7 CFR Part 318

Agriculutral commodities, Fruit, Guam, Plant diseases, Plant pests, Plants (agriculture), Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

7 CFR Part 319

Agricultural commodities, Fruits, Imports, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances referred to above, the "Mexican Fruit Fly Quarantine and Regulations" (7 CFR 301.64 through 301.64–10) are amended as follows:

[1] Note that the tolerances established by the EPA in 40 CFR 180.146 and currently in effect for residues of EDB in mangoes fumigated with EDB are considerably lower than the tolerances in effect when these treatments were approved by USDA (see 50 FR 2548–2550). These new tolerance levels may be difficult to meet under trade practices in effect prior to the amendment by EPA of the tolerance levels for residues of EDB in mangoes.

§ 301.64-10 [Amended]

1. In § 301.64-10, paragraph (b) and the words "EDB and" in the last sentence of paragraph (c) are removed, and paragraph (c) is renumbered as paragraph (b).

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Under the circumstances referred to above, the "Subpart—Hawaiian Fruits and Vegetables" (7 CFR 318.13 through 318.13-17) and the "Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands" (7 CFR 318.58 through 318.58-14) are amended as follows:

§ 318.13-4b [Removed]

§§ 318.4c—318.13-4g [Redesignated as §§ 318.13-4b—318.13-4f]

1. In Subpart 318.13, § 318.13-4b is removed, and §§ 318.4c through 318.13-4g are redesignated as §§ 318.13-4b through 318.13-4f, respectively.

§ 318.58-3d [Removed]

2. In Subpart 318.58, § 318.58-3d is removed.

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above, the "Subpart—Fruits and Vegetables" (7 CFR § 319.56 through 319.56-8) are amended as follows:

Subpart 319.56—[Amended]

1. In Subpart 319.56, §§ 319.56-2e and 319.56-2p are removed and §§ 319.56-2f, 319.56-2g, 319-56-2h, 319.56-2i, 319.56-2j, 319.56-2k, 319.56-2l, 319.56-2m, 319.56-2g, 319.56-2h, 319.56-2i, 319.56- and 319.56-2u are redesignated as §§ 319.56-2e through 319.56-2q, respectively.

§ 319.56-2h [Amended]

2. In Subpart 319.56, newly designated § 319.56-2h (formerly § 319.56-2i) is amended by removing paragraph (c)(1), by renumbering paragraph (c)(2) as paragraph (c); by removing the phrase "transportation of the mangoes from the place of unloading to the treatment facilities," in the second sentence of paragraph (e); and by removing the phrase "If any part of the" in the beginning of the third sentence of paragraph (e) and adding the word "When" in place thereof.

3. In Subpart 319.56, newly designated § 319.56-2i (formerly § 319.56-2j) is amended by removing paragraph (a)(1), by redesignating paragraph (a)(2) as paragraph (b)(1), and by revising the title and the first sentence in paragraph (a) to read as follows:

* * * * *

§ 319.56-2i Administrative instructions prescribing method of fumigation of mangoes from Mexico.

(a) *Authorized procedure.* Fumigation of mangoes in Mexico with ethylene dibromide at normal atmospheric pressure, in accordance with the following procedures and as so certified by an inspector, is hereby prescribed as a condition of entry under permit in accordance with § 319.56-2, through ports specified in the permit, for mangoes produced in Mexico.

* * * * *

4. In Subpart 319.56, newly designated § 319.2i (formerly § 319.56-2j) is amended by removing the entire second sentence and the words "and plums" in the third sentence in newly designated paragraph (b)(1)(iii), and by revising the first sentence in newly designated paragraph (b)(1)(iii) to read as follows:

§ 319.56-2i Administrative instructions prescribing method of fumigation of mangoes from Mexico.

* * * * *

(b)(1)(iii) Mangoes to be fumigated may be fumigated in open field boxes or may be packed prior to fumigation in export flats with wood excelsior.

* * * * *

§ 319.56-2i [Amended]

5. In Subpart 319.56, newly designated § 319.56-2i (formerly § 319.56-2j) is amended by removing paragraphs (a)(3), (a)(4), (a)(5), (b) introductory text, and (b)(1).

* * * * *

6. In Subpart 319.56, newly designated § 319.56-2i is amended by removing the words "and plums" from the last sentence in paragraph (a), from the first sentence in paragraph (b)(2)(i), from the first sentence of paragraph (b)(4), and from the first sentence in paragraph (b)(5).

* * * * *

Authority: Secs. 5, 8 and 9; 37 Stat. 316, 318, as amended (7 U.S.C. 159; 161-162); Secs. 103, 105, 106, and 107; 71 Stat. 32-34; 7 U.S.C. 150bb, 150dd, 150ee, and 150ff; 7 CFR 2.17, 2.51, and 371.2(c).

Done at Washington, D.C., this 7th day of March, 1985.

H.L. Ford,

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

[FR Doc. 85-5801 Filed 3-11-85; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 319 and 327

[Docket No. 83-005F]

Control of Added Substances and Labeling Requirements for Imported Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations by establishing monitoring and retention procedures for imported cured pork products at the ports of entry and within the United States. These procedures will assure that imported cured pork products adhere to the same standards as do domestic cured pork products as set forth in §§ 319.104 and 319.105 of the Federal meat inspection regulations (9 CFR 319.104 and 319.105). Under a regulation published April 13, 1984 (49 FR 14856), the standards for domestic cured pork products are based on a minimum meat protein content determined on a fat free basis (PFF) in the various finished cured pork products. The procedures will assure that imported cured pork products meet PFF standards at least equal to those for domestic products.

EFFECTIVE DATE: April 15, 1985.

FOR FURTHER INFORMATION CONTACT: W. J. Havlik, Assistant Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6933.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator, Food Safety and Inspection Service, has made an initial determination that this rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Under the rule, the domestic meat processing industry will have assurance of protection against unfair competition by noncompliant imported products. Consumers will benefit from assurance that imported cured pork

products are accurately labeled and in compliance with the Department's standards for those products, domestic or imported. The rule will allow the same range of imported products to be marketed as permitted for domestically prepared products.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The rule will have an impact on those foreign plants certified as eligible to export cured pork products to the United States. The Department keeps a list of these plants and there are 60 such foreign companies that exported cured pork products to the United States in 1984. Forty-two of them are small businesses (defined as businesses that have less than 3 million pounds of product inspected per year). There is a potential adverse effect on businesses in the United States which are primarily brokers of imported cured pork products if (1) the major portion of the products handled originated from one foreign plant, and (2) such products from that plant were placed in retention as defined by the rule. This rule will not, however, have any adverse effect on meat processors in the United States.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) authorizes the Secretary of Agriculture to administer a program which assures consumers that meat products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Consistent with that authority, on April 13, 1984, the Department published in the **Federal Register** (49 FR 14856) a final rule establishing standards and labeling requirements for cured pork products based on the protein fat free (PFF) content of the finished product (9 CFR 319.104 and 319.105) and permitted a broader range of cured pork products to be marketed. The rule also prescribed procedures for the Department's use in determining the compliance of domestic cured pork products with these requirements.

On October 9, 1984, the Department published in the **Federal Register** (49 FR 39560-39564) a proposed rulemaking titled "Control of Added Substances and Labeling Requirements for Imported Cured Pork Products." The proposal prescribed procedures for monitoring, at the ports of entry and within the United States, the compliance of imported cured pork products with the PFF standards in §§ 319.104 and 319.105 of the Federal meat inspection regulations. The proposed monitoring procedures applied to the reinspection of imported product at the ports of entry (POE) into the United States. The proposal also detailed actions to be taken when the Department discovers at the POE or in the marketplace that an imported cured pork product is not in compliance with regulatory standards.

Although the PFF compliance procedures used by foreign governments may differ from those set forth in § 318.19 of the Federal meat inspection regulations (9 CFR 318.19), the system chosen by the foreign country must be at least equal to that used in the United States.

Part 327 of the Federal meat inspection regulations (9 CFR Part 327) contains the Department's requirements for assuring that imported products are produced under requirements at least equal to those imposed on domestic establishments. The Department's Food Safety and Inspection Service (FSIS) is responsible for reviewing and evaluating the inspection program of each foreign country that exports meat products to the United States to assure that such programs are maintained in an at least "equal to" status regarding all requirements of the FMIA.

Comments on Proposed Rule

The Department received 16 comments from interested parties during the 60-day comment period that closed December 10, 1984. Eight comments were submitted by foreign meat inspection programs or industry groups, 3 were submitted by domestic processors, 3 came from national or regional trade associations, and 2 from private citizens.

Seven commenters supported the proposal and expressed satisfaction that imported products would be required to meet the same standards as domestic products; i.e., that imported cured pork products meet PFF standards at least equal to those for domestic cured pork products. It was recommended that imported meat be subject also to the same inspection, sanitary quality, species verification, and residue standards and regulations as are applied to meat produced in the United States.

The following is a discussion of the issues raised by the comments and the Department's response to each.

1. *Comment:* A U.S. trade association said the proposal was reasonable, provided sufficient sampling by country of origin, and contained appropriate sanctions against countries and individual foreign processors if product did not meet the (absolute) minimum PFF values. However, the commenter recommended that sampled lots be retained until analytical results are available, even during the normal monitoring phase.

In addition, the trade association suggested that USDA be particularly diligent in verifying and monitoring the procedures in plants certified for export to the United States, since domestic producers are concerned that the accuracy of the final analytical check must rely on in-plant procedure checks that cannot be readily verified. This commenter also pointed out that because the analytical methods for PFF monitoring are less accurate than desired, USDA should be particularly attentive to processing procedures in foreign establishments.

Response: The Department considers all product produced in official establishments, including certified foreign establishments, to be in compliance unless other information is available. If all randomly sampled lots of product were retained pending laboratory analysis, movement of compliant product would be restricted without cause and result in unnecessary and costly delays. If a laboratory analysis indicates a violation, existing procedures will be invoked to retain the noncompliant product.

The Department has long recognized the need for in-plant reviews, and FSIS Foreign Programs Officers (FPOs) routinely review all exporting establishments in countries eligible to export product to the United States. At present, a group of 20 FPOs and Area Supervisors are continuously engaged in on-site reviews. If serious deficiencies are observed, restrictive actions are taken including, if necessary, delistment of an establishment or withdrawal of a country's eligibility to export product to the United States. Such actions remain in effect until the Department is satisfied that corrective measures have been taken.

2. *Comment:* Two domestic processors and one trade association expressed concern about the possible addition of nonmeat protein to imported cured pork products in the absence of analytical detection methods or continuous USDA inspection.

Response: Currently, there is no satisfactory analytical method available to USDA for detection of nonmeat and miscellaneous animal protein in finished products. The addition of flavoring and other substances that can contribute some protein to cured pork products is controlled by requiring the use of approved formulations. Formulation and

processing procedures are submitted with label approval applications to FSIS. Although USDA does not have direct supervision of origin establishments, no foreign inspection system is approved without sufficient qualified inspection staff in each plant. Foreign meat inspectors have responsibilities comparable to USDA inspectors in domestic establishments.

USDA periodically reviews inspection and production activities in each foreign establishment. One of the major areas of review deals with restricted ingredients, product formulation, inspection knowledge, records, quality control systems, and laboratory support. The Department is satisfied with the existing formulation controls used to monitor the addition of nonmeat and miscellaneous animal proteins to products produced in foreign establishments.

3. *Comment:* Strong disagreement was expressed by a processor who thought the proposal set PFF standards for imported products on the basis of total protein in contrast to the domestic requirement for meat protein.

Response: The PFF requirement for both imported and domestic products is based on meat protein, not on total protein in the sample. Approved labels are filed at each POE. At the time of product inspection, each label is required to be checked and formulation information is recorded on forms accompanying samples to the laboratory. If label ingredients include any substance which can contribute protein to the product, the formulation percentage is included and the laboratory makes the necessary analytical adjustments for the substance.

4. *Comment:* A processor stated that although the acceptability of foreign inspection systems is salutary, it is also necessary to consider the wide variations in compliance that can occur among various processors in any given exporting country. It was suggested that USDA maintain separate PFF compliance records for individual processors under the same product and group cumulative sum statistical methods used to monitor domestic manufacturers.

Response: Meat inspection systems in each exporting country are responsible for conducting inspection in each establishment and for maintaining records of establishment activities such as product value and group value charts. USDA maintenance of such records would be unnecessary and duplicative. The Department recognizes the possibility of variations in compliance among various processors in any given exporting country, and adequate tolerance has consequently been provided for individual lot results and the 36 lot averages. Process and quality control systems that assure finished product compliance with regulatory requirements are the responsibility of each foreign establishment. Foreign meat inspection systems should monitor each plant's system to determine that inplant controls are functioning and ensure that products not meeting the regulatory requirements are not exported to the United States. The FSIS long-term monitoring system is a 100 lot average of a country's product and is designed to assure that imported products meet minimum PFF requirements.

5. *Comment:* One domesic trade association mentioned the possibility of retail mislabeling of imported cured pork products by uninformed store clerks. A label such as "imported ham" without qualifying statements was presented as an example of how consumers could be deceived by a store produced label. The association suggested that point-of-purchase sample testing should be required for imported products. This commenter also expressed concern about the export subsidized dumping of imported product on the U.S. market. The commenter described the 36 lot average action level as lenient and granting importers unfair advantage over domestic producers.

Response: Discussion on the issue of trade subsidies is beyond the scope of this proposal. The question of mislabeling, retail sampling, and compliance was discussed in detail in the final rule on Control of Added Substances and Labeling Requirements for Cured Pork Products; Updating of Provisions, published in the **Federal Register** on April 13, 1984 (49 FR 14856). USDA has clear authority under the Federal Meat Inspection Act to collect samples of product at any point in commerce, including the point of retail sale in order to determine compliance with requirements of the Act (see section 202 of the Act; 21 U.S.C. 642). It should be noted that misrepresenting a product to consumers by omitting any part of the name constitutes misbranding under the Act and is subject to civil action or criminal prosecution under the Act.

6. *Comment:* Some foreign countries opposed the concept of placing the exporting country under retention procedures. Commenters argued that poor performance by some establishments may result in trade sanctions for the exporting country, thereby forcing the country to set up more intensive controls than are required by the proposed rule. One commenter noted that "Even though neither the more intensive control nor the elevated protein content is explicitly required according to the rules, they are an inevitable result of the fact that all products from a foreign country are treated as a whole and, accordingly, we must conclude that the rules implicitly contain an imbalanced to the disadvantage of the exporting country as compared to U.S. producers." Another commenter described the proposed rule as "a major departure from established policies and practices on the control of meat products. The proposal to tighten inspection for the whole exporting country based on the poor performance of some establishments is viewed as having possible serious implications should the Department decide to generalize this procedure for all meat products." Concern was also expressed on the possibility that this new rule could result in refusing entry of all shipments from exporting countries due to noncompliance of one or more shipments from one establishment.

Response: The Department is responsible for determining eligibility of each foreign country to export meat and/or poultry products to the United States. This is accomplished through an indepth review of the country's laws and regulations, the organization of the meat and poultry inspection system, and the system's implementation and enforcement of inspection requirements in plants certified to export to the United States. Each eligible foreign meat and/or poultry inspection system is responsible for certifying that all products exported to the United States meet at least "equal to" requirements. These requirements pertain to product specifications such as PFF, sanitary production techniques, and disease inspection procedures. The continuing review of eligible foreign inspection systems and the information obtained from POE product sampling provide the Department with appropriate data to continually evaluate the at least "equal to" status of each foreign inspection system.

In the past, when POE product sampling information indicated an inspection procedure used by a foreign inspection system resulted in unsatisfactory product being exported to the United States, the Department stopped or restricted importation of some or all products from the country or removed country eligibility when appropriate.

The PFF inspection procedures used by foreign inspection systems and the Department must meet the same goals.

Variability in processing procedures is recognized by the Department's POE sampling plan; therefore, more intensive controls by a foreign country are not necessary to prevent POE retention procedures. Both domestic and foreign producers must meet the same PFF requirements. Further, noncomplying shipments do not result in refused entries for those shipments which comply with PFF requirements. The additional POE sampling procedures are necessary for the Department to obtain more detailed information about the compliance of each shipment with PFF requirements, as well as to determine when the foreign country's program again results in satisfactory product being exported to the United States.

7. *Comment:* Some comments pointed out the possibility of one or two poor performing establishments placing the country under retention procedures.

Response: The possiblility of such an incident is remote. One poor performing establishment or an isolated breakdown in processing controls will not seriously affect the country's short-term or long-term averages. Under normal manufacturing conditions, PFF values must be close to the required values for the cured pork products. Establishments producing products within the limits of the group value and the product value cumulative sum charts should not have a single sample result low enough to cause country retention procedures. The Department's statistical sampling plans are based on the country's total export of product to the United States. Sampling will be random and every establishment will have an equal chance of being sampled. However, large exporting establishments will naturally be sampled more often than smaller ones. The sampling system tracks product compliance utilizing a low sampling rate until there is an indication of inadequate process controls or ineffectiveness of a country's inspection procedures. At that point, the frequency of sampling is intensified by instituting establishment or country retention procedures.

Should a randomly selected single sample fail to meet the absolute minimum PFF requirement, the represented lot will be retained if it is still at the inspection point. If elsewhere, it will be subject to administrative detention, and retention procedures will be instituted on future shipments of that product from that establishment. Samples collected during establishment retention procedures will not be counted in the country's 36 or 100 lot averages. The violative sample, of course, will become part of the averages.

This procedure effectively monitors the performance of individual establishments. Poor performing establishments are isolated and not allowed to influence the entire country's performance until their performance is found to be satisfactory. Therefore, one establishment can contribute only one poor result to a country's averages. Several poor performing establishments would be needed at one time to influence the averages to a point that regulatory action would be taken aganist the country's product. Such events indicate that the country's controls are not working and necessitate USDA action. The Department would start looking at the country's products more closely to determine compliance with the U.S. regulations.

Products manufactured under sophisticated quality control systems that maintain PFF values on the negative side but within the allowed limits for individual samples may lower the country's average requiring retention procedures by USDA. However, this practice cannot be continued in any foreign establishment for extended periods of time because the product values and group values will eventually reach action limits resulting in accelerated sampling and/or retention procedures being imposed by the foreign meat inspection system. Eligible foreign inspection systems are required to have their PFF control procedures at least equal to the U.S. controls. Product value and group value CUSUM charts or an equivalent quality control procedure are to be maintained for each establishment. Establishments not complying with these values should not be allowed to manufacture and export product to the United States. Adequate inspectional controls will allow the detection of poor performing establishments followed by corrective action at establishment levels without affecting the country's performance.

8. *Comment:* Commenters stated that import reinspection procedures are unnecessary since approved foreign meat inspection systems are accepted to be at least equal to those of the United States.

Response: It should be noted that POE procedures are only one of the methods employed by USDA to continually evaluate a foreign country's at least "equal to" status. If several foreign establishments are producing product which is marginally below the required PFF value or several establishments violate the absolute minimum PFF requirements at a time, then USDA will have valid evidence to start reinspecting all product at POE to assure compliance with the U.S. standards.

9. *Comment:* Some foreign commenters suggested that the new POE procedures are more severe than those for U.S. processors. It was also pointed out that the domestic processor is permitted to build up a "PFF debt" which could be everlasting, and this could be done simultaneously by all U.S. establishments.

Response: The domestic and import inspection controls are designed to achieve the same goals, although they do so by different means. The basic similarities are: (1) Required and absolute minimum PFF standards are the same for domestic and imported products and (2) violation of the absolute minimum PFF requirement results in retention procedures in both cases. Differences in domestic and import control procedures are due to the inherent nature of the two systems, the domestic system being a direct monitoring program and the import system being a reinspection of a compliance system operated by a foreign country.

Each domestic or imported sample lot must meet the absolute minimum PFF requirement. In addition, domestic product must comply with product value and group value requirements. Even though all product meets absolute minimum PFF standards, retention procedures may be initiated if product values are out of limits, or accelerated sampling may be initiated due to the violation of group values. These two requirements are meant to assure that over a period of time, in any establishment, average PFF values are equal to or greater than the required standards. Noncompliant products in a domestic establishment are placed under retention procedures and, under certain conditions, results obtained during the retention period may not contribute to group values. Similar restrictions are imposed on imported products without penalizing the entire country's products.

In addition, domestic establishments will not be able to carry a "PFF debt" forever. The cumulative sum charts maintain group values; a large downward shift indicates the loss of process control and corrective actions can be initiated. The CUSUM chart reflects the product compliance history from the date the plant started production of the PFF product. These statistically calculated charts are similar to X bar (averages) charts and are useful for predicting the potential for producing noncompliant product.

The lot averages maintained for imported products are designed to achieve the same goal. They are not historic but rather a long-term and short-term look at the foreign inspection system's ability to control PFF product production. When lot averages for a country fall below the accepted limits, the country is required to return them to zero or higher. Similarly, when the product or group values for a domestic producer reach the action limits, corrective action is taken and the values are returned to zero or higher. Thus, both domestic and foreign producers must manufacture PFF products in compliance with the standards over a period of time. All negative values, no matter how small, must be corrected when the action limits are reached.

10. *Comment:* One foreign commenter suggested that the 36 lot average criteria is unnecessary in the presence of a long-term monitoring program based on 100 lot averages and that there is no need for corrective action to violating limits of 36 lot averages if the 100 lot averages are within limits. Another foreign commenter requested USDA to delete weighted averages and use only arithmetic averages.

Response: The 36 lot averages are needed because the 100 lot averages will not detect violations when only a few lots of cured pork product are involved and when the 100 lot averages are spread over a long period of time. The use of unweighted averages would allow a country to concentrate inspection efforts in smaller plants, and the smaller lots, if produced in large enough numbers, would tend to keep the lot averages of cured pork product high enough to keep the country's PFF status satisfactory. The use of weighted averages, which place more emphasis on larger lots, eliminates any possibility of biasing the country's PFF status in that manner.

11. *Comment:* Three foreign commenters requested that compliance criteria for the 100 lot average be moved from zero to −0.16 or −0.17, based on the procedure followed for 36 lot averages.

Response: The Department considers the 100 lot average to be sufficiently large to reduce sampling error to the point where it is inconsequential. The value of zero or higher was selected for simplicity and to assure that, on the average, all product produced from any country meets the minimum PFF requirements.

12. *Comment:* Two foreign commenters requested that sampling of retained lots be expanded from five to 15 samples per lot.

Response: The decision to collect five samples per retained lot was made to avoid economic loss associated with destructive sampling and increased laboratory workload.

13. *Comment:* One foreign government requested that retained lots be allowed to be divided into sublots based on production dates. The same government suggested that a country under retention be returned to normal sampling when the average responsible for triggering the retention procedure returns to an acceptable level and that the other three averages should not be a factor in returning the country to normal monitoring.

Response: Requests for sublot division will be considered on a case-by-case basis. In regard to the latter suggestion, there appears to be some misunderstanding of the rule on averages and retention procedures. The rule states that if any of the four averages is in violation, the country will be placed in the retention phase. If, for instance, a country is placed under retention because the 100 lot average falls below zero, it is returned to normal monitoring when that average is within limits again. But, if during this period, one of the 36 lot averages falls below the acceptable limit, that violation, independent of any previous violation, requires retention procedures for the country. So, at any given time, a country cannot be returned to normal monitoring procedures if any of the four averages is below the acceptable level. In addition to the averages, the 25 consecutive lot criteria must also be satisfied before the country returns to normal monitoring procedures. This rule reassures that PFF processing procedures are under control before returning the country to normal monitoring procedures.

14. *Comment:* Another commenter asked that PFF results be frequently communicated to the country of origin so they can observe the variation in laboratory analysis and prepare for a smooth transition to the new system.

Response: The Department concurs and will provide such information to exporting countries on a regular basis or when requested.

Miscellaneous Amendments

The Department has made the following clarifying changes in this rule.

1. The formula for calculating a PFF Standardized Difference has been deleted from § 327.23(a)(4). The formula was incorrectly printed; however, the definition as stated in the text is correct and remains unchanged.

2. The date for starting the country averages has been changed from "the date of publication of the rule" to "April 15, 1985." This change provides the same implementation date for both domestic and imported cured pork products.

3. Section 327.23(c)(1) has been amended to indicate that the "Department" rather than the "importer" will collect and determine the PFF of each sample unit for lots subject to retention.

4. Section 327.23(c)(4) has been added to clarify that PFF values of sample units collected when a foreign establishment is under retention procedures will not be included in the PFF standardized averages for 36 and 100 consecutive lots.

Final Rule

After careful consideration of the issues addressed by the comments, the Administrator has determined that the Federal meat inspection regulations should be amended as set forth below.

List of Subjects

9 CFR Part 319

Meat inspection, Food labeling, Imported products.

9 CFR Part 327

Meat inspection, Food labeling, Imported products.

1. The authority citation for Parts 319 and 327 reads as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

PART 319—[AMENDED]

2. Section 319.104(a) (See 49 FR 14879, dated April 13, 1984) is amended by revising footnote 1 of the chart to read as follows:

§ 319.104 Cured pork products.

(a) * * * [1]

[1] The minimum meat PFF percentage shall be the minimum meat protein which is indigenous to the raw unprocessed pork expressed as a percent of the non-fat portion of the finished product; and compliance shall be determined under § 318.19 of this subchapter for domestic cured pork product and § 327.23 of this subchapter for imported cured pork product.

PART 327—[AMENDED]

3. Part 327 (9 CFR Part 327) is amended by adding a new § 327.23 to read as follows:

§ 327.23 Compliance procedure for imported cured pork products.

(a) *Definitions.* For the purposes of this section:

(1) A *Product* is that cured pork article which is contained within one Group as

defined in paragraph (a)(2) of this section and which purports to meet the criteria for a single product designated under the heading "Product Name and Qualifying Statements" in the chart in § 319.104 or § 319.105 of this subchapter.

(2) A *Product Group* or a *Group* means one of the following:

(i) Group I, consisting of cured pork products which have been cooked while imperviously encased. Any product that fits into the Group shall be placed in this Group regardless of any other considerations.

(ii) Group II, consisting of cured pork products which have been water cooked. Any product that does not fit into Group I but does fit into Group II shall be placed into Group II regardless of any other considerations.

(iii) Group III, consisting of boneless, smokehouse heated cured pork products. Any boneless product that does not fit into Group I or II shall be placed in Group III.

(iv) Group IV, consisting of bone-in or semi-boneless smokehouse heated cured pork products. Any product that is not completely boneless or still contains all the bone which is traditional for bone-in product and does not fit into Group I, II, or III shall be placed in this Group.

(3) *Protein Fat-Free Percentage, Protein Fat-Free Content, PFF Percentage, PFF Content or PFF* of a product means the meat protein (indigenous to the raw, unprocessed pork cut) content expressed as a percent of the non-fat portion of the finished product.

(4) A *PFF Standardized Difference* is the PFF of the sample minus the minimum PFF requirement, set forth in § 319.104 and § 319.105 of this subchapter, for the product being analyzed, divided by the Appropriate Standard Deviation for the product group.

(5) The *Absolute Minimum PFF Requirement* is that no laboratory result of an individual sample for PFF content be below the applicable minimum requirement of § 319.104 or § 319.105 of this subchapter by 2.3 or more percentage points for a Group I or II product or 2.7 or more percentage points for a Group III or IV product.

(6) A *PFF Standardized Arithmetic Average of the Country's Products* is the arithmetic average of PFF Standardized Differences from either 36 or 100 consecutively sampled lots of product entering the United States from a given producing country.

(7) A *PFF Standardized Weighted Average of the Country's Products* is an estimate of the average of the PFF Standardized Differences from either 36 or 100 consecutively sampled lots, adjusted for the size of the lot, of different types of cured pork product entering the United States from a given producing country. A Standardized Weighted Average is computed by multiplying the PFF Standardized Difference calculated for each lot by the number of pounds of product in each lot, adding those results together, and dividing the sum by the total weight of product from all the lots making up the average.

(8) The *Appropriate Standard Deviation* is based on within lot variability. That assigned to Groups I and II = 0.75 percent PFF and that assigned to Groups III and IV = 0.91 percent PFF.

(9) A *Lot* is all product of one type from one establishment presented by an importer as the unit for inspection at the Port of Entry.

(b) *Normal Monitoring Procedures.* The Department shall collect sample(s) of cured pork product on a random basis from lots presented for importation at the Port of Entry and, after analyzing the sample for fat and indigenous protein content, calculate the PFF percentage. The product shall not be held pending laboratory results during the monitoring phase. The PFF percentage for each sample shall be considered along with the cumulative results of prior samples to assess the effectiveness of a country's overall compliance program and to determine the course of action for subsequent lots of product.

(1) Factors determining whether a country's inspection system is functioning adequately:

(i) The PFF percentage for each sample must not be below the minimum PFF requirement by 2.3 percentage points for cured pork products in Groups I and II or 2.7 percentage points for cured pork products in Groups III and IV.

(ii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 100 consecutive lots of all cured pork products from the country must be equal to or greater than zero. The count for the 100 consecutive lots starts with the lots arriving from that country after April 15, 1985.

(iii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 36 consecutive lots of all cured pork products from the country must be above the lowest 5 percent of the Normal distribution. This minimum value is minus 0.28 (−0.28) for the Arithmetic Average and depends on the production volume for the Weighted Average.

(2) Actions when calculations indicate that processing procedures in a country are out-of-compliance:

(i) If the PFF level of a sample taken during normal monitoring procedures is found to be as low as the Absolute Minimum PFF Requirement, the country of origin shall be notified; the lot involved shall be retained if still available in an official establishment or subject to detention or other actions pursuant to the Act; and all subsequently presented lots of that cured pork product from the same foreign establishment shall be held under retention until the provisions of paragraph (c) are satisfied.

(ii) If either of the PFF Standardized Averages, Arithmetic or Weighted, for the last 100 consecutive lots falls below zero or either of the PFF Standardized Averages for the last 36 consecutive lots falls below the upper 95 percent of the Normal distribution, all available cured pork product from the foreign country shall be subject to administrative retention and all subsequently presented lots of cured pork product from the foreign country shall be held under retention until the provisions of paragraph (c) are satisfied. The country of origin shall be notified, and shall be subject to other actions pursuant to the Act.

(c) *Retention.* When lots of cured pork product are under retention they shall be refused entry and reexported in accordance with § 327.13 of this subchapter unless they can be released in accordance with the provisions of paragraph (c)(1), establishments may be returned to normal monitoring procedures in accordance with paragraph (c)(2), and countries may be returned to normal monitoring procedures in accordance with paragraph (c)(3).

(1) If a lot is subject to retention procedures under this section, the Department shall collect five randomly selected sample units from each lot and determine the PFF of each sample unit. The lot may be released into commerce if:

(i) The average PFF percentage of the five randomly selected sample units is equal to or greater than the applicable minimum PFF percentage required by § 319.104 or § 319.105 of this subchapter, or

(ii) The product is relabeled under the supervision of a program employee so that it conforms to the provisions of § 319.104 or § 319.105 of this subchapter

(2) If product from a foreign establishment is subject to retention procedures under this section, the

foreign establishment may be returned to normal monitoring procedures when:

(i) Ten consecutively presented lots of that cured pork product from that establishment have been sampled as provided in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (50 in all) is above the Absolute Minimum PFF Percentage.

(3) If a country is subject to retention procedures under this section, the country shall be returned to normal monitoring procedures when:

(i) Twenty-five consecutively presented lots of cured pork product have been sampled as required in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (125 in all) is above the Absolute Minimum PFF Percentage; and

(iii) Both of the PFF Standardized Averages for 36 consecutive lots are in the required percentage of the Normal distribution; and

(iv) Both of the PFF Standardized Averages for 100 consecutive lots are zero or higher.

(4) The sample units collected under retention procedures as provided in paragraph (c)(2) of this section will not be included in the PFF standardized averages for 36 and 100 consecutive lots.

(d) *Adulterated and Misbranded Products.* Products not meeting specified PFF requirements, determined according to procedures set forth in this section, may be deemed adulterated under section 1(m)(8) of the Act (21 U.S.C. 601(m)(8)) and misbranded under section 1(n) of the Act (21 U.S.C. 601(n)).

(e) Activities requiring additional inspectional supervision, such as relabeling, shall be at the importer's expense. In addition, if the importer wishes, he or she may have samples analyzed at an accredited laboratory.

Done at Washington, DC, on: February 28, 1985.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 85-5879 Filed 3-11-85; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-8-AD; Amendment 39-5011]

Airworthiness Directives; Piper Model PA-31P Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-31P airplanes, which requires initial and repetitive dye-penetrant inspections of the fuselage bulkhead at station 332.0 for cracks, and reinforcement or replacement of cracked bulkheads. Cracks have occurred in this bulkhead in the area of the stabilizer main spar attachments. If these cracked bulkheads are not reinforced, or the bulkheads are not replaced, propagation of the cracks may compromise the structural integrity of the stabilizer main spar attachment to the fuselage and result in loss of airplane control. The inspections and reinforcement or replacement of affected bulkheads will prevent these conditions.

DATES: Effective March 15, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Service Bulletin (S/B) No. 802, dated December 12, 1984, applicable to this AD may be obtained from Piper Aircraft Corporation, 3000 Medulla Road, Lakeland, Florida 33803. A copy of this information is also contained in the Rules Docket, FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-8-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: Two instances have been reported or cracks in the fuselage bulkhead at station 332.0 on Piper Model PA-31P airplanes, in the area of the front horizontal stabilizer spar attachment. No structural failure or incidents have resulted from these cracks. Piper Aircraft Corporation has made available a Reinforcement Kit for those bulkheads with cracks that do not exceed acceptable limits, and a Reinforced Bulkhead Assembly to replace those bulkheads with cracks exceeding these limits. The manufacturer has also issued S/B No. 802, dated December 12, 1984. The Service Bulletin contains instructions for the inspection of this bulkhead, provides acceptable crack criteria, and makes available the Reinforcement Kit and the Reinforced Bulkhead Assembly. The FAA has determined that cracks found on the fuselage bulkhead at station 332.0 on certain PA-31P series airplanes, if uncorrected, can result in loss off structural integrity and possible loss of control of the airplane.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued applicable to Piper Model PA-31P airplanes which requires initial and repetitive dye-penetrant inspections of this bulkhead for cracks, and if necessary repair or replacement of the bulkhead in accordance with Piper S/B No. 802, dated December 12, 1984. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

There are approximately 273 airplanes that are affected by this AD at a cost of $1,970 per airplane. Accordingly, the estimated total cost to the private sector of compliance with this AD is $537,810. This cost of compliance is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft safety, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to Model PA-31P (Serial Numbers 31P-3 through 31P-7730012) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent the propagation of cracks in the fuselage bulkhead at station 332.0, and loss of stabilizer front spar structural support, accomplish paragraph (a) as follows:

(a) Within the next 25 hours time-in-service after the effective date of this AD, and thereafter at intervals not exceeding 200 hours time-in-service, inspect, using a dye-penetrant method, the fuselage station 332.0 bulkhead in accordance with Piper S/B No. 802 dated December 12, 1984.

(1) If no cracks are found to exist, make appropriate maintenance record entry of compliance.

(2) If cracks are found that do not exceed the acceptable limitations given in Piper S/B No. 802, prior to further flight stop drill the crack(s), and install Reinforcement Kit, Piper Part Number 764-983, or reinforced bulkhead assembly, Piper Part Number 45583-16.

(3) If cracks are found that exceed the acceptable limitations given in Piper S/B No. 802, prior to further flight replace the bulkhead assembly with Reinforced Bulkhead Assembly, Piper Part Number 45583-16.

(b) The repetitive inspections required by paragraph (a) of this AD may be discontinued when Reinforcement Kit Piper Part Number 764-983, or Replacement Bulkhead Piper Part No. 45583-16 is installed.

(c) The intervals between repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) The airplanes may be flown, in accordance with FAR 21.197, to a location where the AD may be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, FAA, Central Region, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7428.

This amendment becomes effective on March 15, 1985.

(Sections 313(a), 601 through 603 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Section 11.89 of the Federal Aviation Regulations (14 CFR 11.89)).

Issued in Kansas City, Missouri, on March 1, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-5778 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

Removal of Special Federal Aviation Regulation No. 42

EDITORIAL NOTE: By letter dated February 20, 1985, the Acting Chief Counsel of the Federal Aviation Administration notified the Office of the Federal Register that Special Federal Aviation Regulation No. 42 expired by its own terms on March 1, 1980.

Therefore, pursuant to his authority to assure orderly development of the Code of Federal Regulations (1 CFR 8.2) the Director of the Federal Register is removing Special Federal Aviation Regulation No. 42 in Title 14, Code of Federal Regulations as obsolete. Special Federal Aviation Regulation No. 42 will not appear in the 1985 edition of the Code of Federal Regulations.

BILLING CODE 1505-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3093]

American Motors Corporation, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: This Order reopens the proceeding and grants the petitions of a utility vehicle manufacturer and its subsidiary to set aside the FTC Consent Order issued on July 6, 1982 (100 F.T.C. 229; 47 FR 31681), which requires them to attach to each new Jeep CJ a sticker warning that multipurpose vehicles handle differently from ordinary passenger cars and sudden sharp turns or abrupt maneuvers may result in loss of control; and to include additional safety disclosures in Owner's Manuals and Supplements. Petitions' request that the Order be set aside was on the basis of changes in law and fact and on public interest considerations. The manufacturers asserted that a new regulation promulgated by the National Highway Traffic Safety Administration ("NHTSA"), which became effective on September 1, 1984, covers the same subject matter as the FTC Order and therefore makes the Order unnecessary. Further, while the regulation requires all manufacturers of utility vehicles to place a sticker on such vehicles and to disclose in their Operating Manuals information "to alert drivers that the particular handling and maneuvering characteristics of utility vehicles requires special driving practices when those vehicles are operated on paved roads," respondent is the only manufacturer of such vehicles subject to dual liability. After considering all the arguments presented by petitioners, and noting that NHTSA, the federal agency with the specific statutory responsibility to regulate automobile traffic, has in effect a regulation, enforceable by the assessment of penalties, that adequately addresses the problem that led to issuance of FTC's Order, the Commission concluded that petitioners had adequately shown that changed conditions of law and fact and public interest considerations require that the Order be set aside. Accordingly, the matter was reopened and the Order set aside.

DATES: Consent Order issued on July 6, 1982; Set Aside Order issued February 14, 1985.

FOR FURTHER INFORMATION CONTACT: FTC/B 423-2, Jerry McDonald, Washington, D.C. 20580, (202) 376-3484.

SUPPLEMENTARY INFORMATION: In the Matter of American Motors Corporation, et al.

List of Subjects in 16 CFR Part 13

Motor vehicles, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Before Federal Trade Commission

[Docket No. C-3093]

In the matter of American Motors Corporation, et al.; order reopening the proceeding and setting aside cease and desist order.

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary L. Azcuenaga.

On September 13, 1984, American Motors Corporation and its wholly-owned subsidiary, Jeep Corporation, respondents in the captioned matter, filed a petition pursuant to Rule 2.51 of the Commission's Rules of Practice to reopen the proceeding and set aside the Consent Order entered therein.

The Order, which was issued on July 6, 1982, requires, *inter alia*, that respondents affix a sticker to the instrument panel or windshield frame of each new Jeep CJ reading as follows:

This multipurpose vehicle handles and maneuvers differently from an ordinary passenger car. As with other vehicles of this type, sudden sharp turns and abrupt maneuvers may result in loss of control. Read driving guidelines in Owner's Manual and Supplement.

WEAR SEATBELTS AT ALL TIMES

The Order also requires respondents to disclose in the Owner's Manual for

new Jeep CJ's and in an informational Supplement to the Owner's Manual the following:

> Utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turning maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident.

The Order further mandates that respondents include the following statement in the introduction to the Supplement:

> As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident. Be sure to read on-pavement and off-road driving guidelines which follow.

Petitioners' request that the Order be set aside is based on changes in law and fact and on public interest considerations. The petition asserts that a new regulation of the National Highway Traffic Safety Administration ("NHTSA") became effective on September 1, 1984, which covers the same subject matter as the Commission's Order. 49 CFR 575.105, *reprinted* in 49 FR 20016 (1984). NHTSA's regulation requires all manufacturers of utility vehicles to place a sticker on such vehicles and to disclose in their Operating Manuals information "to alert drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when those vehicles are operated on paved roads." While the sticker and the disclosures required by the NHTSA regulation were patterned after those in the Commission's Order against petitioners, the language therein differs substantively from the exact language required by the Commission's Order. Violations of both the NHTSA regulation and the Commission's Order may subject petitioners to civil penalties.

Petitioners argue that the new regulation promulgated and implemented by NHTSA constitutes a change of law. The regulation covers the same subject matter as the Commission's Order, and NHTSA is the federal agency with specific statutory authority to regulate traffic safety. See 15 U.S.C. 1381 (1982). "In short," petitioners' assert, "the NHTSA regulation has made the Order unnecessary."

As a changed condition of fact, petitioners argue that the new NHTSA regulation ensures that they will continue to make disclosures concerning the handling of utility vehicles. The regulation applies to all utility vehicles, and AMC is the only manufacturer of such vehicles subject to dual liability.

Petitioners are, therefore, injured competitively. Furthermore, they contend that they have been placed in an untenable regulatory dilemma. If they comply with the NHTSA regulation, they are in violation of the Commission's Order, and compliance with the Order constitutes non-compliance with the NHTSA regulation. Penalties are assessable for violations of both the regulation and the Order.

Finally, petitioners contend that the public interest requires that the Order be set aside because inconsistent and overlapping regulatory schemes do not serve the goal of efficient government administration.

Under section 5(b) of the Federal Trade Commission Act and Rule 2.51 of the Commission's Rules, the Commission must reopen the proceeding and consider altering, modifying or setting aside an Order if a respondent files a request showing that changed conditions of law or fact require the Order to be altered, modified or set aside, in whole or in part, or that the public interest so requires.

The National Highway Traffic Safety Administration, the federal agency with the specific statutory responsibility to regulate automobile traffic safety, has in effect a regulation, enforceable by the assessment of penalties, that adequately addresses the problem that led to the issuance of the Commission's Order. Therefore, the Commission has concluded that petitioners have adequately shown that changed conditions of law and fact and public interest considerations require that the Order be set aside.

Accordingly, it is ordered that the proceeding in this matter be reopened and the Order set aside.

By direction of the Commission.

Issued: February 14, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-5800 Filed 3-11-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 6, 12, 18, 19, 141, 143, 144, and 146

[T.D. 85-38]

Customs Regulations on Textiles and Textile Products; Effective Date Clarification

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Clarification of effective date.

SUMMARY: On March 5, 1985, a final rule amending the Customs Regulations relating to imported textiles and textile products was published as T.D. 85-38 in the Federal Register (50 FR 8710), pursuant to section 204 of the Agricultural Act of 1956. The regulations were prepared to prevent circumvention or frustration of visa or export license requirements contained in multilateral and bilateral agreements to which the U.S. is a party and to facilitate the efficient and equitable administration of the U.S. Textile Import Program. The document stated that the final rule is effective on April 4, 1985. This document clarifies the effective date. The final rule is effective for all textiles and textile products subject to section 204, Agricultural Act of 1956, as amended, exported from the country of origin, as defined by section 12.130, of the final rule on or after April 4, 1985.

EFFECTIVE DATE: For a clarification of the effective date provision of the final rule published as T.D. 85-38 in the Federal Register on March 5, 1985 (50 FR 8710), see **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Philip Robins, Classification and Value Division (202-566-8181), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), provides authority for the President to negotiate agreements with foreign governments limiting exports of textiles and textile products from such countries into the U.S. The Act also grants authority to issue regulations governing entry of textiles and textile products. Executive Order 12475 of May 9, 1984, was issued by the President to prevent circumvention or frustration of textile product quotas or visa requirements contained in multilateral and bilateral

agreements to which the U.S. is a party and to facilitate the efficient and equitable administration of the U.S. Textile Import Program. By the Executive Order the President delegated the authority to issue regulations to the Secretary of the Treasury and directed that the regulations be promulgated within 120 days of the May 11, 1984, effective date of the Executive Order.

Accordingly, on August 3, 1984, interim Customs Regulations were published in the **Federal Register** (49 FR 31248). On March 5, 1985, final regulations were published as T.D. 85–38 in the **Federal Register** (50 FR 8710). The final rule stated that the regulation is effective on April 4, 1985. This document clarifies the effective date of the final rule as set forth below.

Clarification of Effective Date

The effective date provision of the final Customs Regulations published as T.D. 85–38 in the **Federal Register** on March 5, 1985 (50 FR 8710), is amended by removing the stated "Date" and inserting, in its place, the following:

EFFECTIVE DATE: This regulation is effective on April 4, 1985. It is applicable to all textiles and textile products subject to section 204, Agricultural Act of 1956, as amended, exported from the country of origin, as defined by § 12.130 of the final rule (19 CFR 12.130), on or after April 4, 1985.

Dated: March 6, 1985.

Alfred R. DeAngelus,

Acting Commissioner of Customs.

[FR Doc. 85–5834 Filed 3–11–85; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 10

[T.D. 85–40]

Customs Regulations Amendments Relating to Cancellation of Temporary Importation Bonds

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by eliminating the requirement that Customs examine merchandise imported temporarily under bond or under an A.T.A. carnet, before exportation, and to supervise the exportation process in order to have the temporary importation bond or carnet cancelled. Proof of exportation will now be verified by documentary evidence ordinarily submitted to Customs. Elimination of these requirements will ease the Customs workload and benefit importers who use the temporary importation bond procedures.

EFFECTIVE DATE: April 11, 1985.

FOR FURTHER INFORMATION CONTACT: Donald Beach, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), certain classes of articles may be imported into the U.S. on a temporary basis under bond. Such articles, when not imported for sale or sale on approval, may be admitted into the U.S. without the payment of duty by furnishing Customs with a bond which provides for exportation of the articles under Customs supervision. Exportation must be within one year from the date of importation. This period may be extended upon application for one or more periods which when added to the initial one year period will not exceed a total of three years. The Customs Regulations governing temporary importations under bond are found in § 10.31 *et seq.* (19 CFR 10.31 *et seq.*).

An A.T.A. carnet is an international customs document which may be used for the temporary duty-free importation of certain articles into a country in lieu of the usual customs documents required. This carnet serves as a guarantee against the payment of customs duties which may become due on articles temporarily imported and not exported. The Customs Regulations governing A.T.A. carnets are found in § 10.31 *et seq.*, and Part 114, Customs Regulations (19 CFR 10.31 *et seq.*, Part 114).

Section 10.38(a), Customs Regulations (19 CFR 10.38(a)), states that articles entered under a temporary importation bond or carnet may be exported at the port of entry or at another port. An Application for Exportation of Articles Under Special Bond, Customs Form 3495, must be filed with the district director a sufficient length of time in advance of the date of exportation to permit Customs to examine and identify the articles of circumstances warrant examination. The past practice had been to examine most articles before exportation. Articles entered under A.T.A. carnet are examined at the port from which they are to be exported.

If Customs decides to examine the articles, all expenses in connection with the delivery of the articles to Customs for examination, the cording and sealing of the articles, and their transfer for exportation are paid for by the parties in interest. Customs is required to supervise the exportation process. Section 10.39, Customs Regulations (19 CFR 10.39), sets forth the procedures for cancellation of bonds.

Because of increased demands for Customs service and decreased staffing, the requirements of examination and supervision of exportation are now unrealistic. This procedure was instituted to ensure that the articles were in fact exported. However, this is no longer necessary. Documentary evidence, such as a copy of a bill of lading, a landing certificate, a vessel or vehicle manifest, a certificate of lading, or a Notice of Exportation, Customs Form 7511, certified by Customs, which shows that the articles were exported, is adequate proof of exportation.

As explained in a notice published in the **Federal Register** on September 9, 1983 (48 FR 40738), because of the benefit which accrues to the public by modifying the procedure to allow exportations to be proven by documentary evidence and the benefit to Customs by eliminating physical supervision, on April 3, 1981, Customs notified all field offices that an importer of a temporarily imported article may cancel the bond or carnet by filing documentary evidence of exportation. By T.D. 81–124, published in the Customs Bulletin on May 20, 1981, notice was given to the public that the requirements of §§ 10.38 and 10.39, Customs Regulationss, were being suspended at the importer's option. Since that time, most importers have exercised the option without problem. Accordingly, the notice proposed to amend Parts 10 and 114, Customs Regulations, to eliminate the necessity of examination by Customs of merchandise imported temporarily under bond or carnet and the requirement of supervision of the exportation process. Because of the unique nature of mail or parcel post exportations, supervision of their exportation will continue. A discussion of the 15 comments received in response to the notice and our responses follow.

Discussion of Comments

Comment: Four commenters suggested extensions of the time for filing proof of export. One suggested that 60 days from the date of exportation be allowed, instead of the 30 days in the proposal. Another suggested 90 days to accommodate multi-users of temporary importations under bond (hereinafter TIB's). A third suggested 30 days from the end of the bond period, instead of

the 10 days proposed. The last commenter requested that we delete any reference to the 30-day from date of exportation period, allowing all users 10 days from the end of the bond period.

Response: We agree that the 30-day after exportation or 10-day after the expiration of the bond periods, whichever occurs first, are too short. However, a 90-day from date of exportation or 30-day from end of bond period are too long. Also, deleting the 30-day period altogether, thereby allowing all users 10 days from the end of the bond period to prove exportation, is not practical. It would result in too many open TIB's, *i.e.*, cases where exportation occurs long before the expiration of the bond period but no proof of exportation is submitted to cancel the bond because of the long period allowed to submit the proof.

We believe that for the submission of proof of exportation, 60 days from the date of exportation *or* 20 days from the expiration of the bond or carnet period, whichever occurs first, are sufficient periods of time to accommodate most users of TIB's. Section 10.38(a) is amended to reflect these time periods.

Comment: Customs Form 3495, the "Application for Exportation of Articles under Special Bond," which is required to be submitted prior to exportation as a request to cancel the TIB, is eliminated under the proposal. This form should be retained to aid in the cancellation of TIB's for merchandise exported to Canada by truck.

Response: As proposed, § 10.38(a) does not prohibit the use of Customs Form 3495. Anyone who wishes to use this form as a request for cancellation may do so, as long as sufficient proof of exportation is submitted with the request.

Comment: Proposed § 10.38(a) should specifically state that one proof of exportation is required—a bill of lading. The language "Evidence sufficient to prove exportation * * * includes, but is not limited to, a bill of lading, landing certificate, vessel or vehicle manifest, certificate of lading or certified notice of exportation" may lead TIB users to conclude that all those papers are necessary to prove exportation.

Response: It is clear from the proposed language that evidence sufficient to prove exportation "includes, but is not limited to" the specified documents. It only requires the submission of what is necessary to establish the fact and date of exportation, which may be one or more of the suggested forms, or other forms.

Comment: In the penultimate sentence of proposed § 10.38(a), the word "must" should be replaced with the word "may," thereby making the requirement of submitting a copy of the t.i.b. import entry optional. Since Customs keeps a copy of the import entry, this requirement is superfluous.

Response: We disagree. The requirement enables Customs to compare its copy with the submitted copy, thereby helping to verify the document.

Comment: The exporter's summary procedure used in drawback claims, whereby the exporter files one document for several drawback claims, should be adopted for multi-users of TIB's.

Response: This procedure is not practical for TIB users inasmuch as they, unlike drawback claimants, must satisfy a bond requirement for the TIB's, which requires the submission of a separate document for each TIB.

Comment: There should be a provision covering partial exportation or articles imported under a TIB because sometimes these articles are not exported at the same time, thereby requiring the submission of multiple evidence of exportation.

Response: We disagree. A TIB is not eligible for cancellation until all articles covered by the TIB are exported. Therefore, there can be no provision for partial exportation. However, evidence of partial exportation may be submitted for mitigation of claims for liquidated damages for failure to export all the TIB articles.

Comment: One commenter asked why the regulations cannot provide for submission of evidence of destruction, rather than requiring the destruction to be made under Customs supervision.

Response: For Customs purposes, destruction is a term with a specific legal meaning. Because only Customs can make the determination that a legal destruction of articles has occurred, it must take place under our supervision.

Comment: Cessation of the examination/supervision procedures for TIB merchandise will induce fraud and disrupt interdictory programs such as operation EXODUS.

Response: We disagree. Under the new TIB procedures, Customs retains the authority to examine any merchandise prior to exportation. In cases where fraud is suspected, an examination of the out-bound merchandise will be made. Further, we are aware of no documented or alleged fraudulent acts connected with the exportation of TIB merchandise since April 1981, when exporters were given the option of exporting TIB merchandise without examination or supervision.

Comment: An export invoice should be required in order to cancel a TIB. Also, the TIB number should be required to be placed on any document used to establish exportation.

Response: We believe that requiring an export invoice is unnecessary and only increases the paperwork burden for the public and Customs. However, requiring the TIB number on any document submitted to prove exportation is advisable in order to help identify the TIB entry.

Comment: Language indicating that the Customs officer must be satisfied of the fact of exportation should be included in the regulations.

Response: The proposed regulation requires that "timely exportation" be established. No further language is needed to provide for the requirement of proof of exportation.

Comment: As with mail exportations, the regulations should provide for cancellation of TIB's for salespersons' samples at ports other than the port of entry.

Response: All a salesperson need do to cancel a TIB when departing with samples at a port other than that of entry is to have Customs certify a notice of exportation at the departure point. The salesperson may then mail the request for cancellation along with the notice of exportation to the port of importation, where the TIB will be cancelled. There is no necessity to provide for cancellation of the TIB at the port of exportation.

Comment: The reference to carnets only in the last paragraph of proposed § 10.38, and not in § 10.39 which deals with cancellation of TIB's may confuse the public, causing it to believe that the amended regulations cover only cancellation of TIB's and not carnets as well.

Response: We disagree. Carnets are sufficiently mentioned throughout the document, from which the public could conclude that the regulations apply to carnets as well as TIB's. Also, reference is being made in the document to the specific regulations governing carnets, found in § 114.26. However, the proposed amendment to § 114.26(a), which would eliminate the supervision requirement for merchandise exported under a TIR carnet, is being withdrawn since a TIR carnet is not used with temporary importations under bond. Therefore, there is no need to amend § 114.26 for this purpose.

Comment: Proposed § 10.39(e)(3) provides for the cancellation of liquidated damages upon payment of a lesser amount, or without collection of liquidated damages, if the TIB merchandise is timely exported but timely request for cancellation is not

made and satisfactory proof of exportation is submitted. One commenter asked what the disposition would be of a case in which no proof of exportation is submitted until after liquidated damages have been assessed.

Response: Section 10.39(e) concerns the cancellation of the liability for payment of liquidated damages. Therefore, it is presumed that liquidated damages have already been assessed when proof of exportation is furnished to Customs under a § 10.39(e)(3) situation. These liquidated damages may be cancelled upon payment of a lesser amount. If the district director has not assessed liquidated damages by the date of the untimely filing of proof of exportation, in his discretion, he need not assess any liquidated damages.

Upon consideration of the comments received, and further review of the matter, it has been determined advisable to adopt the proposal with the modification noted.

Executive Order 12291

These amendments do not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

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

Accordingly, it is certified under the provisions of § 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.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports, Temporary importation under bond.

Amendments to the Regulations Part 10

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

1. Section 10.38 is revised to read as follows:

§ 10.38 Exportation.

(a) *General.* Articles temporarily imported under bond or an A.T.A. carnet may be exported without Customs examination or supervision. Bond liability will be cancelled or no claim will be brought against the guaranteeing associated on an A.T.A. carnet under § 10.39 of this chapter if satisfactory written proof of timely exportation by the person principally liable under the bond or A.T.A. carnet, or an authorized representative or agent, is provided to the district director at the port of importation within (1) 60 days of exportation or (2) 20 days of the end of the period during which the articles were authorized to remain in the customs territory of the United States under bond or carnet, whichever occurs first. Evidence sufficient to prove exportation of articles entered temporarily under bond includes, but is not limited to, a bill of lading, landing certificate, vessel or vehicle manifest, certificate of lading or certified notice of exportation. The request for cancellation of the bond must also include a copy of the import entry or a copy of the invoice used on entry. In the case of an A.T.A. carnet, the carnet shall be presented for certification, together with the importation and/or reexportation vouchers. The cancellation, discharge or nonacceptance of carnets is addressed in § 114.26 of this chapter.

(b) *Mail or parcel post exportations.* If articles are exported by mail or parcel post, the package containing the articles shall be presented to Customs for mailing under Customs supervision. If presented for mailing at a port other than the port of entry, the request for cancellation of the bond shall be presented in duplicate along with the package. After the package is mailed, the district director shall certify the original of the request and forward it to the port of entry.

(c) *Verification.* Whenever the circumstances warrant, and occasionally in any event, district directors shall cause the fact of exportation to be verified in accordance with the procedures provided for in §§ 18.7 and 22.43 of this chapter.

2. Section 10.39(e) is amended by removing the words "under Customs supervision" from paragraph (2) and by revising the first sentence of paragraph (3) to read as follows:

§ 10.39 Cancellation of bond charges.

* * * * *

(e) * * *

(3) If the article was exported within the bond period, but a timely request for cancellation of the bond was not made, and satisfactory documentary evidence of actual exportation (e.g., foreign landing certificate), or of death or other complete destruction (e.g., veterinarian's certificate or certificates of two disinterested witnesses) is furnished, upon the payment of such lesser amount, or without the collection of liquidated damages, as the district director may deem appropriate under the law and in view of the circumstances. * * *

* * * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

William von Raab,

Commissioner of Customs.

Approved: February 21, 1985.

E.T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-5835 Filed 3-11-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Parts 701, 702 and 703

Longshore and Harbor Workers' Compensation Act and Related Statutes; Extension of Comment Period

AGENCY: Employment Standards Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period of comment on the interim final rules published in the **Federal Register** on January 3, 1985 (50 FR 384). The interim final rules implement the Longshore and Harbor Workers' Compensation Act Amendments of 1984, Pub. L. 98-426, 98 Stat. 1639 which amended the Longshore Act (33 U.S.C. 901 *et seq.*) in many substantive respects. The comment period is being extended from March 4, 1985, to March 22, 1985, in response to the requests from the International Longshoremen's Association and others that additional time was needed to prepare comments.

DATE: Comments must be submitted by March 22, 1985.

ADDRESS: Written comments should be sent to Richard A. Staufenberger, Deputy Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3524, Washington, D.C. 20210: Telephone (202) 523-7503.

FOR FURTHER INFORMATION CONTACT: Richard A. Staufenberger, Tel. (202) 523-7503.

Signed at Washington, D.C., this 7th day of March, 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-5884 Filed 3-11-85; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of a new animal drug application (NADA) from Burns-Biotec Laboratories, Inc., to National Dermaceutical Products, Inc.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: National Dermaceutical Products, Inc., 8749 Surrey Place, Maineville, OH 45039, informed FDA that it has acquired NADA 31-555, providing for the topical use of trypsin, balsam, and castor oil to treat horses, cattle, dogs, and cats, from Burns-Biotec Laboratories, Inc. Burns-Biotec has confirmed the change of sponsor. In addition, National Dermaceutical Products, Inc., has not been previously added to the list of NADA sponsors in 21 CFR 510.600(c). Part 510 is amended to include the new sponsor. Part 524 is amended to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new entry alphabetically to paragraph (c)(1) and numerically to (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
National Dermaceutical Products, Inc., 8749 Surrey Place, Maineville, OH 45039	051268
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
051268	National Dermaceutical Products, Inc., 8749 Surrey Place, Maineville, OH 45039
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.2620 [Amended]

2. In Part 524, § 524.2620 *Liquid crystalline trypsin, Peru balsam, castor oil* is amended in paragraph (b)(2) by removing the number "000845" and inserting in its place "051268."

Effective date. March 12, 1985.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-5774 Filed 3-11-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR PART 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazine Tablets; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the animal drug regulations to reflect approval of a supplemental new animal drug application. This document corrects a drug sponsor number.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-22986 appearing on page 36814 in the issue of Tuesday, August 24, 1982, in the third column under § 520.2610 *Trimethoprim and sulfadiazine tablets* in paragraph (b), "000081" is corrected to read "17220".

Dated: March 5, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-5773 Filed 3-11-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 610 and 660

[Docket No. 81N-0417]

Additional Standards for Anti-Human Globulin

Correction

In FR Doc. 85-3305 beginning on page 5574 in the issue of Monday, February 11, 1985, make the following corrections:

1. On page 5577, in the third column, in paragraph 14, in the third line, "work" should read "word".

2. On page 5580, in the second column, in the table, under "Antibody designation on container label", in the first line, "Anti-igG," should read "Anti-IgG,".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Ethylene Oxide; Change in Effective Date and Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of amendment of effective date of final rule; approval of information collection requirements.

SUMMARY: On June 22, 1984, the Occupational Safety and Health Administration (OSHA) published a final standard for ethylene oxide (EtO) (29 CFR 1910.1047, 49 FR 25734). This rule was transmitted to the Office of Management and Budget (OMB) for review and clearance of the information collection requirements contained in the final rule, in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and 5 CFR Part 1320. The information requirements contained in the EtO final rule, paragraphs (a)(2), (d), (e), (f)(2), (g)(3), (h), (i), and (j), of § 1910.1047, have now received OMB paperwork clearance, and have been assigned OMB clearance number 1218–0108. The OMB clearance expires January 31, 1986.

The above mentioned paragraphs in the EtO rule are therefore effective as of the date of publication of this notice in the **Federal Register.** Start-up dates in paragraph (m)(2) are to be calculated from the effective dates of the various provisions of the final rule.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N 3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION: OSHA published a proposed rule on EtO on April 21, 1983 (48 FR 17284) and adopted the final rule on June 22, 1984 (49 FR 25734). The final rule contained the following paragraphs which were determined by OMB to constitute information collection requirements under the Paperwork Reduction Act: (a)(2), Scope and application; (d), Exposure monitoring; (e), Regulated areas; (f)(2), Compliance program; (g)(3), Respirator program; (h), Emergency situations; (i), Medical surveillance; and (j), Communication of EtO hazards to employees. Paragraph (m)(1) of the final rule provided for an effective date for the standard of August 21, 1984. Paragraph (m)(2)(i) established a start-up date for compliance with all paragraphs, except engineering controls, within one-hundred and eighty (180) days after the effective date. The start-up date for implementation of engineering controls was established by paragraph (m)(2)(ii) to be one (1) year from the effective date.

However, as noted in the final rule at 49 FR 25734, the information collection provisions had not been cleared by OMB at that time. Accordingly, the effective dates for those requirements in the final EtO standard have remained in abeyance pending OMB paperwork clearance. OMB has now cleared the information collection requirements contained in § 1910.1047 under clearance number 1218–0108, through January 31, 1986. In accordance with that clearance, OSHA is hereby amending paragraph (m)(1) of the final EtO standard to establish a new effective date of March 12, 1985 for paragraphs 1910.1047 (a)(2), (d), (e), (f)(2), (g)(3), (h), (i), and (j). The time period provided after the effective date for compliance with these paragraphs (start-up dates) remains 180 days, the same as prescribed originally by paragraph (m)(2) of the EtO standard. That is, the start-up date for paragraphs (a)(2), (d), (e), (f)(2), (g)(3), (h), (i), and (j) is one-hundred and eighty days (180) from the new effective date, or September 9, 1985. Paragraphs not requiring OMB clearance went into effect on August 21, 1984, and, with the exception of implementation of engineering controls required by paragraph (f)(1), have a start-up date 180 days from that date, or February 19, 1985. These paragraphs include compliance with the 1 ppm TWA (paragraph (c)), institution of work practice controls (paragraph (f)(1)), and provision for and selection of respirators (paragraphs (g) (1) an (2)). The start-up date for implementation of engineering controls specified in paragraph (f)(1) is one year from its effective date, or August 21, 1985.

Authority

This document was prepared under the direction of Robert A. Rowland, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., N.W., Washington, D.C. 20210.

This action is taken pursuant to sections 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599, 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911.

List of Subjects in 29 CFR Part 1910

Ethylene oxide, Occupational safety and health, Chemicals, Cancer, Health, Risk assessment.

Signed at Washington, D.C. this 4th day of March 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Part 1910 of Title 29 the Code of Federal Regulations is amended as set forth below:

1. By revising paragraph (m) of § 1910.1047 to read as follows:

§ 1910.1047 Ethylene Oxide.

* * * * *

(m) *Dates*—(1) *Effective date.* The paragraphs contained in this section shall become effective August 21, 1984, except for paragraphs (a)(2), (d), (e), (f)(2), (g)(3), (h), (i), and (j) which shall become effective on March 12, 1985.

(2) *Start-up dates.* (i) The start-up date for the requirements in those paragraphs that were effective on August 21, 1984, including institution of work practice controls specified in paragraph (f)(1), shall be February 19, 1985, except as provided for in paragraph (m)(2)(ii), and the start-up date for paragraphs (a)(2), (d), (e), (f)(2), (g)(3), (h), (i), and (j) shall be September 9, 1985.

(ii) Engineering controls specified by paragraph (f)(1) of this section shall be implemented by August 21, 1985.

* * * * *

§ 1910.1047 [Amended]

2. By adding the following language at the end of § 1910.1047:

(Approved by the Office of Management and Budget under control number 1218–0108, through January 31, 1986)

[FR Doc. 85–5612 Filed 3–11–85; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF COMMERCE

Assistant Secretary for Productivity, Technology and Innovation

37 CFR Ch. IV

[Docket No. 41277–4177]

Licensing of Government Owned Inventions

AGENCY: Commerce Department.

ACTION: Final rule.

SUMMARY: Pursuant to Pub. L. 98–620, which amended section 208 of Title 35, United States Code, authority to promulgate regulations concerning the licensing of Federally owned inventions has been shifted from the Administrator of General Services to the Secretary of Commerce. By this rule the Secretary is issuing final regulations which are identical in substance to and which supersede the regulations of GSA currently found at 41 CFR Subpart 101–4.1.

EFFECTIVE DATE: This rule is effective as of November 9, 1984, the effective date of Pub. L. 98–620. Suggestions for changes should be submitted by March 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Latker, Director, Federal Technology Management Policy Division, Rm. H4835, Department of Commerce, Washington, D.C. 20230, Phone: (202) 377–0659.

SUPPLEMENTARY INFORMATION: To avoid any uncertainty as to applicable licensing procedures under section 208 of Title 35, United States Code, as amended by Pub. L. 98–620, we are adopting the following regulations, which are identical in substance to the GSA regulations that are superseded. The Department of Commerce will shortly be reviewing these regulations to determine if any changes are desirable. We welcome any suggestions for changes. It is the intent of the Department to issue a Notice of Proposed Rulemaking before revising these regulations.

This rulemaking relates to contracts and section 553(a)(2) of the Administrative Procedures Act provides an unqualified exclusion from every requirement of section 553 of the APA for all rules relating to "public property, loans, grants, benefits and contracts." 5 U.S.C. 553(a)(2). Therefore notice and comment and the 30 day delayed effective date are not required. The Regulatory Flexibility Act does not apply to this rulemaking because notice and comment are not required by 5 U.S.C. 553 or any other law. This rulemaking has no substantive effect, and consequently is not a major rule as defined in Executive Order 12291. The collection of information under this regulation has been approved by the Office of Management and Budget under GSA Control No. 3090–0108. A new Department of Commerce number will be assigned.

(35 U.S.C. 208)

List of Subjects 37 CFR Ch. IV

Inventions and patents.

Dated: March 6, 1985.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

Accordingly, a new Chapter IV is added to Title 37 of the Code of Federal Regulations consisting of Parts 400–403 which are reserved, and Part 404, to read as follows:

CHAPTER IV—ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY AND INNOVATION, U.S. DEPARTMENT OF COMMERCE

PARTS 400–403 [RESERVED]

PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

Sec.

Authority: 35 U.S.C. 208; and section 3(g) of DOO 10–1.

§ 404.1 Scope of part.

This part prescribes the terms, conditions, and procedures upon which a federally owned invention, other than an invention in the custody of the Tennessee Valley Authority, may be licensed. It supersedes the regulations at 41 CFR Subpart 101–4.1. This part does not affect licenses which (a) were in effect prior to July 1, 1981; (b) may exist at the time of the Government's acquisition of title to the invention, including those resulting from the allocation of rights to inventions made under Government research and development contracts; (c) are the result of an authorized exchange of rights in the settlement of patent disputes; or (d) are otherwise authorized by law or treaty.

§ 404.2 Policy and objective.

It is the policy and objective of this subpart to use the patent system to promote the utilization of inventions arising from federally supported research or development.

§ 404.3 Definitions.

(a) "Federally owned invention" means an invention, plant, or design which is covered by a patent, or patent application in the United States, or a patent, patent application, plant variety protection, or other form of protection, in a foreign country, title to which has been assigned to or otherwise vested in the United States Government.

(b) "Federal agency" means an executive department, military department, Government corporation, or independent establishment, except the Tennessee Valley Authority, which has custody of a federally owned invention.

(c) "Small business firm" means a small business concern as defined in section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

(d) "Practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(e) "United States" means the United States of America, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 404.4 Authority to grant licenses.

Federally owned inventions shall be made available for licensing as deemed appropriate in the public interest. Federal agencies having custody of federally owned inventions may grant nonexclusive, partially exclusive, or exclusive licenses thereto under this part.

§ 404.5 Restrictions and conditions on all licenses granted under this part.

(a)(1) A license may be granted only if the applicant has supplied the Federal agency with a satifactory plan for development or marketing of the invention, or both, and with information about the applicant's capability to fulfill the plan.

(2) A license granting rights to use or sell under a federally owned invention in the United States shall normally be granted only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(b) Licenses shall contain such terms and conditions as the Federal agency determines are appropriate for the protection of the interests of the Federal Government and the public and are not in conflict with law or this part. The following terms and conditions apply to any license:

(1) The duration of the license shall be for a period specified in the license agreement, unless sooner terminated in accordance with this part.

(2) The license may be granted for all or less than all fields of use of the

invention or in specified geographical areas, or both.

(3) The license may extend to subsidiaries of the licensee or other parties if provided for in the license but shall be nonassignable without approval of the Federal agency, except to the successor of that part of the licensee's business to which the invention pertains.

(4) The licensee may provide the license the right to grant sublicenses under the license, subject to the approval of the Federal agency. Each sublicense shall make reference to the license, including the rights retained by the Government, and a copy of such sublicense shall be furnished to the Federal agency.

(5) The license shall require the licensee to carry out the plan for development or marketing of the invention, or both, to bring the invention to practical application within a period specified in the license, and to continue to make the benefits of the invention reasonably accessible to the public.

(6) The license shall require the licensee to report periodically on the utilization or efforts at obtaining utilization that are being made by the licensee, with particular reference to the plan submitted.

(7) Licenses may be royalty-free or for royalties or other consideration.

(8) Where an agreement is obtained pursuant to § 404.5(a)(2) that any products embodying the invention or produced through use of the invention will be manufactured substantially in the United States, the license shall recite such agreement.

(9) The license shall provide for the right of the Federal agency to terminate the license, in whole or in part, if:

(i) The Federal agency determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken or can be expected to take within a reasonable time effective steps to achieve practical application of the invention;

(ii) The Federal agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee;

(iii) The licensee has willfully made a false statement of or willfully omitted a material fact in the license application or in any report required by the license agreement; or

(iv) The licensee commits a substantial breach of a covenant or agreement contained in the license.

(10) The license may be modified or terminated, consistent with this part, upon mutual agreement of the Federal agency and the licensee.

(11) Nothing relating to the grant of a license, nor the grant itself, shall be construed to confer upon any person any immunity from or defenses under the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part shall not be immunized from the operation of state or Federal law by reason of the source of the grant.

§ 404.6 Nonexclusive licenses.

(a) Nonexclusive licenses may be granted under federally owned inventions without publication of availability or notice of a prospective license.

(b) In addition to the provisions of § 404.5, the nonexclusive license may also provide that, after termination of a period specified in the license agreement, the Federal agency may restrict the license to the fields of use or geographic areas, or both, in which the licensee has brought the invention to practical application and continues to make the benefits of the invention reasonably accessible to the public. However, such restriction shall be made only in order to grant an exclusive or partially exclusive license in accordance with this subpart.

§ 404.7 Exclusive and partially exclusive licenses.

(a)(1) Exclusive or partially exclusive domestic licenses may be granted on federally owned inventions three months after notice of the invention's availability has been announced in the **Federal Register**, or without such notice where the Federal agency determines that expeditious granting of such a license will best serve the interest of the Federal Government and the public; and in either situation, only if:

(i) Notice of a prospective license, identifying the invention and the prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within a 60-day period;

(ii) After expiration of the period in § 404.7(a)(1)(i) and consideration of any written objections received during the period, the Federal agency has determined that:

(A) The interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) The desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) Exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) The proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public;

(iii) The Federal agency has not determined that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws; and

(iv) The Federal agency has given first preference to any small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and as equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

(2) In addition to the provisions of § 404.5, the following terms and conditions apply to domestic exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall reserve to the Federal agency the right to require the licensee to grant sublicenses to responsible applicants, on reasonable terms, when necessary to fulfill health or safety needs.

(iii) The license shall be subject to any licenses in force at the time of the grant of the exclusive or partially exclusive license.

(iv) The license may grant the licensee the right of enforcement of the licensed patent pursuant to the provisions of Chapter 29 of Title 35, United States Code, or other statutes, as determined appropriate in the public interest.

(b)(1) Exclusive or partially exclusive licenses may be granted on a federally owned invention covered by a foreign patent, patent application, or other form of protection, provided that:

(1) Notice of a prospective license, identifying the invention and prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within a 60-day period and following consideration of such objections;

(ii) The agency has considered whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced; and

(iii) The Federal agency has not determined that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

(2) In addition to the provisions of § 404.5 the following terms and conditions apply to foreign exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall be subject to any licenses in force at the time of the grant of the exclusive or partially exclusive license.

(iii) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) Federal agencies shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

§ 404.8 Application for a license.

An application for a license should be addressed to the Federal agency having custody of the invention and shall normally include:

(a) Identification of the invention for which the license is desired including the patent application serial number or patent number, title, and date, if known;

(b) Identification of the type of license for which the application is submitted;

(c) Name and address of the person, company, or organization applying for the license and the citizenship or place of incorporation of the applicant;

(d) Name, address, and telephone number of the representative of the applicant to whom correspondence should be sent;

(e) Nature and type of applicant's business, identifying products or services which the applicant has successfully commercialized, and approximate number of applicant's employees;

(f) Source of information concerning the availability of a license on the invention;

(g) A statement indicating whether the applicant is a small business firm as defined in § 404.3(c)

(h) A detailed description of applicant's plan for development or marketing of the invention, or both, which should include:

(1) A statement of the time, nature and amount of anticipated investment of capital and other resources which applicant believes will be required to bring the invention to practical application;

(2) A statement as to applicant's capability and intention to fulfill the plan, including information regarding manufacturing, marketing, financial, and technical resources;

(3) A statement of the fields of use for which applicant intends to practice the invention; and

(4) A statement of the geographic areas in which applicant intends to manufacture any products embodying the invention and geographic areas where applicant intends to use or sell the invention, or both;

(i) Identification of licenses previously granted to applicant under federally owned inventions;

(j) A statement containing applicant's best knowledge of the extent to which the invention is being practiced by private industry or Government, or both, or is otherwise available commercially; and

(k) Any other information which applicant believes will support a determination to grant the license to applicant.

§ 404.9 Notice to Attorney General.

A copy of the notice provided for in §§ 404.7(a)(1)(i) and 404.7(b)(1)(i) will be sent to the Attorney General.

§ 404.10 Modification and termination of licenses.

Before modifying or terminating a license, other than by mutual agreement, the Federal agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or terminate the license, and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of the license or show cause why the license shall not be modified or terminated.

§ 404.11 Appeals.

In accordance with procedures prescribed by the Federal agency, the following parties may appeal to the agency head or designee any decision or determination concerning the grant, denial, interpretation, modification, or termination of a license:

(a) A person whose application for a license has been denied.

(b) A licensee whose license has been modified or terminated, in whole or in part; or

(c) A person who timely filed a written objection in response to the notice required by § 404.7(a)(1)(i) or § 404.7(b)(1)(i) and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action.

§ 404.12 Protection and administration of inventions.

A Federal agency may take any suitable and necessary steps to protect and administer rights to federally owner inventions, either directly or through contract.

§ 404.13 Transfer of custody.

A Federal agency having custody of a federally owned invention may transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in such invention.

§ 404.14 Confidentiality of information.

Title 35, United States Code, section 209, provides that any plan submitted pursuant to § 404.8(h) and any report required by § 404.5(b)(6) may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of Title 5 of the United States Code.

[FR Doc. 85-5832 Filed 3-11-85; 8:45 am]

BILLING CODE 1310-18-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-460; RM-4709]

FM Broadcast Stations, Lordsburg, NM; Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class C Channel 250 for Channel 249A at Lordsburg, New Mexico, and modifies the Class A permit for Station KXKK (FM) in response to a petition filed by C.R. Crisler.

EFFECTIVE DATE: April 5, 1985.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Jeffery D. Sutherland, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lordsburg, New Mexico); MM Docket No. 84–460, RM–4709.

Adopted: February 15, 1985.
Released: February 27, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers its *Notice of Proposed Rule Making*, 49 FR 21968, published May 24, 1984, issued in response to a request filed by C.R. Crisler ("petitioner"), which seeks to substitute Class C Channel 250 for Channel 249A at Lordsburg, New Mexico. Supporting comments were filed by petitioner in which he reiterated his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Petitioner identifies himself as a major stockholder and managing partner of Interstate 10 Broadcasting of New Mexico, which is the permittee of Station KXKK (FM) (Channel 249A) at Lordsburg. Further, petitioner advises that Interstate is willing to amend its permit authorization to specify operation on Channel 250 to enable it to provide expanded coverage.

3. We believe the public interest would benefit from the substitution of Class C Channel 250 for Channel 249A at Lordsburg, as proposed, since it could provide service to a wider coverage area in the region. A site restriction of 4.5 miles [1] northeast of Lordsburg is required to avoid short-spacing to a construction permit for Channel 249A, issued to Station KAVV (FM), at Benson, Arizona, and to vacant Channel 251A at Naco, Sonora, Mexico.

4. Since the proposed assignment is within 320 kilometers (199 miles) of the common U.S.-Mexican border, concurrence of the Mexican government was obtained.

5. In view of the foregoing, we have authorized, *infra*, a modification of the petitioner's permit for Station KXKK (FM) to specify operation on Channel 250, since no other expressions of interest in the Class C channel were received. See, *Cheynne, Wyoming*, 62 F.C.C. 2d 63 (1976).

6. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communcations Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 5, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended as follows:

City	Channel No.
Lordsburg, New Mexico	250

[1] The *Notice* indicated that a site restriction of 4.2 miles northeast of Lordsburg would be required for this proposal.

7. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the permit of Station KXKK (FM) is modified to specify operation on Class C Channel 250 in lieu of Channel 249A at Lordsburg, New Mexico, subject to the following conditions:

(a) At least 30 days before operating on Channel 250 the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. It is further ordered, That the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to: C.R. Crisler, Interstate 10 Broadcasting of New Mexico, Station KXKK, Rte. 3, Box A615, Greenwood, AK 72936.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning the above, contact Nancy V. Joyner or Jeffery D. Sutherland, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–5789 Filed 3–11–85; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 50, No. 48
Tuesday, March 12, 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 AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Chapter IV

[Docket No. 2077S]

Various Crop Insurance Regulations; Advance Notice of Proposed Rulemaking

AGENCY: Federal Crop Insurance Corporation, USDA.

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

SUMMARY: The purpose of this pre-rulemaking announcement is to give advance notice that FCIC is considering the feasibility and advisability of providing insurance to producers of agricultural commodities through the underwriting of policies sold by commercial companies rather than through its present direct insurance operation. Under this proposal, FCIC would be restructured to more closely resemble a commercial reinsurance company.

If such a course of action is determined feasible and advisable, conversion would be October 1, 1985, the date the current Agency Sales and Service (Master Marketing) Agreement expires.

FCIC invites public comment on this concept. FCIC, after reviewing all comments received pursuant to this notice, may propose that such amendments be made in a notice of proposed rulemaking to be published in the **Federal Register** at a later date.

DATE: Written comments, data, and opinions on this advance notice of proposed policy rulemaking must be submitted not later than April 11, 1985, to be sure of consideration.

ADDRESS: Written comments on this advance notice of proposed policy rulemaking should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

All comments made pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., during regular business hours, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) issues this advance notice of intent to publish Proposed Rulemaking to amend current FCIC policy regulations.

If a decision is made to restructure FCIC along more commercial reinsurance company lines, FCIC will continue to comply with all requirements set forth in the Federal Crop Insurance Act (Act). Among other functions, FCIC would continue to set and/or approve rates and coverages of crop insurance policies, provide program direction, and maintain quality assurance capability.

Should such a conversion be deemed feasible and advisable, FCIC will maintain operations of sufficient capacity to service carryover FCIC direct insurance business until such time as the business can be converted to reinsured policies.

A new Reinsurance Agreement would be developed which would be adequate to accommodate the additional responsibilities that will be assumed by reinsured commercial companies under this proposal.

This action is being considered in order to make more effective and efficient use of taxpayer dollars. There has been a steady increase in the volume of crop insurance sold through reinsured companies. Since 1981, premium income on reinsured paper has increased from $12.8 million to an estimated $378 million for crop year 1985 * * * an increase of 2,900 percent.

During the same time period, the share of business written by reinsured companies compared with FCIC direct insurance has risen from 3 percent to 70–80 percent according to available estimates.

In the opinion of FCIC management, it is prudent to reconsider the wisdom of maintaining a full government operation to handle as little as 20 percent of the volume of business for which it was designed. The action that is being considered is intended to assure the highest possible return on every federal dollar spent, while providing the highest level of service to America's agricultural producers.

The conversion of FCIC from a direct writer of insurance to strictly a reinsurer may result in substantial government cost savings due to the reduced need for a support system for a direct insurance operation. Preliminary estimates suggest that initial savings may be in the $37–39 million range, with long range annual savings of around $29 million.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516)

Issued in Washington, D.C., on March 6, 1985.

Dated: March 6, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85–5744 Filed 3–11–85; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–CE–6–AD]

Airworthiness Directives; British Aerospace Model 3101 Jetstream Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain British Aerospace (BAe) Model 3101 Jetstream airplanes which would require inspection of the engine rear turbine bearing oil feed pipe for proper clearance between the oil feed pipe and the bleed air pre-cooler. BAe has reported that insufficient clearance can exist which can cause damage to the oil feed pipe, loss of the engine oil, and subsequent engine failure. This AD will

detect and correct improper oil feed pipe clearances to preclude engine failure.

DATES: Comments must be received on or before April 15, 1985.

ADDRESSES: BAe Alert Service Bulletin (ASB) No. 71–A–JM7418, dated May 25, 1984, applicable to this AD may be obtained from British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, D.C. 20041; Telephone (703) 435–9100 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85–CE–6–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at the location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. H. Chimerine, Brussels Aircraft Certification Office, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. B. Sexton, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–CE–6–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

BAe has received a report of fouling between the rear turbine oil feed pipe on the right hand side of the engine and the bleed air pre-cooler which caused chafing of the oil feed pipe. Investigation has revealed that the clearance between the oil pipe and the bleed air pre-cooler can be less than required. Failure of the oil feed pipe will lead to loss of engine oil and subsequent engine failure. As a result, BAe has issued ASB No. 71–A–JM418, dated May 25, 1984, which specifies (1) an initial inspection of the oil feed pipe for chafing and adequate clearance from the bleed air pre-cooler and (2) corrective actions for any airplane which does not meet the specified clearance criteria. The United Kingdom Civil Aviation Authority (UKCAA) who has responsibility and authority to maintain the continued airworthiness of these airplanes in the United Kingdom has classified this Alert Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certified for operation in the United States.

The FAA has examined the available information related to the issuance of BAe ASB No. 71–A–JM7418, Dated May 25, 1984, and the mandatory classification of this Alert Service Bulletin by the UKCAA. Based on the foregoing, the FAA believes that the condition addressed by this Alert Service Bulletin is an unsafe condition that may exist on other products of this type design certified for operation in the United States. Consequently, the proposed AD would require inspection of the rear turbine bearing oil feed pipe within 100 hours time-in-service and, if required as a result of the inspection, periodic inspections or modification of the oil feed pipe/bleed air pre-cooler assemblies at intervals defined in the AD.

There are approximately eleven airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $2,750 to the private sector.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rule Docket at the location identified under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

British Aerospace: Applies to Model 3101 Jetstream (serial numbers 601 to 624 inclusive, and 627), airplanes certified in any category. Compliance: Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished. To assure that adequate clearance exists between the rear turbine bearing oil feed pipe and the bleed air pre-cooler accomplish the following:

(a) Inspect the rear turbine bearing oil feed pipe for chafing and for adequate clearance between the rear turbine bearing oil feed pipe and the bleed air pre-cooler on LH and RH engines in accordance with sub-paragraphs (a), (b) and (c) of the *Part A—Inspection* requirements of paragraph 2 of British Aerospace (BAe) Alert Service Bulletin No. 71–A–JM7418.

(1) If no damage is apparent and clearance is 0.25 inches (6.35 mm) or greater, no further action is required.

(2) If clearance is less than 0.25 inches and no pipe damage is apparent repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 hours time-in-service or until either BAe Modification JM7418 or BAe Modification JM7388 is accomplished.

(3) If pipe damage is apparent, prior to further flight, accomplish either BAe Modification JM7418 or BAe Modification JM7388.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C 106(g) (Revised Pub. L. 97-449, January 12, 1983); and Section 11.85 of the Federal Aviation Regulations (14 CFR 11.85)

Issued in Kansas City, Missouri, on March 1, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-5777 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-80-AD]

Airworthiness Directives: Canadair Model CL-600-1A11 (CL-600) and CL-600-2A12 (CL-601) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; withdrawal and reissuance.

SUMMARY: This document withdraws an earlier proposed airworthiness directive (AD) that would have required removing paint from the wing center section lower surface if that surface was not properly finished, and, as modified, reissues the proposal. The original proposal did not address improperly finished filler caps on the wing. It is necessary to reissue the proposal to provide for adequate lightning protection for the lower wing center section skin surface and the filler caps in order to prevent arcing in the fuel tank, which could ignite vapors.

DATES: Comments must be received no later than April 29, 1985.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-80-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information specified in this AD may be obtained upon request from Canadair Limited, 1800 Laurentien Blvd., Saint-Laurant, Quebec H4R 1K2, Canada, or may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-80-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Canadian Department of Transport (DOT) has issued airworthiness directive CF-84-06, requiring removal of any incorrect finish applied to the lower wing center section surface of Model CL-600-1A11 and CL-600-2A12 airplanes within six calendar months. This finish must be removed and replaced with an aluminum loaded paint or, alternatively, the surface must be left unpainted. Until the finish modification is accomplished, a placard must be installed in the cockpit prohibiting flight into areas where lightning conditions are known to exist.

Tests and analysis indicate that the skin thickness of the lower wing center section, which is between 0.05 and 0.06 inches, may not be adequate to protect the fuel tank at that location from lightning swept strokes, if a paint with insufficient conductivity is applied. Stroke attachment may build up enough energy to cause arcing on the inside of the fuel tank, which could ignite vapors. An NPRM (49 FR 36866) was published in the **Federal Register** on September 20, 1984, which requested comments concerning a proposal to require inspection and repainting of the wing center section lower surface, as necessary. One comment was received which stated that the NPRM required inspection and finishing in accordance with Canadair engineering drawings which were not readily available to the operators. The commenter further stated that the manufacturer had recently issued alert service bulletins which addressed the proposed inspections and refinishing, and also addressed an additional problem not mentioned in the NPRM, namely, the inspection and refinishing, as necessary, of the wing gravity filler caps. The commenter recommended that the final rule reflect the contents of these service bulletins. The FAA agrees with the commenter and has determined that the previous NPRM should be withdrawn and a new NPRM issued which would require compliance with the service bulletins.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilaterial agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed which would require the proper finishing of the wing center section lower surface and the wing gravity filler caps in accordance with the manufacturer's service bulletins.

It is estimated that approximately 50 airplanes of U.S. registry would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Materials are estimated at $600 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $110,000.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Canadair CL-600 or CL-601 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Withdrawal

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, the proposed airworthiness directive published in the Federal Register on September 20, 1984 (49 FR 36866), is hereby withdrawn.

The Proposed Amendment

Further, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Canadair: Applies to all Canadair Model CL-600-1A11 (CL-600) and CL-600-2A12 (CL-601) airplanes certificated in all categories. Compliance is required as indicated, unless already accomplished. To provide adequate lightning protection for the wing center section lower skin and the wing gravity filler caps, accomplish the following:

A. Within 30 days after the effective date of this AD, unless the center wing fuel tank lower skin surface and the gravity filler fuel caps are unpainted or have been painted in accordance with Canadair Alert Service Bulletin A600-0416 dated 7/30/84 (for CL-600 airplanes), or A601-0069 dated 7/30/84 (for CL-601 airplanes), install a placard, which may be locally manufactured, on the left hand main instrument panel using letters of ¼-inch minimum height, which reads as follows: "NOT APPROVED FOR FLIGHT INTO AREAS WHERE LIGHTNING CONDITIONS ARE KNOWN TO EXIST."

B. Within the next six calendar months after the effective date of this AD, ensure that the center wing fuel tank lower skin surface and the wing gravity filler fuel caps are either unpainted or painted with an aluminum loaded paint and primer, in accordance with the above service bulletins, as applicable.

C. Upon completion of paragraph B, remove placard installed in accordance with paragraph A.

D. Alternative means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on February 28, 1985.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-5779 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 84-ASO-26]

Proposed Alteration of Restricted Areas; Fort Stewart, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign the internal boundaries of Restricted Areas R-3005 A, B, C, D, and E, located in the vicinity of Fort Stewart, GA. This action would increase the availability of portions of the restricted areas during times when the areas are being used for ground firing activity.

DATES: Comments must be received on or before April 25, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-ASO-26, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airpace Docket No. 84-ASO-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filled in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to realign the internal boundaries of Restricted Areas R-3005 A, B, C, D, and E, located in the vicinity of Fort Stewart, GA. The realignment of the areas was the result of negotiations between representatives of the Southern Region and representatives of the 24th Infantry Division, Fort Stewart, GA. The external boundaries of R-3005 A, B, C, D, and E will remain the same. This action would release portions of the restricted areas for public use when military training missions involve only ground firing. Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

The Proposed Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

§ 73.30 [Amended]

R-3005A Fort Stewart, GA [Amended]

Boundaries. Beginning at lat. 32°07'00" N., long. 81°43'30" W.; to lat. 31°56'00" N., long. 81°43'30" W.; thence west along Georgia Highway 144 to lat. 31°55'30" N., long. 81°53'00" W.; to lat. 31°57'00" N., long. 81°53'15" W.; to lat. 31°59'45" N., long. 81°51'06" W.; to lat. 32°02'21" N., long. 81°50'42" W.; to lat. 32°02'59" N., long. 81°51'26" W.; to lat. 32°05'24" N., long. 81°50'03" W.; to lat. 32°07'26" N., long. 81°47'17" W.; to the point of beginning.

R-3005B Fort Stewart, GA [Amended]

Boundaries. Beginning at lat. 32°06'45" N., long. 81°37'00" W.; thence south along Georgia Highway 119 to lat. 31°54'00" N., long. 81°38'15" W.; thence northwest along Georgia Highway 144 to lat. 31°56'00" N., long. 81°43'30" W.; to lat. 32°07'00" N., long. 81°43'30" W.; to the point of beginning.

R-3005C Fort Stewart, GA [Amended]

Boundaries. Beginning at lat. 32°04'45" N., long. 81°26'30" W.; to lat. 31°57'30" N., long. 81°26'30" W.; thence southwest along Georgia Highway 144 to lat. 31°53'11" N., long. 81°37'51" W.; thence north along Georgia Highway 119 to lat. 32°06'45" N., long. 81°37'00" W.; to lat. 32°06'15" N., long. 81°31'30" W.; to lat. 32°05'30" N., long. 81°31'30" W.; to lat. 32°05'15" N., long. 81°30'00" W.; to the point of beginning.

R-3005D Fort Stewart, GA [Amended]

Boundaries. Beginning at lat. 31°57'30" N., long. 81°26'30" W.; to lat. 32°04'45 N., long. 81°26'30" W.; to lat. 32°04'15" N., long. 81°22'30" W.; thence along the Ogeechee River to lat. 32°00'30" N., long. 81°19'30" W.; to lat. 31°58'45" N., long. 81°19'45" W.; to lat. 31°56'15" N., long. 81°23'00" W.; to lat. 31°54'03" N., long. 81°28'45" W.; thence counterclockwise along the arc of a 5-mile radius circle centered at lat. 31°53'20" N., long. 81°33'45" W.; to lat. 31°56'48" N., long. 81°30'42" W.; thence east along Georgia Highway 144 to the point of beginning.

R-3005E Fort Stewart, GA [Amended]

Boundaries. Beginning at lat. 31°54'00" N., long. 81°38'15" W.; to lat. 31°53'11" N., long. 81°37'51" W.; to lat. 31°52'20" N., long. 81°38'10" W.; to lat. 31°51'55" N., long. 81°39'50" W.; to lat. 31°51'30" N., long. 81°41'45" W.; to lat. 31°55'00" N., long. 81°53'00" W.; to lat. 31°55'30" N., long. 81°53'00" W.; thence east along Georgia Highway 144 to the point of beginning.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14CFR 11.65)

Issued in Washington, D.C., on March 4, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR. Doc. 85-5576 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 260 and 320

Appeals Procedure Under the Railroad Retirement and Railroad Unemployment Insurance Acts

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend §§ 260.9 and 320.39 of its regulations to make minor revisions in the procedures for filing appeals to the Board under the Railroad Retirement and Railroad Unemployment Insurance Acts. The proposed amendments would conform the procedures for appeals to the Board under the two Acts by shortening the appeal period applicable to Railroad Unemployment Insurance Act appeals from the current 90 days to 60 days and by adding language to the regulations under both Acts to permit the Board to waive compliance with the requirement to file within the appeals period where the appellant requests an extension based on a showing of good cause for failure to make a timely filing.

DATE: Comments must be received by the Secretary to the Board on or before April 11, 1985.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935 (FTS 387-4935).

SUPPLEMENTARY INFORMATION: The Board's regulations governing appeals from decisions issued by the Board's Bureau of Hearings and Appeals (20 CFR 260.9 and 320.39), currently provide that appeals to the Board under the Railroad Retirement Act must be filed within 60 days after notice of the decision by the Bureau of Hearings and Appeals, whereas appeals from such decisions under the Railroad Unemployment Insurance Act must be filed within 90 days. There is no particular reason for this difference and it has caused confusion concerning the filing of appeals. Accordingly, the Board proposes to conform the time periods under the two Acts.

In addition, where an appellant has been unavoidably prevented for good cause from filing an appeal within the allowable time period, the proposed amendments provide a mechanism whereby the appellant may request an extension of time to file.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Sections 260.9(c) and 320.39 contain reporting requirements that are subject to OMB reveiw under the Paperwork Reduction Act of 1980. In accordance with § 3504(h) of that Act, the Board will submit these reporting requirements to OMB for review.

List of Subjects

20 CFR Part 260

Railroad employees, Railroad retirement, Railroads.

20 CFR Part 320

Railroad employees, Railroad unemployment insurance, Railroads.

PART 260—[AMENDED]

Title 20 CFR Chapter II, is proposed to be amended as follows:

1. Section 260.9(c) of the Board's regulations is proposed to be revised to read as follows:

§ 260.9 Final appeal from a decision of the referee.

* * * * *

(c) *Timely filing.* The right to further review of a decision of a referee shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in § 260.9(b). However, when a claimant fails to file an appeal before the Board within the time prescribed in this section, the Board may waive this requirement if, along with the final appeal form, the appellant in writing requests an extension of time. The request for an extension of time must give the reasons why the final appeal form was not filed within the time limit prescribed in this section. If in the

judgment of the Board the reasons given establish that the appellant had good cause for not filing the final appeal form within the time prescribed, the Board will consider the appeal to have been filed in a timely manner. The Board will use the standards found in § 260.3(d) of this chapter in determining if good cause exists.

* * * * *

(45 U.S.C. 231f(b)(5))

PART 320—[AMENDED]

2. Section 320.39 of the Board's regulations is proposed to be revised to read as follows:

§ 320.39 Execution and filing of appeal to Board from decision of referee.

An appeal to the Board from the decision of a referee shall be filed on the form provided by the Board and shall be executed in accordance with the instructions on the form. Such appeal shall be filed within 60 days from the date upon which notice of the decision of the referee was mailed to the parties. The right to further review of a decision of a referee shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in this section. However, when a claimant fails to file an appeal before the Board within the time prescribed in this section, the Board may waive this requirement if, along with the final appeal form, the appellant in writing requests an extension of time. The request for an extension of time must give the reasons why the final appeal form was not filed within the time limit prescribed in this section. If in the judgment of the Board the reasons given establish that the appellant had good cause for not filing the final appeal form within the time prescribed, the Board will consider the appeal to have been filed in a timely manner. The Board will use the standards found in § 260.3(d) of this chapter in determining if good cause exists.

(45 U.S.C. 362(l))

By Authority of the Board.
Dated: March 5, 1985.

Beatrice Ezerski,
Secretary to the Board.

[FR Doc. 85-5793 Filed 3-11-85; 8:45 am]
BILLING CODE 7905-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Amount of Aid Payable to State Veterans Homes

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration is amending its medical regulations (38 CFR Part 17) to provide regulatory authority for the amount of aid payable to State Veterans Homes. The current regulation states the actual dollar amount as specified in 38 U.S.C. 641(a). This amendment removes the actual dollar amount from the regulation and refers the reader to 38 U.S.C. 641(a). This amendment will relieve the agency from re-publishing the regulation every time the rates change. The actual dollar amounts of the rates will be available to the public through publication of a notice in the **Federal Register** each time the rates change.

DATES: Comments must be received before April 11, 1985. It is proposed to make this rule effective 30 days after publication of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Service Unit, Room 132, at the above address, between the hours of 8:00 am and 4:30 pm, Monday through Friday (except holidays) until April 25, 1985.

FOR FURTHER INFORMATION CONTACT: F. Brent Baker (202) 389-3854.

SUPPLEMENTARY INFORMATION: 38 CFR 17.166c has historically listed the actual dollar amount of per diem rates for eligible veterans receiving care in State Veterans Homes. Pub. L. 98-160, Veterans Administration Health Care Programs, raises the possibility of having these rates change more frequently. The VA proposes to remove the actual rates from the regulation in order to avoid the expense of publishing amendments to the regulation whenever the rates change. This amendment proposes inserting a reference to 38 U.S.C. 641(a) into the regulation, to refer the reader directly to the dollar amounts. For those readers who have limited access to the United States Code, the VA proposes to publish the actual per diem rates, whenever they change, in the form of a **Federal Register** Notice. This method would give the public notice of the actual rates, yet avoid the expense of the rulemaking process.

This amendment to VA regulations is considered nonmajor under the criteria of Executive Order 12291 on the basis that it will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have 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 Administrator of Veterans Affairs certifies that this amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603-604. The reason for this certification is that this rule will affect only per diem rates for eligible veterans receiving care in State Veterans Homes. It will therefore, have no significant impact on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions.)

List of Subjects in 38 CFR Part 17

Health care, Health facilities, Nursing Homes, Government contracts, Veterans.

The catalog of Federal Domestic Assistance Program Numbers are 64.014, 64.015, 64.016.

Approved: February 8, 1985.

By direction of the Administrator:

Everett Alvarez, Jr.,
Deputy Administrator.

PART 17—MEDICAL

38 CFR Part 17, MEDICAL, is amended by revising § 17.166c to read as follows:

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates established by Title 38, U.S.C. Section 641(a)(1) for domiciliary care; Section 641(a)(2) for nursing home care; and Section 641(a)(3) for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home.

(38 U.S.C. 641 as amended by Pub. L. 98-160, sec. 105(a)(1))

[FR Doc. 85-5807 Filed 03-11-85; 8:45 am]
BILLING CODE 8320-01-M

Notices

Federal Register
Vol. 50, No. 48
Tuesday, March 12, 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 COMMERCE

Exporter's Textile Advisory Committees; Re-establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Part 101–6, as amended, Federal Advisory Committee Management Interim Rule, and after consultation with GSA, the delegate of the Secretary of Commerce has determined that the re-establishment of the Exporters' Textile Advisory Committee is in the public interest in connection with the duties imposed on the Department by law. The Committee will be re-established 15 days from the date of this notice.

The Exporters' Textile Advisory Committee was initially established on March 24, 1966, and renewed on February 23, 1983. It was established to advise Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

Comments on the re-establishment of the Committee may be directed to Helen L. LeGrande (202/377–3737).

Dated: March 7, 1985.

Katherine M. Bulow,

Assistant Secretary for Administration.

[FR Doc. 85–5890 Filed 3–11–85; 8:45 am]

BILLING CODE 3510–CW–M

Importers and Retailers' and Management-Labor Textile Advisory Committees; Re-establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Part 101–6, as amended, Federal Advisory Committee Management Interim Rule, and after consultation with GSA, the delegate of the Secretary of Commerce has determined that the re-establishment of the Importers and Retailers' (IRTAC) and Management-Labor (MLTAC) Textile Advisory Committees is in the public interest in connection with the duties imposed on the Department by law. The Committees have been re-established for a two-year period.

IRTAC

The Importers and Retailers' Textile Advisory Committee was first established on August 13, 1963, and most recently renewed on February 23, 1983. It was established to advise Department officials of the effects on import markets and retailing of the bilateral cotton, wool, and man-made fiber textile and apparel agreements negotiated by the United States.

MLTAC

The Management-Labor Textile Advisory Committee was first established on October 18, 1961, and most recently renewed on February 23, 1983. It was established to advise Department officials on problems and conditions in the textile and apparel industry and to furnish information on world trade in textiles and apparel to officials in the Department of Commerce and to the Committee for the Implementation of Textile Agreements, and the Textile Trade Policy Group, U.S. representatives to the General Agreement on Tariffs and Trade, and U.S. negotiators of textile agreements.

The Committees function solely as advisory bodies in accordance with the provisions of the Federal Advisory Committee Act.

For further information contact Helen L. LeGrande (202/377–3737).

Dated: March 7, 1985.

Katherine M. Bulow,

Assistant Secretary for Administration.

[FR Doc. 85–5889 Filed 3–11–85; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[A–485–006]

Hot-Rolled Carbon Steel Plate From Romania; Cancellation of Suspension Agreement and Resumption of Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Cancellation of Suspension Agreement and Resumption of Antidumping Duty Investigation.

SUMMARY: The Department of Commerce has reconsidered the agreement to suspend the antidumping duty investigation on hot-rolled carbon steel plate from Romania, and has concluded that the suspension agreement no longer meets the requirement of the Tariff Act of 1930 that the agreement be in the public interest. Therefore, the Department is cancelling the suspension agreement and resuming the antidumping duty investigation.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: David Binder, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5497.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 317) a notice of suspension of the antidumping duty investigation on hot-rolled carbon steel plate from Romania.

In the suspension agreement Metalexportimport, the Romanian exporter of carbon steel plate to the United States, agreed to make any necessary price adjustments to eliminate sales of carbon steel plate at less than fair value. Under the terms of the suspension agreement, fair value was to be the Department's estimate of foreign market value, determined on the basis of the price of such or similar merchandise in a surrogate country with appropriate adjustments. The Department at that time determined that

the suspension agreement would eliminate sales at less than fair value, could be monitored effectively, and was in the public interest. The suspension agreement specified that the Department would reopen the investigation if the agreement no longer met the requirements of sections 734 (b) or (d) of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Agreement

The merchandise covered by the agreement is hot-rolled carbon steel plate, currently classifiable under items 607.6620, 607.6625, 607.9400, 608.0710 and 608.1100 of the Tariff Schedules of the United States Annotated.

Cancellation

The Department has concluded that the suspension agreement is no longer in the public interest and therefore no longer meets the requirements of section 734(d)(1)(A) of the Tariff Act. The suspension agreement no longer satisfies the public interest requirement because rapidly escalating imports of carbon steel plate from Romania jeopardize restraint arrangements recently initialed by the United States government and numerous other countries and would be detrimental to the U.S. domestic industry.

Under the terms of the recent arrangements, numerous governments accepted quantitative restrictions on their exports of certain steel products into the U.S., based on relative market shares.

Since the suspension agreement was concluded, imports of hot-rolled carbon steel plate from Romania have risen sharply and there are clear indications that total imports in 1985 will be so massive that Romania could become the single largest exporter of the merchandise to the United States. The current and anticipated levels of market penetration of hot-rolled carbon steel plate from Romania threaten the viability of the restraint arrangements.

Massive imports of hot-rolled carbon steel plate from Romania will further depress the sales and profits of the U.S. domestic industry at a time when the United States government has undertaken a program to improve the vitality and performance of that industry. The suspension agreement therefore no longer satisfies the public interest requirement of section 734(d)(1)(A) of the Tariff Act.

Suspension of Liquidation

As provided for in section 734(i)(1) of the Tariff Act, the Department will instruct the Customs Service to suspend liquidation of unliquidated entries of Romanian hot-rolled carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date 90 days before the date of publication of this notice.

Resumption of Antidumping Duty Investigation

As provided by section 734(i)(1) of the Tariff Act, the Department will resume the investigation as if the Department's affirmative preliminary determination under section 733(b) of the Tariff Act were made on the date of publication of this notice.

The Department will instruct the Customs Service to require a cash deposit of estimated antidumping duties or bond of 13.2 percent of the entered value on all entires of Romanian hot-rolled carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This notice is published in accordance with section 734(i)(1) of the Tariff Act (19 U.S.C. 1673c(i)(1)) and § 353.43 of the Commerce Regulations.

Dated: March 6, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-5805 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-05-M

[A-427-044]

Stainless Steel Wire Rods From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On August 15, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on stainless steel wire rods from France. The review covers the one known exporter of this merchandise to the United States currently covered by the finding, the period August 1, 1982, through July 31, 1983, and certain other U.S. sales that we deferred during the last administrative review.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed the margins from those presented in the preliminary results of review.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 32637) the preliminary results of its administrative review of the antidumping finding on stainless steel wire rods from France (38 FR 22961, August 28, 1973). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated, or partly manufactured, currently classifiable under item 607.4300 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French stainless steel wire rods to the United States currently covered by the finding, Ugine Aciers, the period August 1, 1982, through July 31, 1983, and certain other U.S. sales that we deferred during the last administrative review.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from both the petitioners, AL Tech Specialty Steel Corporation, Armco Inc., Carpenter Technology Corporation, and Crucible Materials Group of Colt Industries, and the exporter.

Comment 1: As in the last administrative review, the respondent objects to our exclusion of sales to related customers in establishing foreign market value. The petitioners argue that the Department should continue to exclude such sales unless the Department can verify that these sales were at arm's length.

Department's Position: as we stated in the final results of the previous administrative review (49 FR 22844), the respondent has not demonstrated that such sales were made at arm's length. More specifically, the prices to the related firms were at prices significantly lower than to unrelated firms. The respondent's assertion that the lower prices reflected larger quantities was unsupported.

Comment 2: Ugine Aciers argues that the Department should not use a "cap" to offset U.S. selling expenses in exporter's sales price comparisons, basing its objection on the decision of the Court of International Trade in

Silver Reed America, Inc. v. *United States* (590 F. Supp. 1254 (1984)).

Department's Position: In ESP calculations we are continuing to limit the adjustment of indirect selling expenses in the home market to the amount claimed on U.S. sales. (See *Consumer Products Division, SCM Corp.* v. *Silver Reed America, Inc. and Silver Seiko, Ltd.*, Appeal No. 84–1118 (CAFC, January 28, 1985) in which this position was sustained).

Comment 3: The respondent objects to the Department's refusal to allow each party an opportunity to comment on the other's written comments.

Department's Position: We generally permit the filing of written comments up to 30 days after publication of our preliminary results; if parties file comments before the 30-day cutoff, and then also submit rebuttal comments within the 30 days, we would consider them. We do not believe that we deny any interested party the opportunity to participate meaningfully in the administrative review through our general use of a 30-day cutoff. As the respondent concedes, do we offer the opportunity for a hearing, and none was requested here.

Comment 4: The petitioners argue that the Department should not consider any reported home market sales of rod whose diameters were greater than 0.74 inche, the maximum diameter of a wire rod under the definitions set forth in the Tariff Schedules of the United States.

Department's Position: We agree. However, Ugine Aciers did not report any home market sales with rod diameters greater than 0.74 inche.

Comment 5: The petitioners argue that the Department should require Ugine Aciers to submit more detailed home market product descriptions to allow proper comparisons with its United States sales. Specifically, the respondent should provide descriptions not based merely on the French equivalents of AISI categories but rather using the narrower descriptions of diameter and chemical composition. The Department should require reporting that permits the Department, rather than the respondent, to decide which home market sales are of comparable merchandise; further, the Department should then make the appropriate adjustments for physical differences in merchandise.

Department's Position: We compared rods of similar chemical compositions and adjusted, where appropriate, for differences in the physical characteristics. When Ugine Aciers did not provide sufficient data to make an adjustment for diameter differences, we compared the U.S. sales with the next smaller rod sold contemporaneously in the home market (since such rod is more expensive to produce), without any adjustment for differences in physical characteristics.

Comment 6: The petitioners argue that Ugine Aciers improperly provided only weighted-average amounts for home market charges such as inland freight and insurance. They argue that only the Department has the authority to use averaging techniques.

Department's Position: We agree that we have the authority to use average amounts for charges. We are satisfied that the average amounts used for inland freight and insurance are accurate and do not distort the results.

Comment 7: In adjusting for selling expenses in the home market in ESP calculations, the petitioners argue that the Department should ensure no double-counting through allowance of two categories of selling expenses—central selling expenses and French sales office expenses. Further, the Department should use total sales as its base rather than only direct factory sales.

Department's Position: As a result of verification, we determined there were no double-counted selling expenses. As for the second point, we agree and have used that methodology.

Comment 8: The petitioners argue that, by apparently reporting sales price net of the applicable discount or rebate, the respondent provided insufficient information concerning discounts and rebates offered in the home market. Further, the Department should disregard any prices, discounts, or rebates not authorized by European Community price lists ("CECA"), since such sales cannot be in the ordinary course of trade.

Department's Position: We verified that all net prices as reported are accurate. The European Community pricing regulations do not define the ordinary course of trade. In this review, we considered and verified the actual prices—the amounts received by Ugine Aciers—for its home market transactions. (*See* Early Determination of Antidumping Duty regarding certain stainless steel sheet and strip products from France, 49 FR 8647, March 8, 1984).

Comment 9: The petitioners argue that for its United States sales Ugine Aciers failed to report actual (rather than average) French inland freight, loading, and transit expenses as indicated in the verification report, and that the Department should require the company to supply this information.

Department's Position: Since Ugine Aciers failed to supply any information on these expenses during the review, we used the best information available to determine the amounts.

Comment 10: The petitioners claim that in its questionnaire response Ugine Aciers did not supply the diameters for its U.S. sales.

Department's Position: The petitioners are correct. However, the related U.S. reseller, Intsel Corporation, provided the information in its questionnaire response.

Comment 11: The petitioners argue that, in those instances where price renegotiations occurred, the Department should use the final renegotiated United States sales prices, rather than the original order prices, in its calculations.

Department's Position: We agree and have done so.

Final Results of the Review

As a result of our review of all of the comments received, we have changed the margins from those presented in our preliminary results and we determine that the following margins exist for Ugine Aciers:

Period	Margin (percent)
July 1, 1981 to July 31, 1982	3.21
Aug. 1, 1982 to July 31, 1983	3.53

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 3.53 percent, based on the most recent of the above margins, shall be required on all shipments of French stainless steel wire rods produced and exported by Ugine Aciers and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after July 31, 1983, and who is unrelated to any covered firm, a cash deposit of 3.53 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

March 2, 1985.

[FR Doc. 85-5806 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-403]

Carbon Steel Wire Rod From the German Democratic Republic; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that carbon steel wire rod (wire rod) from the German Democratic Republic (GDR) is being, or is likely to be, sold in the United States at less than fair value, and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise as described in the "Suspension of Liquidation" section of the notice. If this investigation proceeds normally, we will make a final determination by May 20, 1985.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: (202) 377-2830.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that wire rod from the GDR is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 26.3 percent. We also found that critical circumstances do not exist with respect to exports of wire rod from the GDR.

If this investigation proceeds normally, we will make a final determination by May 20, 1985.

Case History

On September 26, 1984, we received a petition from Atlantic Steel Company, Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, filed on behalf of the domestic producers of wire rod. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioners alleged that imports of wire rod from the GDR are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Act, and that these imports materially injure or threaten material injury to a United States industry. Petitioners also alleged that critical circumstances exist, as defined in section 733(e) of the Act. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on October 16, 1984 (49 FR 42773). On November 13, 1984, the ITC determined that there is a reasonable indication that imports of wire rod are materially injuring a U.S. industry.

On January 22, 1985, a questionnaire was sent to Metallurgiehandel Ve Aussen-und-Binnenhandelsbetrieb der DDR (Metallurgiehandel). On February 28, 1985, the respondent advised the Department that it would not be submitting sales data prior to the preliminary determination.

As discussed under the "Foreign Market Value" section of this notice, we have preliminarily determined that the GDR is a state-controlled-economy country for the purpose of this investigation.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod, as currently provided for in item 607.17 of the Tariff Schedules of the United States (TSUS).

Because Metallurgiehandel accounted for all exports of this merchandise to the United States, we limited our investigation to that firm. We investigated all sales of wire rod for the period April 1, 1984 through September 30, 1984.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we calculated the purchase price of wire rod by using the best information available, which was average GDR price information gathered from Department Special Summary Steel Invoice (SSI) statistics. We made deductions for foreign inland freight, ocean freight, marine insurance, and duty.

Foreign Market Value

In accordance with section 773(c) of the Act, we used surrogate prices of wire rod imported to the United States to determine foreign market value. Petitioners alleged that the GDR is a state-controlled-economy country and that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(a), citing the prior investigation of Unrefined Montan Wax from the German Democratic Republic (46 FR 38555 (1981)). After an analysis of the GDR's economy, and consideration of the briefs submitted by the parties, we have preliminarily concluded that the GDR is a state-controlled-economy country for purposes of this investigation. Central to our decision on this issue is the fact that the central government of the GDR strictly controls the prices and levels of production of the GDR wire rod industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

After an analysis of countries producting wire rod, we determined that Australia would be an appropriate surrogate. However, we have been unable to develop actual prices for wire rod in the Australian home market prior to the preliminary determination.

Therefore, pursuant to § 353.8(a)(1) of our regulations, we based foreign market value on the average Australian ex-mill price of low carbon wire rod for export to resellers in the United States. We considered only low carbon wire rod to resellers because that is the quality of wire rod which the GDR exported to the United States through

resellers during the period investigated. We gathered average price information from SSSI statistics, which was the best information available. We made deductions for foreign wharfage, ocean freight, and marine insurance. We also made deductions, where applicable, for U.S. wharfage and handling.

Preliminary Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of wire rod from the GDR present "critical circumstances." Under section 733(e) of the Act, critical circumstances exists if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elesewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of wire rod from the GDR in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found no past antidumping determinations on wire rod from the GDR.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have know that the exporter was selling this product at less than its fair value. It is the Department's position that this test is met where margins calculated are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below foreign market value. In investigations involving a product from state-controlled economy countries, it is more difficult to impute to importers knowledge of sales at less than fair value. We must make a determination on a case-by-case basis using the available information and drawing upon market conditions in the industry which is the subject of the investigation.

In this case, we believe that the margins calculated are not sufficiently large that the importer knew, or should have known, that the merchandise was being sold in the United States at less than fair value.

Accordingly, we preliminarily determine that critical circumstances do not exist with respect to imports of wire rod from the GDR.

Verification

We will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of wire rod from the GDR that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price, which was 26.3 percent of the ex-factory value. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with section § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on April 10, 1985, at the U.S. Department of Commerce, room 1851, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by April 3, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Dated: March 5, 1986.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-5827 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-489-401]

Certain Textile Mill Products and Apparel From Turkey; Termination of Countervailing Duty Investigations Under Section 303; Preliminary Affirmative Countervailing Duty Determinations Under Title VII; and Rescission of Initiation With Respect to Woven Sisal

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Termination of Countervailing Duty Investigations under Section 303; Preliminary Affirmative Countervailing Duty Determinations under Title VII; and Rescission of Initiation with Respect to Woven Sisal.

SUMMARY: Turkey has become a "country under the Agreement." Accordingly, we are terminating the pending countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended ("the Act"), and the investigations shall be subject to the provisions of title VII of the Act as if preliminary determinations under section 703 were made on February 25, 1985, the effective date of the application of title VII to Turkey. We are also rescinding the initiation of investigation with respect to woven sisal.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3464.

SUPPLEMENTARY INFORMATION:

Initiation of Investigations and Preliminary Determinations

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Turkey of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32641). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 Fed. Reg. 40198).

On December 17, 1984, we issued our determinations that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Turkey of certain textile mill products and apparel.

On December 3, 1984, the petitioners amended their petitions to include the following ATMI member firms as individual petitioners with respect to textile mill products:

- Belton Industries, Inc., of Belton, S.C.
- Burlington Industries, Inc., of Greensboro, N.C.
- Chatham Manufacturing Company of Elkin, N.C.
- Milliken & Company of Spartanburg, S.C.
- Mount Vernon Mills, Inc., of Greensville, S.C.
- Shuford Mills, Inc., of Hickory, N.C.
- J.P. Stevens & Co., Inc., of New York, N.Y. and
- West Point-Pepperell, Inc., of West Point, Ga.

On December 17, 1984, the Department determined that ATMI is not an "interested party" under section 771(9)(E) of the Act, and has no standing as a petitioner in these investigations. The Department accepted the amendment to add the eight firms listed above as petitioners with respect to textile mill products.

On February 25, 1985, the Office of the United States Trade Representative announced that Turkey was a "country under the Agreement," as set out in section 701(b) of the Act (50 FR 8428). As a result title VII of the Act became applicable to the then pending countervailing duty investigations. According to section 102 of the Act, once title VII becomes applicable, any pending investigation under section 303 of the Act must terminate. Where a preliminary determination, but not a final determination has been made under section 303, the case is to be treated as if the preliminary determination under section 703 was made the day title VII first applied to that country. Therefore, we are terminating the investigations we initiated on August 9, 1984, under section 303 of the Act. The investigations shall be subject to the provisions of title VII of the Act as if the affirmative preliminary determinations made on December 17, 1984, under section 303 (49 FR 49655) were affirmative preliminary determinations under section 703 of the Act made on February 25, 1985. The final determinations in these investigations now are due by May 13, 1985.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel which are described in Appendix A, attached to this notice.

Rescission of Initiation of Investigation With Respect to Woven Sisal

The government of Turkey has requested that the Department terminate the instant investigation with respect to woven sisal imported from Turkey under TSUSA item number 361.5660. The government argues that because the Department determined that these petitioners have failed to establish that they have standing with respect to woven sisal in the parallel investigation of "Certain Textile Mill Products from Mexico" and rescinded the initiation of the investigation with respect to certain articles of sisal (50 FR 301), the Department should terminate its investigation of products imported from Turkey under TSUSA item number 361.5660.

In the investigation of certain textile mill products from Mexico, petitioners admitted that they do not produce products of sisal but argued that woven fabrics of man-made fiber are competitive with and "like" the Mexican products made from woven sisal. The Department noted that several U.S. purchasers and distributors had submitted letters stating that woven sisal is of a higher quality, and is more expensive and appealing to buyers than wall and floor coverings produced in the United States. The Department concluded that "[g]iven the evidence that woven sisal has qualities that distinguish it from most floor and wall coverings, and the fact that it is not used as a fabric," the petitioners failed to show that they have standing with respect to woven sisal. We agree with the government of Turkey that petitioners have failed to establish their standing with respect to woven sisal. Therefore, we are rescinding our notice of initiation with respect to woven sisal.

Notification to ITC

Pursuant to section 703(f) of the Act, we are notifying the U.S. International Trade Commission (ITC) and making available to it information relating to the matter under investigation. We will make available to the ITC all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

After our final determinations, the ITC will determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of certain textile mill products and apparel from Turkey.

Dated: March 4, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

The products covered by these investigations are certain textile mill products and apparel, which are currently classified under the item numbers of the Tariff Schedules of the United States, Annotated (TSUSA) listed below.

A. TEXTILE MILL PRODUCTS

Yarns

301.1100	301.2000	301.3000	301.4000	302.1022	302.1024	303.2042
307.6810	307.6830	307.6850	310.0214	310.4027	310.6045	310.6050
310.9000	310.9120					

Fabric

320.1019	320.1034	320.1045	320.1071	320.1077	321.4016	321.4023
321.4069	321.4073	322.2015	322.2017	322.2029	322.2036	322.2040
322.2047	322.2055	322.2056	322.2065	322.2070	322.2079	322.2097
336.6447	338.1574	338.1578				

Special Construction Fabrics

346.6050	

Textile Furnishings

360.4215	360.4815	360.4825	360.4855	360.8400	361.0510	361.2405
361.5000	360.7000	361.5630	361.5650	363.1040	363.2580	363.5130
363.6540	363.7500	364.1300	364.2300	365.7825	366.1880	366.2180
366.2460	366.2480	366.2780	366.4600	366.7925	366.7930	367.3424
367.3428	367.4500					

Miscellaneous

386.0600	386.5045	388.4000	389.6265	706.3400	706.3850	706.4106
706.4111						

B. APPAREL

Apparel

370.8440	372.1020	372.1030	372.1040	372.1050	372.1540	372.3500
372.4500	372.6520	373.1000	373.2200	374.3530	374.3550	374.5040
374.6040	378.1030	378.1540	379.3915	379.3925	379.3930	379.4020
379.4030	379.4050	379.4060	379.4110	379.4140	379.4640	379.4670
379.4910	379.4920	379.5520	379.5545	379.5550	379.5565	379.6220
379.6240	379.7605	379.7620	379.8356	379.8357	379.8358	379.8359
379.9020	379.9562	379.9564	379.9566	379.9568	383.0213	383.0219
383.0222	383.0218	383.0236	383.0305	383.0306	383.0390	383.0505
383.0606	383.0622	383.0631	383.0630	383.0805	383.0820	383.0841
383.0860	383.1319	383.1321	383.1610	383.2205	383.2305	383.2706
383.2710	383.2712	383.2714	383.2715	383.2716	383.2718	383.2721
383.2722	383.2724	383.2726	383.2728	383.2730	383.2732	383.2736
383.2738	383.2750	383.2752	383.2754	383.2758	383.2807	383.2809
383.2814	383.2816	383.2818	383.2821	383.2820	383.2820	383.2835
383.2910	383.3010	383.3020	383.3030	383.3040	383.3037	383.3038
383.3060	383.3090	383.3200	383.3445	383.3448	383.3465	383.3466
383.3710	383.3770	383.4200	383.4300	383.4702	383.4705	383.4709
383.4711	383.4721	383.4724	383.4726	383.4747	383.4761	383.4762
383.4764	383.4816	383.4821	383.4825	383.5026	383.5027	383.5051
383.5054	383.5090	383.5395	383.6310	383.6330	383.6345	383.6360
383.6371	383.6395	383.7010	383.7020	383.7205	383.7210	383.7510
383.7522	383.7532	383.7534	383.7536	383.7538	383.7542	383.7544
383.7546	383.7548	383.7552	383.7554	383.7556	383.7528	383.7558
383.7562	383.7595	383.7764	383.7768	383.7769	383.7770	383.7771
383.7783	383.7881	383.7883	383.7884	383.7887	383.7888	383.7892
383.8012	383.8045	383.8069	383.8071	383.8073	383.8300	383.8400
383.8620	383.8663	383.9015	383.9025	383.9050	383.9056	383.9057
383.9058	383.9059	383.9061	383.9062	383.9063	383.9064	383.9066
383.9225	702.0600	702.8000	704.2000	704.6500	704.8550	704.9000

[FR Doc. 85-5829 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-549-401]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Apparel From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of certain apparel. The estimated net bounty or grant is 1.23 percent *ad valorem*. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain apparel from Thailand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of these products in the amount equal to the estimated net bounty or grant.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: (202) 377-1785.

SUPPLEMENTARY INFORMATION: .

Final Determination

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of certain apparel. For purposes of this investigation, the following programs are found to confer a bounty or grant:

- Export Packing Credits.
- Rediscounts of Industrial Bills.
- Electricity Discounts for Exporters.
- Tax Certificates for Exports.
- Assistance to Trading Companies.

We estimate the net bounty or grant to be 1.23 p ercent *ad valorem*.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Thailand of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate

a countervailing duty investigation on certain apparel and, on August 9, 1984, we initiated such an investigation (49 FR 32641). This investigation is one of those initiated by the Department unde the title "Certain Textiles and Textile Products from Thailand." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of our investigations to "Certain Textile Mill Products and Apparel from Thailand." With respect to certain textile mill products, the producers and exporters of certain textile mill products have entered into a suspension agreement. Thus, this notice pertains only to our investigation of certain apparel as defined in the "Scope of Investigation" section of this notice.

We stated that we expected to issue a preliminary determination by October 15, 1984. On September 21, 1984, we determined this investigation to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determination by 65 days until December 17, 1984 (49 FR 40198).

Since Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of this investigation, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Thailand in Washington, D.C., on August 27, 1984. Based on the responses to the preliminary questionnaire, we identified the 18 apparel producers and exporters who accounted for at least 60 percent of the value of certain apparel exported to the United States. In addition, we requested responses from the four trading companies that exported the subject merchandise manufactured by the selected producers to the United States. On October 25, 1984, we presented the detailed government and company questionnaires to the government of Thailand in Washington, D.C. The responses to our detailed questionnaries were received on November 27, November 30, December 3 and December 7, 1984.

Certain respondents in the "Certain textile Mill Products and Apparel" investigations have raised the issue as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires, and our investigation of only those companies that account for sixty percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determinations on "Certain Textile Mill Products and Apparel from Malaysia," published concurrently with this notice. See that notice for our positions on these issues.

On December 17, 1984, we issued our preliminary determination in this investigation (49 FR 49661). We preliminarily determined that benefits constituting bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Thailand of the subject merchandise.

As announced in the notice of preliminary determination, we gave interested parties an opportunity to submit oral and written views. We held a public hearing on February 12, 1985. Both petitioners and respondents submitted comments on this proceeding.

This final determination applies only to certain apparel. On February 1, 1985, we initialed a proposed suspension agreement with respect to certain textile mill products, and on March 4, 1985, a suspension agreement was signed.

Scope of the Investigation

The products covered by this investigation are certain apparel, which are described in the Appendix attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

For purposes of this determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments submitted by interested parties, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of certain apparel under the following programs.

A. Export Packing Credits

Export packing credits are short-term loans used for either pre-shipment or post-shipment financing. These loans, which are provided through commercial banks, can be rediscounted at the Bank of Thailand through its export refinancing facility. Under the "Regulations Governing the Rediscount of Promissory Notes Arising from Exports" (B.E. 2514), the commercial banks, during the review period, charged the borrower a maximum of seven percent interest per annum for the export credit, and then the bank rediscounted these loans at five percent interest with the Bank of Thailand. These loans are provided in baht for up to 90 days.

Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates. As the benchmark for short-term loans, it is our practice to use the national average commercial interest rate or the most comparable, predominant commercial interest rate. For purposes of this determination we are using the average interest rate charged by commercial banks during 1983. We verified this rate at the Bank of Thailand. Comparing this average interest rate to the rate charged on export packing credits, we find that the rate on export packing credits is preferential, and, therefore, these loans confer bounties or grants on the products under investigation. Applying this average commercial bank interest rate as the benchmark, we calculate an estimated net bounty or grant of 0.69 percent *ad valorem* for apparel.

B. Rediscount of Industrial Bills

The Bank of Thailand authorizes rediscounts for short-term promissory notes arising from industrial activity. The Bank of Thailand's "Regulations Governing the Rediscount of Promissory Notes Arising from Industrial Undertakings" permit commercial banks to rediscount short-term promissory notes for industrial purchases, provided that the manufacturer issuing the short-term promissory note is creditworthy and that the bank discounts the note at

a rate not exceeding seven percent per annum (the seven percent rate was applicable during the review period). In turn, commercial banks may rediscount these industrial promissory notes at five percent with the Bank of Thailand. These industrial promissory notes are also called industrial bills.

As specified in the regulations, the maximum amounts which may be rediscounted each year under these regulations are determined by the Bank of Thailand, and are based on the following criteria:

- For basic industries (*i.e.*, those essential to economic development) the maximum amount of rediscount shall not exceed 90 percent of the annual operating expenses which the Bank of Thailand deems necessary for each industry;
- For industries which use local agricultural raw materials equivalent to no less than 20 percent of the total value of raw materials used, the maximum amount of rediscount shall not exceed 80 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry;
- For industries which export goods equivalent to no less than 20 percent of the total value of sales, the maximum amount of rediscount shall not exceed 80 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry;
- For industries using local raw materials equivalent to no less than 50 percent of the total value of raw materials used, the maximum amount of rediscount shall not exceed 70 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry; and
- For industries not classified above but which are directly involved in the production process and which utilize local raw materials and local expenditures equivalent to no less than 50 percent of the total cost or in which labor represents the main factor of production, the maximum amount of rediscount shall not exceed 60 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry.

To determine whether these industrial bills are countervailable, we must determine whether the categories in which apparel producers are represented are limited to a specific group of industries or are tied to export performance. To make this determination, we examine the criteria authorizing the maximum amount of rediscount in each category.

As we found at verification, the Bank of Thailand reviews a company's application and determines the category for which it is eligible. Then the Bank of Thailand sets the credit line available to that company. The credit line corresponds to the maximum level of rediscount specified in each category. As specified in the criteria, basic industries are authorized a maximum rediscount of 90 percent. We verified that basic industries must be designated by the government of Thailand, and that during 1983 only four basic industries were represented in the 90 percent category, including at least one apparel producer that also produces textiles. Therefore, we determine that the basic industry category is limited to a specific group of industries.

The next two categories require the use of agricultural raw materials in production or a certain level of export sales. The maximum level of rediscount for both these categories is 80 percent. With respect to the agricultural raw materials category, no apparel producers are classified in this category. Apparel producers are classified in the export category. Since eligibility in this category is tied to export performance, we find that a bounty or grant is being provided to the extent that export sales are receiving preferential treatment over domestic sales.

The fourth category requires industries to use a certain percentage of local raw materials and provides up to 70 percent rediscount. The fifth and last category requires that industries use both local raw materials and local expenditures for value added and authorizes a 60 percent rediscount. No apparel producers are currently receiving loans in these last two categories.

Since we have determined that the basic industry category is limited to a specific group of industries and the export category is tied to export performance, we must now determine the amount of the countervailable benefit received. In order to calculate the benefit received by apparel producers represented in the basic industry category and the export category, we must detemine whether the interest rate on industrial bills is preferential and whether the entire loan amount is countervailable. First, using the benchmark rate described in the section on "Export Packing Credits," the seven percent interest rate is preferential. Second, we determine that the industry-neutral eligibility criteria for the fifth category indicates that within this category there is no *de jure* limitation to a specific enterprise or industry or group of enterprises on industries. We verified that 10 diverse industries ranging from floor tiles to printing are represented in this category. Therefore, we determine that within the fifth category, there is no *de facto* limitation either. Moreover, combining the industries eligible in this fifth category with industries in the categories with higher eligibility, we find that most industries in Thailand are eligible to rediscount bills accounting for at least 60 percent of their operating expenses.

Accordingly, we determine that the threshold percentage of rediscount that is not limited to a group of industries is 60 percent, which is the lowest level of rediscount that companies participating in this program can receive. Therefore, that portion of the loans received in the basic industry category and the export category that is above the 60 percent threshold is countervailable. We multiplied this portion by the difference between the benchmark and the discount rate to calculate an estimate net bounty or grant of 0.01 percent *ad valorem* for apparel.

C. Electricity Discounts for Exporters

The three electricity authorities in Thailand provide a discount of 20 percent on the electricity rates charged to producers of export products. The discount is calculated as a credit which is deducted from each company's electric bill. Because these discounts are available only to exporters, we determine that electricity discounts confer bounties or grants on exports of the products under investigation. To calculate the bounty or grant, we divided the total amount of electricity discounts received during the review period by total export sales. The estimated net bounty or grant is 0.08 percent *ad valorem* for apparel.

D. *Tax Certificates for Exports*

The government of Thailand issues tax certificates to exporters to rebate indirect taxes on inputs into the exported product. In Thailand indirect tax rebates are authorized under two programs.

In 1981, a program for rebating indirect taxes was implemented through the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (hereinafter the Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of a 1975 input/output (I/O) study. The statistical base for the I/O study was updated in 1980. Using the I/O study, the Thai Ministry of Finance computes the value of total inputs (both imports and local purchases) at ex-factory prices. They also calculate the import duties and indirect taxes on each input. The Ministry then calculates the

ratio of indirect taxes to the ex-factory prices of the final product to determine the rebate rate for each type of product. This rate is then applied to the FOB value of the export to determine the amount of rebate that will be provided. Under the Tax and Duty Act the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be transferred to other companies which can use them to pay their tax liabilities. The current rebate rates on 99 covered products are listed in the "Notification of the Ministry of Finance" No. Or. 1/2524.

The alternative program authorizing the rebate of indirect taxes is the "Announcement of the Ministry of Finance" No. Chor Phor 1/2514. This rebate authorization was announced in 1971 and was revised in 1978 by No. Or. 126/2521. The Announcement specifies that indirect taxes on materials, equipment, machinery, fuel and other energy sources will be given consideration for compensation. Under this program, only indirect taxes and import duties on raw materials, fuel and spare parts are included in the rebate. The rebate under this program is calculated as a flat rate in baht per kilogram. The baht per kilogram rates were established in 1972 and revised in 1975. The amount of the rebate was based on studies of the incidence of indirect taxes and import duties on textile mill products and apparel. This flat rate rebate program is scheduled for termination on March 31, 1985.

Currently, exporters can choose the program under which they will claim rebates of indirect taxes. After March 31, 1985, exporters will only be able to claim rebates under the Tax and Duty Act.

Traditionally, we have applied a three-prong test to determine whether the rebate of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product is a subsidy. Under this test, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes; (2) there is a clear link between eligibility for payments on exports and indirect taxes paid; and (3) the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

Where an indirect tax rebate system incorporates rebates on import duties, or where there is a fixed duty drawback system instead of an individual duty drawback system (Thailand operates an individual duty drawback system which is addressed in the section on "Duty Drawback or Exemption"), we have determined that we must apply a linkage analysis similar to our test for rebate systems that are designed only to rebate indirect taxes. The Department first looks to whether the system is intended to operate as a drawback system. Next, the Department analyzes whether the government properly ascertained the level of the fixed drawback. This includes review of the sample and of the ability to document, and the accuracy of, the information gathered from the sample on input coefficients, import prices and rates of duty on imported inputs, the ratio of imported inputs to domestically produced inputs (when, for a given imported input, there is also domestic production of the input), and the exchange rates used to convert import prices denominated in a foreign currency to the local currency.

Finally, the schedules must be revised periodically so that the drawback amounts reflect the amount of duty and indirect taxes paid. Where these conditions are met, the Department will consider that a rebate system that rebates both indirect taxes and import duties, or a fixed duty drawback system, does not confer a bounty or grant when the amount rebated for duties and indirect taxes on physically incorporated inputs equals (or is less than) the fixed amount set in the schedule for the exported product. When the system rebates duties and indirect taxes on both physically incorporated and non-physically incorporated inputs, we would find a bounty or grant exists to the extent that the fixed rebate exceeds the allowable rebate on physically incorporated inputs. Based on these tests, we determine the following.

The Tax and Duty Act provides that the taxes and duties eligible for rebate include those on materials, equipment, spare parts, machinery, fuels and other energy used in production. Taxes such as income tax, payment of royalties to the government for mineral rights, and taxes which are otherwise refundable or exempt are excluded from the rebate. Under the flat rate rebate program, the same general eligibility criteria apply and direct taxes such as income taxes are excluded. Thus, the programs operate to rebate indirect taxes and import duties.

The eligibility criteria for each of these two rebate programs, when considered in conjunction with the government's response and the information obtained during verification on the methodology and sampling used in calulating the rebate rates, lead us to conclude that there is a link between eligibility for the rebates and indirect taxes and import duties actually paid.

We have reviewed the documentation submitted by the government in their response and at verification showing their detailed calculation of the rebate rates. Under the Tax and Duty Act, these calculations itemize the inputs and list ex-factory prices, import values, import taxes, and domestic indirect taxes. The inputs itemized in the government's calculations include non-physically incorporated items such as plastics and tools.

The government's calculations establish rates for 134 goods under the I/O classification system. The National Economic and Social Development Board of Thailand (NESDB) then converts these 134 rates into rates for 99 groups of products classified according to the Thai customs tariff nomenclature. These 99 rates are the rates that are published and which producers and exporters receive. We verified the conversion formula used when converting the 134 rates into 99 rates.

Under the flat rate rebate program, the government provided documentation support its calculations of the tax incidence borne by the product. The amount paid on export equals the amount of the calculated tax incidence. These flat rate rebates cover both physically incorporated and non-physically incorporated items.

Because under both rebate programs non-physically incorporated items are included in the rebate calculations at the final stage, we determine that there is an excessive remission of indirect taxes on exported goods. To calculate the amount of the overrebate, we have taken into account the following factors. We verified that companies can only claim a rebate for a particular export sale under one program, not both. Under the Tax and Duty Act rebate, all three of the inputs in the flat rate rebate program are included as well as a number of other inputs. Under both programs, the government calculates a "full" rebate rate that includes import duties and indirect taxes, and a "normal" rebate rate which is the rate received by firms when they participate in the customs duty drawback or exemption programs on imported raw materials, or when firms do not use imported materials in the production process. For purposes of this determination, we are calculating the overrebate based only on the full rate that includes import duties since we have no verified infomation on the proportion that normal rebates represent of total rebates received by our respondent companies.

Since companies can only claim a rebate on a particular export sale under either the Tax and Duty Act or the flat rate program, and because all the inputs identified in the flat rate program are included in the Tax and Duty Act, we are using the data in the Tax and Duty Act rebate programs as the basis of our calculation of the overrebate. If any new information on the flat rate program is received or if this program is not terminated on March 31, 1985, we will examine this program again in our administrative review under section 751 of the Act.

To determine the estimated net bounty or grant from this excessive remission of indirect taxes, we recalculated, for each Thai customs category for apparel, the indirect tax incidence (including import duties) on physically incorporated input at FOB prices. We compared this allowable rebate to the authorized rebate received by apparel producers. We then weighted the percentage by which the authorized rebate exceeded the allowable rebate by the proportion that the corresponding apparel category represented of total export sales. Using this methodology, we calculated an estimated net bounty or grant of 0.44 percent *ad valorem* for apparel.

E. Assistance to Trading Companies

Petitioners alledged that the Board of Investments provides the following benefits to qualified international trading companies:

- Exemption of import duties and business taxes on imported materials used to produce export goods;
- Financing support from the Bank of Thailand including the holding of foreign currency accounts;
- Tax holidays and accelerated depreciation; and
- Deduction from taxable income of 200 percent of foreign marketing expenses.

In 1978 the Board of Investments authorized certain incentives to eligible trading companies under section 36 of the Investment Promotion Act. These incentives included duty exemption for both raw materials and essential materials used in export production, exemptions of certain business taxes, double deduction of foreign marketing expenses for income tax purposes and permission to maintain foreign currency accounts. Eligibility for this program was terminated on March 11, 1981, pursuant to the Announcement of the Board of Investment No. Gnor 1/1981. However, those trading companies that qualified for the program prior to the termination date continue to receive incentives.

During the review period, the trading companies received the following incentives: Export packing credits, duty exemptions on imported raw materials, permission to hold foreign currency accounts and the double deduction of foreign marketing expenses from income taxes. With respect to the export packing credits provided to trading companies, these loans are determined to confer bounties or grants and are included in the calculation of the *ad valorem* rate specified in the section of the notice on "Export Packing Credits." With respect to import duty exemptions, we verified that the program functions in the same way as the duty drawback program which we have determined does not confer a bounty or grant (see the section of the notice on "Duty Drawback or Exemption"). With respect to foreign currency accounts, only one trading company had permission to hold foreign currency accounts during the review period. We verified that the only foreign currency account held by this company in which deposit and withdrawal transactions took place was a non-U.S. dollar account. Thus, if any benefits were derived from the holding of this foreign currency account, they would accrue solely to non-U.S. exports.

With respect to the double deduction of foreign marketing expenses for income tax purposes, we determine that this incentive is countervailable because it is limited to exports. We verified that only one trading company claimed this double deduction. During the review period, this trading company exported only apparel produced by the manufacturers selected to respond to our questionnaire. To calculate the benefit, we determined the tax savings received during the review period and found an estimated net bounty or grant of 0.01 percent *ad valorem* for apparel.

II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers or exporters in Thailand of certain apparel under the following program.

Duty Drawback or Exemption

Petitioners alleged that producers and exporters of the products under investigation received countervailable benefits from the drawback of, or exemption from, import duties, business taxes and municipal taxes on imports used in export production.

Under the Thai Customs Act (B.E. 2482), materials that are imported and that are used in the production, mixing, assembling, or packaging of an exported product are eligible to receive either a duty exemption or a duty drawback. In addition, under provisions established in B. E. 2469, companies can import materials under bond and obtain a bank guarantee for the duties, which is deposited with the Customs Service. The bank guarantee for the duties is returned as a drawback when the company provides documentation showing that the imported material was used in the production, mixing, assembly, or packaging of the exported finished goods.

During verification, we reviewed the operation of the duty drawback system. To be eligible for duty drawback, a company must apply to the Customs Department. The company must submit, for Customs approval, the production formulas for each exported item. The formula must identify the imported raw material inputs; including packing materials, and must calculate the input used per unit of output. The Customs Department investigates the formula and may adjust the formula based on its findings. Once the formula is approved, the company can apply to receive drawback. The Customs Department maintains a computerized system to keep track of each imported input that is eligible for drawback. When the products incorporating that imported input are exported, the Customs Department draws back the corresponding amount of duties and indirect taxes based on the amount of each import that was used in the export sale. If after six months, the imported input is not entirely used in export sales, the company must pay the balance of duties due on that import.

The duty exemption system, which can be used by trading companies, operates in a similar manner. An exemption is not granted until Customs approves the production formula and exporters show that the import is used in its exports. We verified that neither imports of machinery and equipment nor imports of products used in the production process that are not physically incorporated are eligible for exemption or drawback, and that the amount of drawback does not exceed the duties originally paid. Therefore, we determine that the duty drawback and exemption systems do not confer a bounty or grant on the subject merchandise.

III. Programs Determined Not To Be Used

We determine that the manufacturers, producers or exporters in Thailand of certain apparel do not use the following programs which were listed in our notice of initiation.

A. Investment Promotion Act

The Investment Promotion Act (B.E. 2520) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the Investment Promotion Act authorizes the exemption of import duties and certain taxes. Under Section 35 of the Investment Promotion Act, these benefits are provided to companies located in one of four investment zones and, under section 36 of the Investment Promotion Act, certain benefits are provided to promote enterprises which export.

We verified that none of the producers responding to our questionnaire are located in an investment promotion zone or receive benefits under the Investment Promotion Act. Certain of the trading companies responding to our questionnaire receive incentives under section 36 of the Investment Promotion Act. These incentives are discussed in the section of the notice on "Assistance to Trading Companies."

B. Export Processing Zones

In 1979, Export Processing Zones were authorized through the "Industrial Estates Authority of Thailand Act" (B.E. 2522). One export processing zone has been set up in Thailand. We verified that none of the companies responding to our questionnaire are located in this zone and, thus, they receive no benefits under this program.

C. Financing From the Industrial Finance Corporation of Thailand

Petitioners alleged that producers and exporters of the subject merchandise receive countervailable medium- and long-term loans from the Industrial Finance Corporation of Thailand (IFCT). We verified that none of the producers or exporters selected to respond to our questionnaire had outstanding medium- and long-term loans from the IFCT during the review period.

The IFCT also provides short-term loans to banks, financial institutions and limited companies. Limited companies can include trading companies. None of the trading companies selected to respond to our questionnaire received short-term IFCT loans.

IV. Program Not in Existence

We determine that the following program was not in existence during the review period.

Loans to Finance Imports Necessary for Export Industries

The response of the government of Thailand stated that this program does not exist and we found no evidence during verification that contradicts the government's response.

Comments by Parties to the Proceeding

Petitioners' Comments

Comment 1: Petitioners contend that the appropriate benchmark for countervailable short-term loans is the 17 percent rate published by the Bank of Thailand (BOT) and not the average commercial bank interest rate provided by the BOT.

DOC Position: In the BOT's Quarterly Bulletins, the published rate is identified as a ceiling rate. Thus, it would not be considered the most appropriate national average benchmark unless the government of Thailand could not provide verifiable statistics on average interest rates. Based on our verification, we consider that the government has satisfactorily demonstrated that average actual interest rates are lower than the published ceiling rate. Therefore, we are using as the benchmark the average commercial bank interest rate that we verified at the Bank of Thailand.

Comment 2: Petitioners argue that we should look at interest rates charged on loans from financial institutions other than banks to find the benchmark. They contend that it is established Departmental practice to compare preferential short-term export financing to the cost of alternative financing generally available in the lending marketplace of the country.

DOC Position: Established Department practice is to use the most comparable, predominant method of financing as the source for short-term loan benchmarks. Thus, we usually look for a commercial interest rate charged by commercial banks. We are satisfied that the benchmark we have chosen represents a commercial interest rate and the one which the apparel producers and exporters are likely to have paid absent access to preferential financing.

Comment 3: Petitioners argue that we have allocated the benefits incorrectly for the Export Packing Credit program. They contend that, unless respondents identified and we verified which export packing credits were tied to U.S. exports, we should consider that all export packing credits are tied to sales. Accordingly, the appropriate denominator for this subsidy calculation should be U.S. exports rather than all exports. They also argue that respondents did not adequately answer the request for the "purpose and use of these loans" in our questionnaire.

DOC Position: The intent of countervailing duty investigations is to determine the subsidy rate applicable to exports to the United States of the subject merchandise. To calculate the *ad valorem* rate we take the total amount of the benefits under a particular program and divide it by the relevant sales value—export sales for export subsidies and total sales for domestic subsidies. While we prefer to separate benefits accruing on sales to the United States and divide this by exports to the United States, we often find that, in the short time mandated for a countervailing duty investigation, companies cannot separate in their records those benefits which are tied to a particular subset of sales, such as sales to the United States. Under the Export Packing Credit program, the amount of the loan is based on the value of the export and all exports are eligible for refinancing under this program. Therefore, we can assume that the apparel companies took out export packing loans on all export sales and that the countervailing duty rate should be essentially the same, using either loans on United States exports or total loans on total exports.

Furthermore, we consider that respondents did provide sufficient information on the purpose and use of these loans. The purpose is to finance export sales and the companies used the loans in the production of goods for export.

Comment 4: Petitioners argue that the entire principal of the loans under the Rediscount of Industrial Bills program is countervailable because loans at 7 percent under Category 5(e) are not generally available. They further argue that in order for the total loan not to be countervailable the government must establish both that (1) alternative financing at 7 percent would have actually been available for the same transactions and (2) alternative 7 percent financing is not in itself a countervailable bounty or grant.

DOC Position: We disagree with petitioners' first comment. See the section of the notice "Rediscounts of Industrial Bills" for our determination on this program. With respect to petitioners' second comment, two tests must be applied to determine whether a domestic subsidy exists. First, we determine whether the program is limited to a specific enterprise or industry or group of enterprises or industries. If it is limited, then, for loan programs, we examine whether the loans are inconsistent with commercial considerations. We have verified that within category 5(e) there is neither *de jure* nor *de facto* limitation to a specific group of industries. Since this first test has not been met, a domestic subsidy does not exist for that category. Thus,

category 5(e) acts as the threshold in calculating the benefits on the countervailable loans in the basic industry and in the export category.

We do not have to determine whether alternative 7 percent financing is in itself a subsidy because where we determine that there is no limitation within a domestic program, then a subsidy does not exist.

Comment 5: Petitioners argue that the entire amount of the rebate received under the Tax Certificate Program should be countervailed because the input/output study is ten years old, the statistical base is five years old, the rebate is calculated on ex-factory rather than FOB prices, and the rebate program under the "Announcement of the Ministry of Finance" does not meet the Department's test for indirect tax rebate programs. They also argue that we should either find individual rates for each like product or we should use a trade-weighted average to calculate a rate for each class or kind of merchandise.

DOC Position: We believe that the input/output (I/O) study for Thailand provides an adequate basis for calculating indirect tax incidence. The study is being updated and the revised I/O tables are scheduled for publication during 1985. I/O studies are an ongoing process that provides a reasonable statistical base on which to calculate indirect tax incidence and indirect tax rebates.

We agree with petitioners that the calculation of indirect taxes should have the same basis as the calculations of the rebate rate. Therefore, we have used best information available to recalculate the incidence of indirect taxes and import duties on an FOB price basis. We then compared this allowable rebate to the authorized tax rebate which is based on FOB prices. We also consider that our calculation of the overrebate under the Tax and Duty Act incorporates any overrebate that may have been received under the "Announcement of the Ministry of Finance." Our reasons are set forth in the section of the notice "Tax Certificates for Export." With respect to petitioners' last argument, we have used a trade-weighted average to calculate the rebate rates because the rebate rates differ by product.

Comment 6: Petitioners contend that the Department understated the subsidy from the double deduction of foreign marketing expenses because there is nothing in the record that indicates that this deduction was not just for U.S. exports. In addition, petitioners argue that due to our "sampling" technique, we have not captured the total amount of subsidy on this program and that we used the wrong denominator in our preliminary determinations.

DOC Position: Petitioners first argument has been addressed in the "DOC Position" on Petitioners' Comment 1. Our position with respect to the methodology employed by the Department to select companies to respond to our questionnaire is addressed in the final determinations on "Certain Textile Mill Products and Apparel from Malaysia" published elsewhere in this issue of the Federal Register. Finally, we appropriately used total exports by the trading companies exporting apparel to calculate this benefit because there is no evidence that this program is limited to exports to the United States. All foreign marketing expenses incurred by the trading company can be included in the deduction, without limitation as to type of product or country of destination.

Comment 7: Petitioners argue that the Customs Duty Drawback and Duty Exemptions Programs are countervailable and the *ad valorem* rate should be calculated on best information available.

DOC Position: As petitioner correctly points out, we preliminarily determined that we needed additional information on these programs in order to determine whether they are counteravailable. However, we have determined that this program is not countervailable as stated in the section of the notice "Duty Drawback or Exemption." We verified that the program is limited to physically incorporated imported inputs and does not include items such as machinery and equipment.

Comment 8: Petitioners argue that the Department should determine that the holding of foreign currency accounts is a subsidy.

DOC Position: Our determination with respect to this program is discussed in the section of the notice on "Assistance to Trading Companies."

Respondents' Comments

Comment 1: Respondents argue that the Industrial Bill Rediscount Program is not countervailable because it is not limited to a group of enterprises or industries under section 771(5)(B) of the Act.

DOC Position: We disagree. For our determination with respect to this program, see the section of the notice on "Rediscounts of Industrial Bills."

Comment 2: Respondents argue that all firms are eligible to receive financing for at least 60 percent of their operating expenses under the Industrial Bill Rediscount Program. Therefore, if the Department finds this program countervailable, we should only determine a benefit on the portion of the financing which is limited to a group of industries within the meaning of section 771(5)(B) of the Act.

DOC Postion: We agree. It is our policy that when a portion of the benefits of a program are "generally available," we determine the countervailable benefit of that program to be the portion which is limited to a specific enterprise or industry or group of enterprises or industries. See, for example, our treatment of the FOGAIN program in Mexico in the "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Lime from Mexico" (49 FR 35672).

Comment 3: Respondents argue that the Department, when determining whether there is an overrebate of indirect taxes, should use the cumulative incidence of prior-stage indirect taxes on items physically incorporated into the exported product and not limit our consideration to those taxes levied at the final stage of production.

DOC Position: We consider that our calculations should be based on the rebate system structured by the government of Thailand. Their rebate system is based on an input/output study. Therefore, the prior stage indirect taxes on material inputs into each product have already been taken into account in the rebate calculations since indirect taxes are passed forward from prior stages to the final stage.

Comment 4: Respondents argue that since foreign borrowing constitutes a significant portion of total borrowing in Thailand, it is appropriate for the Department to include foreign borrowing in the benchmark for Export Packing Credits.

DOC Postion: We use as our benchmark for short-term loans the national average commercial interest rate or the most comparable, predominant short-term interest rate. As stated in the Subsidies Appendix, this benchmark must be applicable to loans denominated in the same currency as the loans under consideration. Thus, it would be inappropriate to include foreign currency loans in our calculations of the benchmark for a baht currency loan program.

Comment 5: Respondents argue that the Department should take into account the program-wide change in interest rates that occurred in October, 1984 in the Export Packing Credit program.

DOC Position: We attempt to take into account program-wide changes that occur prior to our preliminary determination when the changes can be verified. However, for certain types of

programs this is not always possible. The effects of modifications in short-term loan programs are not easily quantified, nor do they occur immediately. While we may be able to assume that the change in interest rate could result in proportionally the same rate of program usage and the same level of sales, it would be unlikely, under the deadlines imposed for countervailing duty investigations, that we could obtain verifiable information on benchmarks corresponding to the period after the interest rate change. In the instant investigation, respondents provided no information on the average commercial interest rate in Thailand corresponding to the period after the program-wide change.

Comment 6: Respondents argue that the Department should convert the export packing credit discount rate into an annual interest rate since the benchmark we used in the preliminary determination was an effective annual interest rate.

DOC Position: We disagree. We verified the average interest rate submitted by the Bank of Thailand, but they provided no evidence to demonstrate that this interest rate is effective rather than nominal. Therefore, it is not appropriate to convert the nominal 7 percent discount rate on export packing credits into an effective rate.

If respondents also are arguing that we should convert the 7 percent rate to an annualized rate, we disagree, because both the 7 percent rate and the benchmark rate are annual rates.

Verification: In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including meetings with government officials and inspection of documents, as well as on-site inspection of the records and operation of the companies exporting the subject merchandise to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)). A public hearing was held on February 12, 1985. Written views have been received and considered in reaching this final determination.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative determination on apparel shall remain in effect until further notice. The estimated net bounty or grant for duty deposit purposes is 1.23 percent *ad valorem* for apparel. In accordance with section 7006(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise from Thailand which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to sections 303, 705 and 706 of the Act (19 U.S.C. 1303, 1671d, 1671e).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985.

Appendix.—List of TSUSA Codes Which Covered Thailand's Exports of Certain Apparel to the United States in 1983

Apparel

Wearing Apparel

303.0608	372.1560	373.2000	373.2200	376.2430	376.2830	376.5409
376.5612	379.0220	379.0240	379.0615	379.0620	379.0630	379.0640
379.0642	379.0648	379.0970	379.2320	379.2380	379.2630	379.3120
379.3130	379.3140	379.3190	379.3540	379.3925	379.3940	379.3947
379.3949	379.4020	379.4030	379.4040	379.4050	379.4060	379.4330
379.4615	379.4670	379.5520	379.5530	379.5540	379.5545	379.5550
379.5560	379.5565	379.6210	379.6217	379.6219	379.6220	379.6230
379.6240	379.6250	379.6260	379.6280	379.6450	379.6470	379.6942
379.6992	379.7250	379.7620	379.7630	379.8735	379.8906	379.8910
379.8911	379.8915	379.8930	379.8935	379.8940	379.9010	379.9020
379.9030	379.9035	379.9040	379.9100	379.9250	379.9410	379.9470
379.9575	379.9580	379.9585	379.9645	379.9650	379.9860	379.9862
379.9864	379.9868	379.9870	379.9872	379.9874	379.9876	383.0015
383.0205	383.0213	383.0218	383.0219	383.0222	383.0232	383.0234
383.0236	383.0244	383.0305	383.0335	383.0350	383.0505	383.0507
383.0509	383.0606	383.0608	383.0622	383.0631	383.0638	383.0640
383.0805	383.0820	383.0835	383.0838	383.0841	383.0856	383.0860
383.1205	383.1220	383.1319	383.1321	383.1802	383.1804	383.1805
383.1806	383.1807	383.1809	383.1811	383.1812	383.1822	383.1824
383.1841	383.1843	383.1846	383.1848	383.1880	383.1910	383.1922
383.1924	383.1926	383.1928	383.1935	383.1940	383.2005	383.2013
383.2035	383.2040	383.2050	383.2052	383.2058	383.2205	383.2210
383.2225	383.2245	383.2305	383.2310	383.2320	383.2325	383.2335
383.2340	383.2352	383.2365	383.2570	383.2575	383.2580	383.2706
383.2707	383.2708	383.2709	383.2720	383.2725	383.2730	383.2731
383.2750	383.2820	383.2835	383.2910	383.3020	383.3030	383.3040
383.3050	383.3065	383.3090	383.3405	383.3415	383.3435	383.3445
383.3448	383.3465	383.3466	383.3600	383.3770	383.4300	383.4702
383.4704	383.4705	383.4709	383.4711	383.4715	383.4720	383.4721
383.4730	383.4747	383.4749	383.4753	383.4755	383.4761	383.4762
383.4764	383.4814	383.4821	383.4825	383.5027	383.5028	383.5033
383.5034	383.5037	383.5041	383.5051	383.5080	383.5082	383.5088
383.5090	383.6000	383.6200	383.6260	383.6271	383.6310	383.6340
383.7810	383.7881	383.7883	383.7884	383.7885	383.7886	383.7887
383.7888	383.7892	383.8002	383.8007	383.8009	383.8011	383.8012
383.8014	383.8017	383.8019	383.8024	383.8026	383.8028	383.8030
383.8045	383.8048	383.8050	383.8052	383.8069	383.8071	383.8073
383.8106	383.8110	383.8114	383.8115	383.8117	383.8125	383.8137
383.8139	383.8141	383.8143	383.8145	383.8147	383.8156	383.8158
383.8162	383.8164	383.8300	383.8605	383.8620	383.8645	383.8650
383.8660	383.8663	383.8667	383.8669	383.8670	383.9005	383.9010
383.9015	383.9020	383.9025	383.9027	383.9029	383.9032	383.9035
383.9040	383.9042	383.9050	383.9051	383.9068	383.9069	383.9070
383.9072	383.9074	383.9076	383.9210	383.9225	383.9230	383.9235
383.9240	383.9245	383.9255	383.9265	383.9270	383.9290	383.9291
383.9562	383.9564	383.9566	383.9568	383.9570	383.9572	383.9574
383.9576	383.9578	383.9579				

Gloves

704.1020	704.3220	704.3240	704.4010	704.4025	704.4055	704.4504
704.4506	704.4508	704.4555	704.8520	704.8550		

Luggage and Handbags

706.3640	706.3650	706.3680	706.3840	706.3850	706.3900	706.4106
706.4111	706.4121	706.4140	706.4150			

[FR Doc. 85-5826 Filed 3-11-85; 8:45 am]

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[C-542401]

Final Affirmative Countervailing Duty Determinations and Orders; Certain Textile Mill Products and Apparel From Sri Lanka; Cotton Inspectors' Gloves

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel. The estimated net bounty or grant is 5 percent *ad valorem* for certain textile mill products and 3.06 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain textile mill products and apparel from Sri Lanka, except "Cotton Inspectors' Gloves," and products produced by Texwood Industries Limited, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of the subject merchandise in the amount equal to the estimated net bounty or grant.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Laura Campobasso or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5403 or 377-5414.

SUPPLEMENTARY INFORMATION:

Final Determinations

Based upon our investigations, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel. For purposes of these investigations, the following programs are found to confer a bounty or grant:

- Investment Promotion Zone
- Export Expansion Grants
- Pre-Shipment Export Refinancing
- Rebate of Import Duties and Indirect Taxes
- Export-Related Corporate Tax Exemption for Non-Zone Companies

We estimate the net bounty or grant to be 5 percent *ad valorem* for certain textile mill products and 3.06 percent *ad valorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute ("ATMI"), the Amalgamated Clothing and Textile Workers Union ("ACTWU"), and the International Ladies' Garment Workers Union ("ILGWU"), on behalf for the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of section § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Sri Lanka of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32646). These investigations were initiated by the Department under the title "Certain Textile and Textile Products from Sri Lanka." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigation—one for textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of these investigations to "Certain Textile Mill Products and Apparel from Sri Lanka." Except for the product with respect to which we are rescinding our initiation, the scope of these investigations remains the same as announced in the initiation and the preliminary determinations.

We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Sri Lnaka is not a "country under the Agreement" within the meaning of secion 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the Government of Sri Lanka in Washington, D.C., on August 27, 1984. Based on the response to the preliminary questionnaire, we identified the 17 apparel producers who accounted for at least 60 percent of the exports of apparel to the United States.

We initially requested the 17 apparel producers and exporters to respond to the detailed questionnaire, because we believed that only apparel was exported from Sri Lanka to the United States. On October 25, 1984, we presented the detailed government and company questionnaire to the Government of Sri Lanka in Washington, D.C. The responses to our detailed questionnaires were received on November 26, 1984. During the course of our investigations, we discovered that some textile mill products also were exported from Sri Lanka to the U.S. and we identified and requested a response from the company that accounts for at least 60 percent of exports of textile mill products to the United States. We received a response from the company of January 25, 1985.

We also sent detailed questionnaires to three companies that had filed timely requests for exclusion: Sinotex Lanka Limited (Sinotex), Texwood Industries Limited (Texwood), and Asiaknit Limited. We verified that Texwood received benefits which are *de minimis*, and it is therefore exluded from these final determinations. Sinotex and Asiaknit receive countervailable benefits above the *de minimis*, rate of 0.50 percent. Therefore, we have not excluded Sinotex and Asiaknit from these final determinations and orders.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised issues as to whether petitioners have standing to file these cases. Petitioners have also made

comments regarding our methodology in selecting companies to receive detailed questionnaires, and our investigation of only those companies that account for sixty percent of exports on the subject merchandise to the United States. We have addressed these issues in our final determinations of *Certain Textile Mill Products and Apparel from Malaysia*, published concurrently with this notice. See that notice for our comments on these issues.

On December 21, 1984, we issued our preliminary determinations in these investigations (49 FR 49687). We preliminarily determined that benefits constituting bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Sri Lanka of the subject merchandise. We conducted verification on Sri Lanka of the subject merchandise. We conducted verification in Sri Lanka from January 23, 1985, through February 1, 1985. A hearing was held February 15, 1985, and comments have been received from the parties to the proceeding.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel which are described in the Appendix attached to this notice.

Rescission of Initiation of Investigation

The John Plant Company, a domestic U.S. manufacturer and importer of lightweight cotton lisle disposable work gloves from Sri Lanka, has requested that the Department rescind its initiation of investigation with respect to lightweight cotton lisle disposable work gloves from Sri Lanka. Commonly known as inspectors' gloves, lightweight cotton lisle disposable work gloves ("cotton inspectors' gloves") are imported from Sri Lanka under TSUSA item number 704.4506. The John Plant Company argues that cotton inspectors' gloves constitute a separate "like product" in that they are not "like" other cotton work gloves, and that petitioners lack standing to seek imposition of countervailing duties on cotton inspectors' gloves from Sri Lanka.

The U.S. Court of International Trade has held that the Department has the authority to rescind an initiation of an investigation if the Department determines that the petitioners lack standing. *Gilmore Steel Corp.* v. *United States*, 585 F. Supp. 670 (1984). Thus, the Department has the authority to rescind its initiation in this case should it determine that petitioners lack standing with respect to cotton inspectors' gloves. Under section 702(b)(1) of the Act, in order to have standing to file a countervailing duty petition, a petitioner must be a domestic interested party within the meaning of sections 771(9) (C), (D), or (E), and must file the petition on behalf of an industry in the United States. In this case, in order for petitioners to be an interested party with respect to cotton inspectors' gloves, the unions must be "representative of an industry engaged in the manufacture of a like product". 19 U.S.C. 1677(9)(D). Both the definitions of "domestic interested party" and "industry" depend upon the definition of "like product," which is defined in section 771(10) of the Act as:

> A product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

Petitioners here have essentially argued that all gloves are one "like product," and that the industry producing all types of gloves is one domestic industry. Thus, if the unions have members producing any type of glove, they are representative of the entire industry and have standing with respect to all gloves as one "like product." Evidence on the record indicates that the unions represent workers who produce cotton work gloves; however, the domestic producers of cotton inspectors' gloves do not have union workers. The threshold question therefore is whether cotton work gloves are a "like product" to cotton inspectors' gloves.

In making this determination, we have examined various competitive factors in the U.S. market, primarily the general physical characteristics and intended use of the gloves, the channels of trade in which the gloves are sold, ultimate use and consumer expectations, and cost of the gloves.

Cotton inspectors' gloves are made of lightweight cotton lisle to allow flexible hand movements, are disposed of after short-term use, and are not designed for reuse. Cotton inspectors' gloves have a different function from other work gloves, in that they are designed to protect delicate industrial equipment from contact with workers' hands. Traditional cotton work gloves are made of heavier-weight cotton materials for long-term and repeated use under heavy-duty work conditions and are designed with cuffs and other reinforcements to protect workers' hands from outside elements or injury. Cotton inspectors' gloves are not designed to offer hand protection, and are not decorated in any way to make them suitable for non-industrial use. A consumer would not expect such gloves to provide hand protection.

Cotton inspectors' gloves are sold in bulk, usually on an annual contract basis, to certain industrial users in the nuclear utility, jet aircraft, and electronic equipment manufacturing industries. Traditional cotton work gloves are sold in small or large quantities on a wholesale basis to industrial users or on a retail basis to various consumers, including households.

Finally, because of their lightweight fabric, lack of cuffs or other ornamentation, and disposable nature, cotton inspectors' gloves are much less expensive than traditional cotton work gloves.

Therefore, we determine that cotton work gloves are not "like products" with respect to cotton inspectors' gloves. Because the unions do not represent workers who make a "like product," petitioners lack standing to file a countervailing duty petition on such merchandise. The evidence on the record supports the conclusions that domestic U.S. producers of cotton inspectors' gloves are neither included among the petitioners nor support the petition and that workers in the domestic cotton inspectors' glove industry are not members of any union supporting this petition. The John Plant Company itself is the largest domestic U.S. producer of cotton inspectors' gloves.

Therefore, we are rescinding our initiation of investigation with respect to cotton inspectors' gloves imported from Sri Lanka under TSUSA item 704.4506.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

For purposes of these determinations, the period for which we are measuring bounties or grants ("the review period") is April 1983 through March 1984.

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Sri Lanka of

certain textile mill products and apparel under the following programs:

A. Investment Promotion zone

Petitioners alleged that the government of Sri Lanka provides benefits to producers and exporters of the subject merchandise through an Investment Promotion Zone (IPZ). They alleged that benefits received under this program by firms that locate in the IPZ include exemptions from taxes on corporate and personal income, exemptions from taxes on royalties and dividends for up to 10 years, availability of developed factory sites at nominal charges, and exemptions from paying import duties on machinery, equipment, and materials.

Law No. 4 of 1978, amended by Act No. 43 of 1980 and Act No. 21 of 1983, establishes an IPZ, operated by the Greater Colombo Economic Commission (GCEC). We verified that the entire production of the firms located in the IPZ must be marketed abroad. As specified in the responses and verified, firms locating in the zone are eligible for (1) exemptions from payment of corporate income taxes; (2) exemptions from payment of import duties and indirect taxes on imports; (3) exemptions from payment of taxes on dividends; and (4) exemptions from payment of taxes on royalties paid to non-resident persons or companies.

We further verified that the GCEC does not build factories within the zone for lease to investors or provide land at nominal prices. All investors must build their own factories and no government financial assistance is provided for construction. Factory sites are available on a commercial basis.

The Department verified that the respondent for textile mill products was not eligible to receive these benefits because it is not located in the zone. Of the apparel firms who responded to our questionnaire, ten are located in the IPZ. These firms receive the following benefits: Corporate income tax exemptions or tax holidays, and import duty and indirect tax exemptions on machinery, equipment, and raw materials. We find no countervailable benefits with respect to duty and indirect tax exemptions on imported raw materials, because duty and indirect tax exemptions on raw materials that are physically incorporated in the final exported products are not considered bounties or grants under the Act. With respect to exemptions from payment of taxes on royalties paid to a non-resident person or company, there is no evidence on the record that apparel companies have used this program. With regard to exemptions from payment of taxes on dividends, all of the companies responding to the Department's questionnaire, including those located outside the IPZ, indicated that they did not benefit from any such exemptions. In addition, though several of the financial statements of these companies indicate that the companies did declare dividends during the review period, in only one instance did a statement indicate dividends that were "free of tax," and those dividends were distributed prior to the review period.

All of the firms we investigated are majority foreign-owned; some are 100 percent foreign-owned. In prior determinations, the Department has found that dividend tax exemptions for non-resident shareholders do not confer a countervailable benefit. See *Bicycle Tires and Tubes from Korea*, 48 FR 32205 (1983). If any new information on tax exemptions on dividends is received, we will analyze this program further in the administrative review under section 751 of the Act.

Regarding exemptions from corporate income taxes, we determine that these exemptions are countervailable because they apply solely to export income. To calculate the benefit from corporate income tax exemptions for the review period, the amount of tax savings received under this program was divided by the total value of exports in the review period to determine an estimated net bounty or grant of 1.93 *ad valorem* for apparel.

Exemption from import duties and indirect taxes on machinery and equipment confer a bounty or grant because they are available only to the exporting firms located in the IPZ. To calculate the benefits from exemptions on import duties, we divided the amount of import duties and indirect taxes exempted during the review period by the total value of exports. The estimated net bounty or grant is .08 percent *ad valorem* for apparel.

B. Export-Related Corporate Tax Exemptions for Non-Zone Companies

According to supplemental responses, companies not located in the IPZ, which are engaged in the manufacture and export of textile mill products and apparel, other than apparel under quota, are eligible for a five year tax holiday related to their export profits. In order to receive the tax holiday, an apparel company must apply and receive approval from the Minister of Finance Planning.

We verified that the respondent for textile mill products was not eligible to receive this benefit. Thus, for textile mill products, we determine that the program was not used.

With respect to apparel, we determine that these exemptions of corporate income tax are countervailable because the program is limited to exporters. To calculate the benefit from the exemptions of corporate income tax for the review period, the amount of tax savings received under this program was divided by the total value of exports in the review period to determine an estimated bounty or grant of .40 percent *ad valorem* for apparel.

C. Rebate of Import Duties and Indirect Taxes

The government of Sri Lanka operates two separate programs that rebate import duties and indirect taxes. One applies to textile mill products and the other to apparel. In the final determination on *Certain Apparel from Thailand*, published concurrently with this notice, we explain our test for determining whether rebate systems that are designed to rebate both prior stage indirect taxes and import duties confer bounties or grants upon exports. The test for such rebate systems is similar to the so-called linkage test for systems which purport to rebate prior-stage indirect taxes only.

Based on our investigations, we determine that the customs duty rebate program for apparel is designed to rebate import duties and indirect taxes. The program is administered by a Duty Rebate Committee. This committee sets rates on both a case-by-case basis and on a product-wide basis. The Minister of Finance must approve the rates set by the Duty Rebate Committee. Prior to establishing a rate, the committee collects company or industry cost data. When the duty or turnover tax rate changes, a study is prepared.

The last study on apparel was conducted in September 1983 following duty increases in February 1983. In the study, cost structure statements were collected from the manufacturers and exporters of various types of apparel. For each type of apparel a detailed analysis was completed that identified the company, individual export sales, the FOB value of the sales, the import duties paid on imported materials used in the exported merchandise, and the import duty as a percent of FOB value. For each type of apparel, the sum of import duties divided by the sum of FOB values provides the weighted-average rebate rate for import duties for that particular type of apparel. The sum of import duties paid on all seven types of apparel divided by the FOB values for all seven types of apparent equals the

weighted-average incidence of import duties on the FOB value of apparel.

The analyses for each type of apparel and for all apparel combined also included import duty and turnover tax incidence on locally purchased raw materials as well as a factor covering the cost of bank guarantees and a factor for incentives. The rebate rate that was approved on the basis of this study is equal to only the incidence of import duties on imported raw materials and the indirect taxes on locally purchased raw materials as a percentage of FOB value.

This study was subsequently reviewed by a consultant who analyzed the collective impact of import duties and turnover taxes paid on the raw materials and ancillaries (buttons, zippers, ribbon, etc.) and packing materials used in the manufacture of apparel for export. The consultant's report and the supporting analyses stated that the collective incidence of duties and turnover taxes imposed on imported raw materials and local and imported packing materials in garment exports equals 32.1 percent. The authorized rebate rate is 32 percent. The consultant also reviewed the rebate rates established for individual companies on a case-by-case basis. The actual incidence of import duties and turnover taxes correlates with the rebate received.

Based on the analysis outlined above, we determine the rebate program for apparel does not constitute an excessive remission of indirect taxes or import duties on exports of apparel. Therefore, we find the apparel rebate program not to be countervailable.

With regard to textile mill products, the government stated that the rebate program for textiles was designed to rebate customs duties and indirect taxes paid on items physically incorporated into exported products. However, the government was unable to provide any reliable documentation to support the level of rebate authorized.

Therefore, we determine the government of Sri Lanka provides an excessive rebate on exports of certain textile mill products. The authorized rebate for textile mill products is 15 percent of the F.O.B. value of exported textile mill products. We verified however, that the textile company actually receives only 5 percent of the F.O.B. value of the exported good. Accordingly, the estimated net bounty or grant is 5 percent *ad valorem* for certain textile mill products.

D. Export Development Board

The Export Development Act No. of May 1979 created the Sri Lanka Export Council of Ministers and established the Sri Lanka Export Development Board (EDB). The EDB provides tax-free export expansion grants to exporting firms with net foreign exchange earnings equal to 20 percent or more of export value, and export-marketing services and financial aid to export ventures.

The EDB created an original Export Expansion Grant Scheme in 1981, and devised another Export Expansion Grant Scheme in 1983. Through this Scheme, firms may apply for expansion grants to be used for export-oriented projects. The Export Expansion Grant Scheme is funded by the Export Development Fund (EDF), which is administered by the EDB. We verified that only producers and exporters of apparel received export expansion grants.

Because receipt of the export expansion grants is contingent upon exportation, they confer a bounty or grant on exports. To calculate the benefit from the export expansion grants, we used the grant methodology outlined in the Subsidies Appendix and found an estimated net bounty or grant to be .38 percent *ad valorem* for apparel.

The EDB also has the authority to assist firms with export marketing by sponsoring participating in international trade fairs and trade missions abroad. However, we verified that the EDB has not provided any such sponsorship to exporters of the subject merchandise to the United States during the review period. We also verified that the EDB has not provided any financial aid to export ventures for producers and exporters of the subject merchandise during the review period.

E. Short-Term Working Capital Loans for Exporters

Short-term working capital loans are available to exporters under the pre-shipment export refinancing program.Commercial banks determine which loans will be submitted to the Central Bank of Sri Lanka for refinancing. The amount of refinancing available from each individual commercial bank is subject to aggregate limits established by the Central Bank.

The Department verified that only exporters of apparel receive such refinancing. Because the refinancing is available only for export loans, we determine that this program confers a bounty or grant on exports to the extent that these loans are made at preferential rates. As specified in the Subsidies Appendix, the benchmark rate for short-term export loans is the national average commercial interest rate for short-term financing. For the preliminary determinations, the Government of Sri Lanka provided the weighted-average short-term lending rates of commercial banks published in the "Central Bank Annual Surveys of Bank Deposits and Advances." Because this benchmark rate included the export loans in question, the Department requested and received from the Central Bank of Sri Lanka interest rates excluding the refinanced loans. Because this benchmark rate is higher than the rates on the pre-shipment export loans, we determine that these loans confer bounties or grants on the products under investigation for apparel producers. Applying this benchmark rate we calculate a bounty or grant of .27 percent *ad valorem* for apparel.

II. Programs Determined Not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel under the following program.

A. Textile Self-Sufficiency Program

Petitioners alleged that the government of Sri Lanka provides the producers and exporters of the subject merchandise with the following benefits under a textile self-sufficiency program: Modernization projects for mills that produce fabrics and man-made fiber textile products, construction of new mills and assistance to the powerloom sector. Based on the responses and our verification, we determine that the government of Sri Lanka does not administer a textile self-sufficiency program. The government, through the Ministry of Textile Industries, owns a number of textile mills engaged in the production and sale of cotton and synthetic textile products; however, none of the output of these mills is exported to the United States. We verified that only one of the producers and exporters selected to respond to our questionnaire purchased the output of government-owned mills. The prices paid for the products were comparable to private mill prices.

In addition to owning certain textile mills, the government of Sri Lanka operates the State Trading Corporation of Sri Lanka, which is called Salusala. Salusala was established to import textile products and distribute them in the local market. The company also purchases from local mills. Salusala does not purchase from government-owned mills and it sells all merchandise at market prices. Salusala did not export to the U.S. during the review period.

The responses indicated, and the Department verified, that private

companies exporting to the U.S. during 1983 have never received government assistance directed at improving or constructing new ones.

Based on our review of the information on the record to date, we determine that no countervailable benefits are being provided to the selected producers and exporters of the subject merchandise through government-owned mills or through Salusala and that the government has not provided any assistance to producers and exporters for improvement of existing mills or construction of new mills.

III. Programs Determined Not To Be Used

We determined that manufacturers, producers or exporters in Sri Lanka of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation.

Medium- and Long-Term Credit Fund

The Central Bank of Sri Lanka provides medium- and long-term refinancing for export-related investment.

The refinancing program for medium- and long-term loans is operated by the Central Bank of Sri Lanka through the development and commercial banks. Development and commercial banks may apply for refinancing of medium- and long-term loans for export-related investments under the Government's Medium- and Long-Term Credit Fund (MLCF) program. The Central bank conducts its own independent evaluation of each loan application before refinancing the loan. Even if the loan is refinanced by the Central Bank, the risk of default is borne by the commercial bank.

Neither the textile mill products producer nor the apparel producers received any medium- and long-term loans under the MLCF program. Therefore, we determine that the MLCF program was not used.

Petitioners Comments

Comment 1: In their prehearing brief, Petitioners asked that the Department investigate whether textile and apparel producers located outside of the IPZ benefit from corporate income tax exemptions and other benefits such as duty exemptions on machinery and equipment similar to those benefits provided to companies located in the zone.

DOC Position: The Department has addressed the issue of export-related tax exemptions in the section of the notice "Export-Related Corporate Tax Exemptions for Non-Zone Companies." With regard to duty exemptions on machinery and equipment, there is no evidence on record that companies located outside the zone are entitled to such duty exemptions.

Comment 2: Petitioners argue that textile and apparel producers located both in and out of the IPZ receive countervailable benefits through the tax-exempt status of their dividends.

DOC Position: The Department has addressed this issue in the notice. Refer to the section, of the notice "Investment Promotion Zone".

Comment 3: Petitioners argue that the benchmark used in calculating the benefit from pre-shipment export financing loans in the preliminary determination included preferential export financing. Petitioners contend that the Department should use a benchmark that has the preferential rates factored out.

DOC Position: For these final determinations, the Department has used a benchmark from which refinanced export loans have been excluded.

Comment 4: Petitioners argue that textile and apparel producers located outside of the zone may benefit from import duty rebates in excess of the duties paid on goods physically incorporated in exported products.

DOC Position: The Department has addressed this issue in the notice. Refer to section of the notice "Rebater of Import Duties and Indirect Taxes".

Comment 5: Petitioners argue that the Department should find financing received through Foreign Currency Banking Units (FCBU's) to be countervailable. They contend that because the interest rates charged by FCBU's are only one or two points above the London InterBank Offered Rate (LIBOR), and are only available to Investment Promotion Zone (IPZ) companies, that FCBU loans are preferential in nature.

DOC Position: The Department does not consider FCBU loans to be countervailable. FCBU's provide the only banking services available to companies in the IPZ. Since IPZ companies do not have access to the domestic banking system, these units constitute an alternative banking system designed for the IPZ companies. FCBU loans are in dollars and the interest rates charged. 1.5 to 2 points above LIBOR, are comparable to commercial rates on foreign currency loans outside the IPZ.

Comment 6: Petitioners assert that there is no basis for excluding inspectors' gloves or cotton work gloves from this investigation. Petitioners submit that while there may be numerous types of gloves, and while some may be more suitable for certain tasks than others, there is no justification for breaking down the category of gloves into more than one like product. Petitioners rely on a 1978 International Trade Commission investigation of Certain Gloves from the People's Republic of China (Inv. No. TA-406–1, U.S.I.T.C. Pub. No. 867 (March, 1978) to support their assertion that all gloves are produced by a single glove industry.

DOC Position: While we agree with petitioners with regard to cotton work gloves because it appears that union workers do produce cotton work gloves, we disagree that petitioners have standing with regard to lightweight disposable cotton inspectors' gloves. As explained in this notice, inspectors' gloves have different physicial characteristics and uses from other cotton work gloves, and consumer expectations differ to the extent that there is no head-to-head competition between inspectors' gloves and other types of work gloves. While it might be argued that all gloves have similar uses and physical characteristics in that all are designed to cover the hands, we believe that such a broad interpretation of "like product" would allow imposition of countervailing duties on particular products when a petitioning domestic producer is not adversely affected by imports of those products. For example, we do not believe that a domestic producer of heavy-gauge welder's gloves could properly petition for imposition of countervailing duties on imports of knitted children's gloves on the theory that all gloves are one "like product". It is not unreasonable to posit that the "like product" definition should not be interpreted so broadly as to permit the imposition of countervailing duties on a product where the petitioner does not produce a competing product, especially where, as here, a major domestic producer of an identical product opposes that petition. Further, we do not believe that the 1978 ITC report is dispositive of the issues in this case. The ITC investigation was conducted pursuant to a different law; i.e., section 406 of the Trade Act of 1974. That law does not use the phrase "like product." Moreover, the specific "like product" issue could not have been reached in that case, especially as respondents assert that there were no imports of inspectors' gloves from China during the period covered by the ITC investigation. The ITC acknowledged that "several distinct types" of gloves, including inspectors' gloves are

produced "by the domestic industry." However, even in current antidumping and countervailing duty investigations, the ITC is permitted in some cases to find that there is only one domestic industry for injury purposes, although there may be a number of "like products." *See* 19 U.S.C. 1677(4)(D). Thus, the ITC determination of "like product" for injury purposes may not coincide with our determination of "like product" for purposes of determining standing. The record in this case supports our conclusion that the domestic workers producting inspectors' gloves are not union members, and thus, the unions have no standing as interested parties with regard to this product.

Respondents' Comments

Comment 1: Respondents argue that both justice and sound policy require that if it is determined that a firm that made a timely request for exclusion from any affirmative determination was subsequently found to have received benefits that exceed *de minimis* levels, then that firm's data should be utilized in the calculation of country-wide benefits.

DOC Position: Early on in these investigations, the Department informed both petitioners and respondents that our calculation of country-wide benefits would be based on our investigation of firms that account for 60 percent of the exports of the subject merchandise to the United States, and that that 60 percent would not include firms that had filed a timely request for exclusion. We believe that our methodology represents just and sound policy.

Comment 2: Respondents argue that the Department should reserve its preliminary determination and rescind its initiation of investigation with respect to textile mill products. They argue that textile companies in Sri Lanka do not receive countervailable benefits under any programs alleaged by the petitioners. Further, they assert that the petitioners lack standing with respect to textile products exported from Sri Lanka, because all their products are handloomed products, and are thus not "like" other textile mill products. Respondents add that handloom textile products do not compete with textile mill products produced in the United States.

DOC Position: In determining whether products are "like products", the Department examines those products in terms of competitive factors in the U.S. market, including the general physical characteristics and intended use of the products, the channels of trade in which the products are sold, and the ultimate use and cost of the products.

Respondents did not provide sufficient information for any such "like product" analysis. Respondents simply assert that because textile mill products in Sri Lanka are loomed on rudimentary machines, they are categorically not "like" domestic textile mill products.

Based on the information in the record we are unable to find that there are no domestic textile mill products that are "like, or in absence of like, most similar in characteristics and use with" textile mill products produced in Sri Lanka.

Comment 3: Star Garments, Ltd., an exporter of apparel from Sri Lanka, argues that it should be excluded from the Department's determination because it does not receive any benefits under any program found by the Department to confer a bounty or grant.

DOC Position: Under our regulations, (19 CFR 355.58) individual companies may seek, on a timely basis, exclusions from a countervailing duty order. Because Star Garments did not file request for exclusion within 30 days after the date of publication of the notice of initiation, we consider their request untimely and we have not excluded this firm from countervailing duty order.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials and on-site inspection of the records and operation for the companies exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)) we held a public hearing on February 15, 1985. Written views have been received and considered in reaching these final determinations.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative determinations shall remain in effect except with respect to cotton inspectors' gloves and apparel products produced and exported by Texwood Industries, until further notice. The estimated net bounty or grant for duty deposit purposes is 5 percent *ad valorem* for certain textile mill products and 3.06 percent *ad valorem* for apparel.

In accordance with section 706(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise from Sri Lanka which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to sections 303, 705 and 706 of the Act (19 U.S.C. 1303, 1671d, 1671e).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985.

Appendix.—List of TSUSA Codes Which Covered SRI Lanka's Exports of Certain Textile Mill Products and Apparel to the United States in 1983

Textile Furnishings						
363.0520	363.3040	363.5015	363.5115	363.5130	364.1800	365.7865
366.1855	366.1880	366.2740	366.2760	336.2780	366.4660	366.7925
367.6040						
Miscellaneous						
		385.5300		386.5045		
B. Apparel						
Apparel						
376.2430	376.2830	376.5408	376.5609	376.5612	376.5630	379.0211
379.0212	379.0615	379.0620	379.0630	379.0640	379.0642	379.0646
379.2320	379.2350	379.3110	379.3120	379.3905	379.4020	379.4030
379.4050	379.4060	379.4140	379.4330	379.4610	379.4650	379.4660
379.4670	379.5220	379.5520	379.5530	379.5535	379.5540	379.5545
379.5550	379.5560	379.5565	379.6210	379.6220	379.6230	379.6240
379.6250	379.6260	379.6270	379.6448	379.6470	379.7250	379.7620
379.7630	379.8340	379.8735	379.9030	379.9035	379.9220	379.9520
379.9525	379.9530	379.9540	379.9550	379.9555	379.9575	379.9580

Appendix.—List of TSUSA Codes Which Covered SRI Lanka's Exports of Certain Textile Mill Products and Apparel to the United States in 1983— Continued

379.9585	379.9643	379.9650	383.0213	383.0219	383.0222	383.0236
383.0262	383.0264	383.0266	383.0268	383.0505	383.0506	383.0507
383.0509	383.0606	383.0608	383.0612	383.0614	383.0616	383.0618
383.0622	383.0631	383.0638	383.0640	383.0805	383.0820	383.0841
383.0850	383.0860	383.2005	383.2052	383.2205	383.2225	383.2305
383.2340	383.2352	383.2360	383.2706	383.2710	383.2712	383.2714
383.2715	383.2716	383.2718	383.2721	383.2722	383.2724	383.2726
383.2728	383.2730	383.2732	383.2736	383.2738	383.2750	383.2820
383.2826	383.2828	383.2835	383.3040	383.3037	383.3038	383.3200
383.3405	383.3415	383.3435	383.3445	383.3446	383.3448	383.3450
383.3460	383.3465	383.3466	383.3770	383.4015	383.4300	383.4702
383.4704	383.4705	383.4709	383.4711	383.4716	383.4717	383.4718
383.4720	383.4721	383.4724	383.4726	383.4747	383.4748	383.4750
383.4753	383.4754	383.4756	383.4761	383.4762	383.4764	383.4765
383.4818	383.4825	383.5027	383.5028	383.5029	383.5031	383.5033
383.5034	383.5041	383.5043	383.5051	383.5078	383.5082	383.5086
383.5088	383.5090	383.5304	383.5830	383.6345	383.6360	383.6371
383.6632	383.6634	383.6636	383.6638	383.6642	383.6644	383.6646
383.6647	383.6648	383.7210	383.7522	383.7532	383.7534	383.7536
383.7538	383.7542	383.7544	383.7546	383.7548	383.7552	383.7554
383.7556	383.7708	383.8002	383.8012	383.8014	383.8017	383.8019
383.8024	383.8026	383.8045	383.8073	383.8110	383.8114	383.8145
383.8162	383.8164	383.8620	383.8665	383.9010	383.9015	383.9020
383.9025	383.9027	383.9029	383.9032	383.9035	383.9040	383.9042
383.9050	383.9051	383.9056	383.9057	383.9058	383.9059	383.9061
383.9062	383.9063	383.9064	383.9066	383.9068	383.9069	383.9070
383.9072	383.9074	383.9076	383.9225	383.9235	383.9245	383.9270
383.9273	383.9276	383.9290	383.9291			

Gloves

704.4010	704.4025.	704.4504	704.4506	704.4508	704.5015	704.8520
704.8550	707.9000					

Luggage and Hand Bags

706.3640 706.4111

[FR Doc. 85-5822 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-05-M

[C-549-401]

Certain Textile Mill Products From Thailand; Suspension of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Suspension of Countervailing Duty Investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving certain textile mill products from Thailand. The basis for the suspension is an agreement to offset or eliminate completely all benefits provided by the government of Thailand which we find to constitute bounties or grants on exports of certain textile mill products to the United States.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Barbarba E. Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, Telephone: (202) 377-1785 or (202) 377-2786.

SUPPLEMENTARY INFORMATION: On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Thailand of certain textile and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation and, on August 15, 1984, we initiated such an investigation (49 FR 32639). We stated that we expected to issue a preliminary determination by October 15, 1984. This investigation is one of those initiated by the Department under the title "Certain Textiles and Textile Products from Thailand." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of our investigations to "Certain Textile Mill Products and Apparel from Thailand." This suspension agreement pertains only to certain textile mill products. Our final determination on "Certain Apparel from Thailand" is published elsewhere in this issue of the **Federal Register**. On September 21, 1984, we determined that this investigation is "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determination by 65 days until December 17, 1984 (49 FR 40198).

Since Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, section 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of this investigation, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Thailand in Washington, D.C. on August 27, 1984. Based on the responses to the preliminary questionnaire, we identified the three textile mill products producers and exporters who accounted for at least 60 percent of the value of certain textile mill products exported to the United States. In addition, we requested a response from the trading company that exported the subject merchandise manufactured by the selected producers to the United States. On October 25, 1984, we presented the detailed government and company questionnaires to the government of Thailand in Washington, D.C. The responses to our detailed questionnaries were received on November 27, November 30, December 3 and December 7, 1984.

We issued an affirmative preliminary determination on December 21, 1984 (49 FR 49661). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act are being provided to manufacturers, producers or exporters in Thailand of certain textile mill products. We preliminarily determined that the net bounty or grant was 6.01 percent *ad valorem* for certain textile mill products. The programs preliminarily determined to bestow countervailable benefits were:

- Export packing credits.
- Rediscounts of industrial bills.
- Electricity discounts for exporters.
- Tax certificates for export.
- Assistance to trading companies.

We directed the U.S. Customs Service to suspend liquidation of all entries of the products under investigation which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on these products in an amount equal to the estimated net bounty or grant. We conducted verification of the questionnaire responses from the government and companies in Thailand from January 9 through January 22, 1985.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on February 12, 1985. Both petitioners and respondents submitted comments on this proceeding.

On February 1, 1985, we initiated a proposed suspension agreement with respect to certain textile mill products. Petitioners have had 30 days in which to submit comments regarding the proposed suspension agreement on certain textile mill products. Their comments have been received and taken into consideration.

Certain respondents in the "Certain Textile Mill Products and Apparel" investigations have raised the issue as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaries and our investigation of only those companies that account for sixty percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determinations on "Certain Textile Mill Products and Apparel from Malaysia," published concurrently with this notice. See that notice for our positions on these issues.

Scope of Investigation

The products covered by this investigation are certain textile mill products which are described in Appendix II to the suspension agreement annexed to this notice.

Changes Since the Preliminary Determination

A. Financing From the Industrial Finance Corporation of Thailand

Petitioners alleged that producers and exporters of the subject merchandise receive countervailable below market financing from the Industrial Finance Corporation of Thailand (IFCT). We verified that the IFCT is a development financing institution which provides long- and medium-term loans to finance development projects and promote industrial enterprises in the private sector.

We verified that IFCT loans are not limited to a specific enterprise or industry, or group of enterprises or industries, and are, therefore, not countervailable. Moreover, we verified that the textile industry has not received a disproportionate share of IFCT loans. While the IFCT's criteria for deciding whether to fund a project include its impact on the balance of payments and whether it is export-oriented, these constitute only a few of the criteria used by the IFCT in evaluating a loan. We also are convinced that the IFCT lending decisions approximate those of a commercial bank and that the commercial and financial feasibility of the project are paramount.

The IFCT also provides short-term loans to banks, financial institutions and limited companies. Limited companies can include trading companies. The trading company exporting textile mill products responding to our questionnaire received short-term IFCT loans. These loans, which are very short-term, are placed in the market to earn the IFCT interest on its "idle" funds. Idle funds are those funds which the IFCT has received from various funding sources like the Asian Development Bank but which have not yet been lent out to specific projects. These loans are comparable to "call-money" loans and we verified that the interest rates charged are comparable to published commercial call-money rates.

B. Duty Drawback or Exemption

Petitioners alleged that producers and exporters of the products under investigation are allowed drawback or exemptions from import duties, business taxes and municipal taxes on imports used in export production.

Under the Thai Customs Act (B.E. 2482), materials that are imported and that are used in the production, mixing, assembling, or packaging of an exported product are eligible to receive either a duty exemption or a duty drawback. In addition, under provisions established in B.E. 2469, companies can import materials under bond and obtain a bank guarantee for the duties, which is deposited with the Customs Service. The bank guarantee for the duties is returned as a drawback when the company provides documentation showing that the imported material was used in the production, mixing, assembly, or packaging of the exported finished good.

During verification, we reviewed the operation of the duty drawback system. To be eligible for duty drawback, a company must apply to the Customs Department. The company must submit, for Customs approval, the production formula for each exported item. The formula must identify the imported and local raw material inputs, including packing materials, and must calculate the input used per unit of output. The Customs Department investigates the formula and may adjust the formula based on its findings. Once the formula is approved, the company can apply to receive drawback. The Customs Department maintains a computerized system to keep track of each imported input that is eligible for drawback. When the products incorporating that imported input are exported, the Customs Department draws back the corresponding amount of duties and indirect taxes based on the amount of imports that were used in each export sale. If after six months, the imported input is not entirely used in export sales, the company must pay the balance of duties due on that import.

The duty exemption system, which can be used by trading companies, operates in a similar manner. An exemption is not granted until Customs approves the production formula and the exporter shows that the import is used in its exports. We verified that neither the imports of machinery and equipment nor imports used in the production process that are not physically incorporated are eligible for exemption or drawback, and that the amount of drawback does not exceed the duties originally paid. Therefore, we determine that the duty drawback and exemption systems do not confer a bounty or grant on the subject merchandise.

C. Rediscount of Industrial Bills

We verified that our understanding of the amount of discount granted to different industries, as stated in the preliminary determination in this case (49 FR 49661), was correct. We learned, however, that the textile producers did not receive a disproportionate share of

total rediscounts under the entire program and, thus, there is no *de facto* limitation in the way the program operates. However, we have determined that the basic industry category in which textile producers are classified is limited to a specific group of industries and that the export category is tied to export performance. On the other hand, we verified that Article 5(e) in the Bank of Thailand's "Regulations Governing the Rediscount of Promissory Notes Arising from Industrial Undertakings" is not limited to a specific enterprise or industry, or group of enterprises or industries, because any firm which is directly involved in the production process and which uses local raw material and local expenditures equal to no less than 50 percent of the total cost or in which labor is the main factor of production is eligible to receive benefits under this article. Therefore, the suspension agreement requires that the producers and exporters renounce all benefits beyond what they might receive under Article 5(e).

Petitioners' Comments

Comment 1: The draft suspension agreement is not signed by exporters of substantially all of each of the distinct "like products" covered by the investigation as required by section 704(b) of the Act. Since the Department determined that there are many different textile "like products" in this investigation, the suspension agreement must cover exporters who account for "substantially all" of each distinct "like product" covered by the investigation.

DOC Postion: As stated in our discussion of our selection of companies in the final determinations of "Certain Textile Mill Products and Apparel from Malaysia, "published concurrently with this notice, "like product" and "class or kind" of merchandise are different terms performing different functions. Section 704(b) of the Act requires that "exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation" sign a suspension agreement, and makes no reference to "like product." The suspension agreement in this case covers the exporters accounting for over 85 percent of the imported textile mill products under investigation (i.e., the " class or kind" of merchandise), as the statute and § 355.31(c) of our regulations (19 CFR 353.31(c)) require.

Comment 2: There is no satisfactory evidence in the record that the signatory exporters account for "substantially all of the imports" as required by section 704(b) of the Act.

DOC Position: We disagree. Information in the record shows that the signatories to the agreement exported over 90 percent of the products covered by the agreement in January through August, 1984, the most recent representative period.

Comment 3: The proposed agreement would violate the requirements of section 704(i)(1) of the Act regarding action by the Department if the signatory exporters cease at any time to represent 85 percent of exports. The legislative history of the Act (H.R. Rep. No. 317, 96th Cong., 1st Sess. 54 (1979)) is clear that the suspension will cease to have effect if exporters party to the agreement represent at any time less than 85 percent of the imports of the merchandise.

DOC Position: We disagree that the wording in the statute, regulations, or legislative history means that the signatories must account for at least 85 percent of imports at each moment in time during the life of the agreement. Logic dictates that the calculation as to whether signatories account for this amount must be done using representative periods of time, not individual moments in time.

We agree, however, that signatory exporters must account for at least 85 percent of imports of the United States for each representative period throughout the life of the agreement. Thus, we have amended section III.6 of the agreement to take this comment into consideration. In addition, we note that, if the signatories to the agreement fall below 85 percent of exports to the United States, the Department may attempt to negotiate with additional producers or exporters or may terminate the agreement. The agreement also has been amended to provide that the government of Thailand agrees to inform the Department should it learn of any new exporter of the subject products to the United States. If we learn of new shippers who are not large enough to cause the signatories to the agreement to fall below 85 percent of imports to the United States of the subject products, the Department still may decide that it should negotiate with them and amend the agreement to include them.

Comment 4: If the Department finds that imports from signatories have fallen below 85 percent for any month, the suspension agreement should cease to have effect.

DOC Position: The signatories to the agreement have agreed to provide us with quarterly value and volume of exports to the United States. The Department can check these numbers against U.S. Customs import statistics to monitor the percent of imports that signatories to the agreement represent. We do not believe that monitoring on a monthly basis is practicable or required by the statute. Moreover, because we have the authority to order suspension of liquidation as of 90 days before the notice of suspension is published if we find the agreement no longer meets the requirements of section 704(b) of the Act, we do not believe monthly monitoring is necessary.

Comment 5: The exporters do not agree, as required by section 704(b) of the Act, to eliminate the subsidy completely with respect to the subject merchandise exported to the United States. In the proposed agreement the exporters only agree that they will not receive subsidies on their export shipments, leaving open the possibility that they may export the subject products manufactured by others who have received countervailable subsidies.

DOC Position: The suspension agreement pertains to both producers and exporters of the subject products whose merchandise is exported to the United States directly or indirectly. Thus, both producers and exporters agree that they will not receive subsidies on their merchandise which is exported to the United States. The Department believes that the agreement's language is unambiguous. To clarify any possible misunderstanding, however, we hereby state that we intend the language in the ageement to mean that there can be no countervailable subsidy on the subject products exported to the United States. If we find that the subject products entering the United States have benefitted from a countervailable subsidy, we will consider the agreement to have been violated.

Comment 6: The proposed agreement fails to address benefits received under several important programs covered by the Department's initiation, such as financing from the Industrial Finance Corporation of Thailand (IFCT), Customs Department exemptions or duty drawback under the Thai Customs Act, and the rebate of indirect taxes through the flat tax program.

DOC Position: The Department has found that IFCT loans are not countervailable (see the "Changes Since the Preliminary Determination" section of this notice). We verified that the duty exemptions and duty drawback are given only for physically incorporated inputs in the case of textile mill products and are not excessive; thus, they do not provide countervailable subsidies. We have amended the suspension agreement to provide that the

signatories will not apply for or receive the rebate of indirect taxes through the flat tax program on exports of the subject merchandise to the United States. At verification, the government of Thailand said the flat tax rebate program was scheduled to be phased out as of March 31, 1985.

Comment 7: The agreement improperly allows, and anticipates, that the exporters will continue to receive subsidies under the tax certificate rebate or indirect taxes program. Thus, it does not eliminate or offset completely the amount of the net subsidy, as required by section 704(b) of the Act.

DOC Position: We believe that section II.c. is clearly worded when it states that "producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Act on Tax and Duty Compensation of Exported Goods Produced in the Kingdom * * * on shipments of the subject products exported * * * to the United States in excess of the import duties and indirect taxes paid on inputs physically incorporated into the exported products."

We have verified that the Thai system of rebating indirect taxes (including import duties) through tax certificates under the above-mentioned act satisfies our test regarding the rebate of indirect taxes. This test is fully described in our final determination on "Certain Apparel from Thailand" published elsewhere in this issue of the **Federal Register.** We recognize that there is a difference between the rebate payments on the subject products and the indirect tax incidence borne by the inputs which are physically incorporated in the subject products. The latter is the only amount we allow to be rebated for subsidy/countervailing duty purposes and we have explained the difference to the government of Thailand. We also have provided an example of our calculation of the appropriate amount of indirect tax rebate in Thailand; (see our final determination on "Certain Apparel from Thailand" published elsewhere in this issue of the **Federal Register**). Therefore, we believe that the Thai government has sufficient knowledge of our method of calculation regardiang this program so that our method of calculation regarding this program so that, if we find more than an inconsequential amount of overrebate of indirect taxes in any review of this suspension agreement, we will consider the agreement to have been violated.

Due to the nature of indirect tax rebate calculations, which are based on production models which change over time, we believe it is appropriate to take into consideration the possibility that there may be at some time a slight overrebate. Accordingly, we believe that there should be a provision for offsetting such an inconsequential overrebate. This will ensure that there is no net benefit to the subject products while preventing an inconsequential overrebate from forcing the cancellation of the entire suspension agreement.

In order to monitor this program in the agreement, we have added a requirement that the government of Thailand will notify us of any changes that have taken effect in the rebate rates for the subject products. In this manner, we will be able to confirm that no overrebates are received, as petitioners request we do.

Comment 8: The proposed agreement assumes, without adequate basis in the record, that benefits under Article 5(e) of the rediscounting of industrial bills program are generally available.

DOC Position: The initialed suspension agreement ws based on verified information that the Department possessed, but which had not been released to petitioners at the time of the initialling. This information has since been made available to petitioners. To reiterate, at verification we learned that numerous different enterprises and industries had received benefits under Article 5(e). Therefore, benefits under this article are not "provided or required by government action to a specific enterprise or industry, or group of enterprises or industries," and are not countervailable.

Comment 9: Several provisions in the proposed agreement regarding the use of certain financing on "commercial (non-preferential)" terms are so vague that they are susceptible to evasion or misunderstanding and would be practically impossible to enforce effectively. The agreement should be revised to eliminate these vague provisions, or scrapped altogether.

DOC Position: We believe that the wording in the suspension agreement is appropriate. The Department, not the producers and exporters or the government of Thailand, will decide, for purposes of this suspended countervailing duty investigation, whether loans have been granted at commercial (non-preferential) interest rates and terms in the context of an administrative review. We believe that these words are the clearest financial terms of art that we could have used.

Taking into consideration the petitioners' point, however, we have placed in the record a memorandum explaining in greater detail some of the parameters of what we intend by using the terms commercial and non-preferential. We have also given an indication of what we believe are commercial interest rates and terms through our choice of a benchmark in the final determination in the countervailing duty investigation on apparel from Thailand.

We believe it would have been inappropriate to specify a particular interest rate since that would presumably fluctuate over time. We also believe it would be inappropriate to forbid the producers and exporters access to any Bank of Thailand financing as long as such financing was not countervailable. As stated above, however, if the producers and exporters use such funds and we find them preferential (non-commercial), we will consider the agreement to have been violated.

Comment 10: The sections of the proposed agreement which attempt to cover additional countervailable subsidies not specifically dealt with elsewhere are insufficiently rigorous. The producers and exporters should be required to notify the Department of any new benefit that conceivably might be countervailable. They should not be able to take any benefit before either the Department has notified them that the benefit is not likely to be countervailable or 60 days have passed after the notification by the signatory to the Department. In addition, the provisions should not be limited to new benefits, but should include all programs except those explicitly covered in the agreement or found in a final determination in this proceeding to be not countervailable. Finally, the confusion in section II.f over "benefits" and "bounties or grants" should be resolved.

DOC Position: We disagree with the petitioners' first and second points. We believe that the wording in section II.g, "likely to be found countervailable," is sufficiently strong, and that the revision suggested by petitioners, ("conceivably might be regarded to be countervailable under the Act") is too tenuous. In any case, the burden is on the respondents to notify us of any potential problem before it arises. The meaning in II.g is clear: the signatories may not receive any "bounties or grants," as used in section 303 of the Act. As to petitioners' second point, we believe that the 30 days of prior notice in section II.g of the agreement allows the Department sufficient time to monitor this agreement adequately. We believe the petitioners' third point is moot; we have covered in section II all programs that we investigated that we believe may provide bounties or grants. The

programs that we have found do not confer bounties or grants are mentioned in the section of this notice entitled "Changes Since the Preliminary." We agree with petitioners' fourth point and have amended the agreement to include this.

Comment 11: The proposed agreement fails to deal adequately with transshipments. The proposed agreement should require the signatories to notify the Department when anyone transships the subject products to the United States. If the signatories are not in a position to do this, effective monitoring of the agreement is not practicable, as required by section 704(d)(1)(B) of the Act.

DOC Position: We disagree. If a signatory transships to the United States, it must notify the Department. If anyone else transships the subject products to the United States, the merchandise should be labelled as a product of Thailand and the Department will then know of the shipment. If it is mislabelled, the U.S. Customs Service is the proper authority to conduct an investigation.

Comment 12: The proposed agreement is procedurally out of time. Since an investigation must be suspended before a final determination, a copy of the proposed suspension agreement, and an explanation of how it will be carried out and enforced, must be provided 30 days before a final determination. Here the Department provided a copy of the proposed agreement on the thirtieth day before the date of the final determination, but provided no consultation and explanation until 9 days later.

DOC Position: The Department notified petitioners of the proposed suspension agreement, stating that we intended to sign the agreement in 30 days and inviting their comments on the proposed agreement. We offered petitioners a copy of the agreement and a full explanation on February 1, 1985, the date the agreement was initialled. However, they declined, saying it could wait. Petitioners picked up a copy of the agreement on February 4 and we held a lengthy meeting on the date that petitioners requested, to allow the petitioners sufficent time to read the document and develop questions in order to facilitate their meaningful participation in this case.

Comment 13: Petitioners have been denied a meaningful opportunity to comment on the proposed agreement because pertinent information in the record has been improperly withheld. The Department is withholding new information submitted during verification from release to petitioners' counsel under an administrative protective order (APO).

DOC Position: The Department disagrees. We have released the business proprietary version of the verification reports to petitioners' counsel under APO. The only information in the record to which petitioners' counsel has not had access are the non-public exhibits to the verification report, which we do not release in any event. These exhibits consist of photocopied documents from company and government records which we examined during the verification. Our findings, based on the records, are included in the verification report. The exhibits are simply back-up documentation for the report and are gathered to aid the Department's analysts in remembering what they examined.

Comment 14: The proposed agreement is not in the public interest and not in the interest of the domestic industry. The proposed agreement will not be as effective as a countervailable foreign subsidies on Thai exports of textiles. In addition, the Department has made no finding that the proposed agreement is in the interest of the domestic industry.

DOC Position: We disagree. We believe that the proposed agreement has the same effect as that of a countervailing duty order in this case—eliminating bounties or grants on the exports of the products under investigation from Tailand to the United States. Thus, the domestic industry is receiving the same relief that it would receive were a counternvailing duty order issued. In addition, the public interest is served because trade in these products can flow without the uncertainty involved in a countervailing duty order when final duties are assessed some time after the goods are entered and sold. In addition, the Department believes that this suspension agreement, based on the renunciation of bounties or grants, serves the public interest by removing these trade distorting measures on the subject products from the U.S. market. We also note that petitioners are misguided in their assertion that the agreement must be more beneficial to the U.S. industry than an order. That requirement is only applicable to suspension agreements under section 704(c). This agreement is pursuant to section 704(c).

Comment 15: Effective monitoring of the proposed agreement is not practicable, which section 704(d)(1)(B) of the Act requires. The proposed agreement does not have adequate provisions for monitoring transshipments, market share of the signatories, the segregation or allocation of subsidy benefits, the actual incidence of subsidy benefits received, or the receipt of new benefits.

DOC Position: We disagree. These issues are discussed in the comments and DOC positions above, and all these items are covered by the monitoring provisions of the agreement. In addition, we have made changes to strengthen the effectiveness of the provisions of the agreement on market share of the signatories, the actual incidence of subsidy benefit received, and the receipt of new benefits.

Comment 16: Petitioners have been prejudiced by the late release of business proprietary information to them.

DOC Response: We delayed the release of business proprietary information from the respondents to the petitioners until we received information from the petitioners confirming that they had standing to file this case. While there was still the question whether the petitioners had standing, we believed the balancing test in § 355.20(a)(3) of the regulations required us to maintain the confidentiality of the information.

Comment 17: The Department has refused, despite petitioners' requests, to investigate all of the programs covered by its initiation and, instead, has limited itself to benefits received by three textile firms, even though the Department was aware that other firms received different benefits and benefits under other programs. The suspension agreement, based on that "truncated" investigation, is inappropriately limited in scope.

DOC Position: The Department disagrees. We initiated the investigation on all programs alleged in the petition to confer bounties or grants on textiles in Thailand, except the Small Industry Finance Office (see the initiation notice, 49 FR 32639, for our explanation). The petitioners have not questioned, until now, our decision not to investigate this program. We did limit the investigation to the three firms which consitituted approximately 60 percent of exports of textile mill products to the United States and to the one trading company that exported the subject merchandise produced by these three firms. While we limited our investigation to these three

firms, we examined all alleged subsidy programs in Thailand. We listed in section II.a–f. of the agreement all programs which we found were used by the firms we investigated. In addition, we listed specifically in section II.i. those programs which seem, on their face, probably to constitute countervailable bounties or grants, even though they were not used by the firms we investigated. Finally, we believe the provisions in Section II. g. and h. adequately provide that producers and exporters of certain textile mill products from Thailand shipped to the United States will not receive any bounties or grants and will notify us before applying for any benefit likely to constitute such a bounty or grant. To reinforce the affirmative obligation of the signatories to notify us, the government of Thailand will also notify us if any signatory applies for any benefits mentioned in the agreement.

Suspension of Investigation

The Department has consulted with the petitioners and has considered their comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will offset completely the amount of the net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States, that the agreemnt can be monitored effectively and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed March 4, 1985, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption, of certain textile mill products from Thailand effective December 21, 1984, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination; Certain Textile Mill Products and Apparel from Thailand", 49 FR 49661, is hereby terminated. Any cash deposit on entries of certain textile mill products from Thailand pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the suspension agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act (19 U.S.C. 1671c(f)(1)(A)).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

March 4, 1985.

Suspension Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters, including trading companies, of certain textile mill products in Thailand listed in Appendix 1 hereto (hereinafter "the producers and exporters"), enter into the following Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Thailand agrees to take such steps as are necessary to ensure that the renunciation of benefits by the producers and exporters is effectively implemented and monitored. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on August 15, 1984 (49 FR 32,639) with respect to the textile mill products from Thailand subject to the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to the textile mill products described in Appendix 2 ("the subject products") exported directly or indirectly from Thailand to the United States.

II. Basis of the Agreement

The producers and exporters listed in Appendix 1, accounting for more than 85 percent of the total exports of the subject products from Thailand to the United States, agree as follows:

a. The producers and exporters will not apply for, or receive, any export credits (also known as export packing credits) under the Bank of Thailand facility permitting the rediscounting of promissory notes arising from shipments of the subject products exported, directly or indirectly, from Thailand to the United States, other than those offered at commercial rates and on commercial terms. Any export credit loan based on exports to the United States of the subject porducts outstanding as of the effective date of this Agreement shall be repaid, or refinanced at a commercial (non-preferential) interest rate and on commercial terms, by the original due date of the loan, or by the thirtieth day from the effective date of this Agreement, whichever comes first;

b. The producers and exporters will not apply for, or receive, any discount on electricity rates provided by the electricity authorities in Thailand (the Electricity Generating Authority of Thailand (EGAT), Metropolitan Electricity Authority (MEA) or Provincial Electricity Authority (PEA)) for shipments of the subject products exported, directly or indirectly, from Thailand to the United States;

c. The producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Act on Tax and Duty Compensation of Exported Goods Produced in the Kingdom or any other provision of law (such as duty drawback or exemptions) on shipments of the subject products exported, directly or indirectly, from Thailand to the United States in excess of the import duties and indirect taxes on items that are physically incorporated into the exported products. If necessary, the producers and exporters agree to repay to the Government, in an annual adjustment, any amount by which the tax certificates or other rebates, remissions or exemptions exceed the amount of indirect taxes and import duties on physically incorporated inputs. Such payment may be made in cash or by surrendering unused tax certificates. The annual adjustments shall be calculated as follows:

(i) Any amount of overrebate found by the Department to exist during the course of an administrative review of this Agreement under section 751 of the Act; plus

(ii) Interest on that amount, calculated in accordance with section 778(b) of the Act, from the date of issuance of the tax certificate or other rebate, remission or exemption, to the date of payment of the annual adjustment;

d. The producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions of indirect taxes on exports, directly or indirectly, from Thailand to the United States under "Announcement of the Ministry of Finance" No. Chor Phor 1/2514;

e. The producers and exporters will not apply for, or receive, the double deduction of foreign marketing expenses for income tax purposes or financing on concessionary terms from the Bank of Thailand on exports, directly or indirectly, from Thailand to the United States under Announcement of the Board of Investment No. 40/2521, or its successor. Any financing on concessionary terms arising from shipments of the subject product exported, directly or indirectly, from

Thailand to the United States which is outstanding as of the effective date of this Agreement shall be repaid, or refinanced at a commercial (non-preferential) interest rate and on commercial terms, by the original due date of the loan, or by the thirtieth day from the effective date of this Agreement, whichever comes first;

f. The producers and exporters will not apply for, or receive, any credits under the Bank of Thailand's Regulations Governing the Rediscount of Promissory Notes Arising From Industrial Undertakings, or its successor, beyond those existing in Article 5(e) of those regulations (which the Department determines are not limited to a specific enterprise or industry, or group of enterprises or industries). Any credit, beyond that allowable in Article 5(e), which pertains in any way to the production or exportation of the subject products or which was based on exports of the subject products and which is outstading as of the effective date of this Agreement shall be repaid, or refinanced at a commercial (non-preferential) interest rate and on commercial terms, by the original due date of the loan, or by the thirtieth day from the effective date of this Agreement, whichever comes first;

g. The producers and exporters agree that they will not apply for, or receive, any bounties or grants on shipments of the subject products exported, directly or indirectly, from Thailand to the United States which are countervailable under the Act. Bounties or grants on exports of the subject products to the United States are those which have been found countervailable or are likely to be found countervailable in any investigation or review under section 751 of the Act, including countervailable benefits which may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports;

h. The producers and exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a counter-vailable bounty or grant on shipments of the subject products exported, directly or indirectly, from Thailand to the United States, including countervailable benefits which may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports; and

i. The producers and exporters shall notify the Department in writing prior to making an application to locate in an Export Processing Zone and prior to applying for, or receiving, benefits under sections 35 and 36 of the Investment Promotion Act (or any announcements or regulations relating to sections 35 or 36) on shipments exported, directly or indirectly, from Thailand to the United States.

III. Monitoring of the Agreement

1. The producers and exporters agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of this Agreement.

2. Each producer or exporter will notify the Department if it:

a. Transships the subject products through third countries to the United States;

b. Alters its position with respect to any terms of the Agreement; or

c. Applies for, or receives, directly or indirectly, the benefits of the programs described in Section II for the manufacture or export of the subject products exported, directly or indirectly, from Thailand to the United States.

3. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III. 1 and 2, above.

4. The producers and exporters agree to permit such vertification and data collection as deemed necessary by the Department in order to monitor this Agreement.

5. The producers and exporters agree to provide to the Department, through the Thai Textile Manufacturers' Association, a periodic certification that they continue to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar guarter beginning with the quarter ending March 31, 1985.

6. The producers and exporters agree to provide to the Department, through the Thai Textile Manufacturers' Association, within 45 days from the end of each calendar quarter, beginning with the calendar quarter ending March 31, 1985, the value and volume of exports of the subject products to the United States by the producers and exporters.

IV. General Provisions

1. In entering into this Agreement, the producers and exporters do not admit that any of the programs investigated constitute countervailable benefits within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(i) shall apply if:

a. The producers and exporters withdraw from this Agreement; or

b. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. Additionally, should exports to the United States of the producers and exporters account for less than 85 percent of the subject products imported, directly or indirectly, into the United States from Thailand, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation or issue a countervailing duty order as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject products as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

4. If, pursuant to section 704(g) of the Act, the investigation is continued after the Notice of Suspension of Investigation, the application of this Agreement shall be consistent with the final determination issued in the continued investigation.

V. Undertaking by the Government of Thailand

1. In consideration of the foregoing Agreement between the producers and exporters of certain textile mill products in Thailand and the Department of Commerce, the Government of Thailand agrees to take such steps as are necessary to ensure that the renunciation of benefits by the producers and exporters in this Agreement is effectively implemented and monitored, including:

a. Notifying the relevant authorities of the Government of Thailand of the terms of this Agreement in order to ensure action by those agencies consistent with the terms of this paragraph;

b. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance by the producers and exporters with the terms of this Agreement;

c. Permitting such vertification and data collection as deemed necessary by the Department in order to monitor this Agreement;

d. Notifying the Department if it becomes aware that a producer or exporter is transshipping the subject products through third countries to the United States;

e. Notifying the Department if it alters its position with respect to any of the terms of this Agreement;

f. Notifying the Department of any changes which have taken effect in the rebate rate under the "Act on Tax and Duty Compensation of Exported Goods Produced in the Kingdom" for the subject products;

g. Notifying the Department if a producer or exporter of the subject products exported, directly or indirectly, from Thailand to the United States applies for, or receives, directly or indirectly, the benefits of the programs described in paragraphs IIa–f for the manufacture or export of subject products exported, directly or indirectly, from Thailand to the United States;

h. Notifying the Department if the producers or exporters become eligible for, apply for, or receive any new or substitute benefits on the subject products exported, directly or indirectly, from Thailand to the United States in contravention of section II.g. of the Agreement;

i. Notifying the Department if a producer or exporter makes an application to locate in an export processing zone or applies for benefits under sections 35 and 36 of the Investment Promotion Act;

j. Notifying the Department of any new firms that it learns are exporting the subject products to the United States; and

k. Notifying the Department when the rebate of indirect taxes under the "Announcement of the Ministry of Finance" No. Chor Phor 1/2514 (the flat rate rebate) has been terminated.

2. The Government of Thailand agrees to provide to the Department within 45 days of the end of each calendar quarter beginning with the quarter ending March 31, 1985, all relevant information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

a. A certification (provided after consultation with each agency responsible for administering the programs in paragraphs a–f of section II) that the producers and exporters have not applied for or received any benefits described in paragraphs a–f of section II on shipments of the subject merchandise exported, directly or indirectly, from Thailand to the United States;

b. A certification that the producers and exporters continue to account for 85 percent of exports of the subject products exported, directly or indirectly, from Thailand to the United States; and

c. A certification that the producers and exporters continue to be in full compliance with this Agreement.

3. The Government of Thailand's undertaking under this section is not an admission that any of the programs investigated constitute countervailable benefits under the Act or the GATT Subsidies Code.

4. The Government of Thailand recognizes that its undertaking is essential to the continuation of this Agreement.

VI. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register.** The provisions of paragraphs II.a–i apply with respect to exports of the subject products to the United States on or after the effective date. No applications may be made after the effective date of this Agreement for the benefits described in section II on subject products exported, directly or indirectly, from Thailand to the United States before the effective date.

Signed on this 4th day of March 1985, for the Government of Thailand.

Dumrong Indharameesup,

Commercial Counsellor, Embassy of Thailand.

Signed on this 4th day of March 1985, for the producers and exporters.

William H. Barringer,

Wald, Harkrader & Ross.

I have determined pursuant to section 704(b) of the Act that the provisions of section II eliminate the subsidies that the Government of Thailand is providing with respect to certain textile mill products exported, directly or indirectly, from Thailand to the United States. Furthermore, I have determined that suspension of the investigation is in the public interest, that the provisions of sections III and V ensure that this Agreement can be monitored effectively, and that this Agreement meets the requirements of Section 704(d) of the Act.

United States Department of Commerce.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

March 4, 1985.

Appendix 1

List of Producers and Exporters to the U.S.

1. Saha Union Corp., Ltd.
2. Union Textile Industries, Ltd.
3. The Bangkok Weaving Mills Ltd.
4. Thai Industries Development Co., Ltd.
5. Luckytex (Thailand) Ltd.
6. The Thai Durable Textile Co., Ltd.
7. Union Thread Industries Co., Ltd.
8. Thai American Textile Co., Ltd.
9. Thai Synthetic Textile Industry Co., Ltd.
10. Thai Blanket Textile Industry Co., Ltd.
11. Dusit Textile Co., Ltd.
12. The Unity Textile Ltd. Partnership
13. Erawan Textile Co., Ltd.
14. Piphattanakit Textile Co., Ltd.
15. The Thai Textile Co., Ltd.
16. Chiem Patana Knitting Co., Ltd.
17. Metro Spinning Textile Co., Ltd.
18. Thai Textile Industry Co., Ltd.
19. Thai Kurabo Textile Co., Ltd.
20. K. Cotton & Gauze Co., Ltd.
21. Thai Acrylic Co., Ltd.
22. Asia Fibre Co., Ltd.
23. Thai Melon Textile Co., Ltd.
24. TBI Group International Trade Co., Ltd.

Appendix II.—List of TSUSA Codes Which Covered Thailand's Exports of Certain Textile Mill Products to the United States in 1983

Certain Textile Mill Products						
Yarns						
300.6026	300.6028	303.2040	303.2042	308.5500	310.0209	310.1110
310.1135	310.4047	310.5030	310.5047	310.5049	310.9120	310.9140
310.1109						
Fabrics [1]						
320.0012	320.0013	320.0019	320.0032	320.0033	320.0034	320.0043
320.0044	320.0045	320.0062	320.0063	320.0071	320.0077	320.1012
320.1013	320.1019	320.1021	320.1022	320.1024	320.1031	320.1032
320.1033	320.1034	320.1038	320.1042	320.1043	320.1044	320.1045
320.1049	320.1050	320.1051	320.1052	320.1054	320.1057	320.1062
320.1063	320.1065	320.1071	320.1072	320.1074	320.1077	320.1080
320.1085	320.1087	320.1089	320.1091	320.1093	320.1095	320.1098
320.2018	320.2021	320.2022	320.2024	320.2027	320.2031	320.2038
320.2042	320.2049	320.2050	320.2051	320.2052	320.2054	320.2057
320.2065	320.2072	320.2074	320.2080	320.2087	320.2093	320.2098
320.3016	320.3018	320.3023	320.3027	320.3069	320.3073	320.5003
320.5021	320.5022	320.5024	320.5038	320.5042	322.1021	322.1022
322.1024	322.1031	322.1038	322.1042	322.1049	322.1054	322.1057

Appendix II.—List of TSUSA Codes Which Covered Thailand's Exports of Certain Textile Mill Products to the United States in 1983—Continued

322.1065	322.1072	322.1074	322.1080	322.1098	322.2003	322.2021
322.2022	322.2024	322.2038	322.2042	322.2049	322.2054	322.2057
322.2065	322.2072	322.2074	322.2080	322.2098	322.4016	322.4021
322.4022	322.4023	322.4024	322.4031	322.4038	322.4042	322.4049
322.4054	322.4057	322.4065	322.4069	322.4072	322.4073	322.4074
322.4080	322.4098	326.1019	326.1034	326.1045	326.1071	326.1077
326.2016	326.2018	326.2023	326.2027	326.2069	326.2073	326.3016
326.3018	326.3019	326.3021	326.3022	326.3023	326.3024	326.3027
326.3031	326.3034	326.3038	326.3042	326.3045	326.3049	326.3054
326.3057	326.3065	326.3069	326.3071	326.3072	326.3073	326.3074
326.3077	326.3080	326.3098	326.6016	326.6023	326.6069	326.6073
327.3016	327.3023	327.3069	327.3073	327.4003	327.4021	327.4022
327.4024	327.4038	327.4042	327.4049	327.4054	327.4057	327.4065
328.3016	328.3023	328.3069	328.3073	328.4003	328.4021	328.4022
328.4024	328.4038	328.4042	328.4049	328.4054	328.4057	328.4065
328.4072	328.4074	328.4080	328.4098	335.9500	336.6447	337.9010
337.9013	337.9035	338.5006	338.5035	338.5036	338.5039	338.5045
338.5046	338.5049	338.5069				

Special Construction Fabrics

347.2600	347.5000	353.5042	355.0200

Textile Furnishings

360.1015	360.1515	360.1520	360.2000	360.4825	360.4855	360.7000
360.7800	361.4500	363.0120	363.0515	363.0520	363.0525	363.3020
363.5115	363.5130	363.6015	363.8000	364.1300	365.7825	365.7865
366.1520	366.1820	366.1840	366.1865	366.1880	366.2160	366.2420
366.2420	366.2480	366.2720	366.4600	366.4700	366.6500	366.7700
366.7930	367.4500	367.6040	367.6080			

Miscellaneous

385.6140	386.0430	386.1500	386.4000	386.5045	387.3700
389.3000	389.5000	389.6255	389.6265		

[1] For the woven cotton fabrics under investigation, the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example, U.S. Import Statistical Number 323.0012 represents TSUSA numbers 323.0112 through 323.0912 and 328.4098 represents TSUSA numbers 328.4098 through 328.4998. The fourth and fifth digits of these TSUSA numbers are the yarn count numbers.

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[C-559-401]

Final Negative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel from Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel. The estimated net countervailable benefits are *de minimis*, and therefore our final countervailing duty determinations are negative.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Melissa Skinner, Office of Investigations and Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0187 or 377-4412.

SUPPLEMENTARY INFORMATION:

Final Determinations

For purposes of these investigations, the following programs are found to confer countervailable benefits:

- Monetary Authority of Singapore Rediscount Facility.
- Double Deduction of Export Promotion Expenses.

The estimated net countervailable benefit is 0.005 percent *ad valorem* for textile mill products and 0.013 percent *ad valorem* for apparel. These amounts are *de minimis*. Therefore, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel.

Case History

On July 19, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Singapore of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 8, 1984, we initiated such investigations (49 FR 32439). We stated that we expected to issue preliminary determinations by October 12, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Singapore in Washington, D.C., on August 24, 1984. Based on the responses to the preliminary questionnaire, we identified the three textile mill products producers and exporters, and the sixteen apparel producers and exporters who accounted for at least 60 percent of the textile mill products and apparel exported to the United States. Two additional companies made timely requests for exclusion. These twenty-one firms were selected to respond to the detailed company questionnaire. On October 26, 1984, we presented the detailed government and company questionnaires to the government of Singapore in Washington, D.C. The

responses to our detailed questionnaires were received on December 3 and 4, 1984.

On December 21, 1984, we published our preliminary determinations that no benefits constituting bounties or grants are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel (49 FR 49683). We conducted verification of the responses of the government of Singapore and the textile and apparel companies between January 8 and January 18, 1985 in Singapore. Our notice of preliminary determinations gave interested parties an opportunity to submit oral and written views. We received written views from interested parties and have taken them into consideration in this determination.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised issues as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires, and our investigation of only those companies that account for sixty percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determinations of *Certain Textile Mill Products and Apparel from Malaysia*, published concurrently with this notice. See that notice for our comments on those issues.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in Appendix A, that is attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the Federal Register (49 FR 18016).

For purposes of these determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983. For companies on a non-calendar fiscal year, we used their most recent completed fiscal year.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments submitted by interested parties, we determine the following:

I. Programs Determined to Confer Countervailable Benefits

We determine that countervailable benefits are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel under the following programs.

A. Monetary Authority of Singapore Rediscount Facility

Petitioners allege that producers and exporters of the products under investigation benefit from the provision of preferential financing through the Monetary Authority of Singapore's (MAS) rediscount facility for eligible export and pre-export bills of exchange.

The Monetary Authority of Singapore operates a rediscounting facility at which banks are permitted to rediscount qualified pre-export and export bills of exchange. Most exporters of manufactured products are eligible to receive financing from commercial banks using this facility. Banks negotiating rediscounted bills are allowed to charge a maximum commission of not more than one and one-half percent, per annum, above the rediscount rate charged by the Authority. The Authority's rediscount rate is subject to change from time to time. The rediscount rate during the review period was 6.5 percent and the commission that banks were allowed to charge under this program was 1.5 percent; therefore, the rate charged to exporters for this financing was eight percent. This was lower than the interest rate on three month commercial bill discounts, which is the most comparable, predominant short-term debt instrument. During the review period the average annual rate, including the bank commission of 0.5 percent, for commercial bill discounts was 8.12 percent. Since the rediscount facility is only available for use by exporters and the rate of interest charged is less than commercial interest rates on comparable loans, we determine that the provision of financing by the rediscount facility of the Monetary Authority of Singapore constitutes a countervailable export benefit.

The benefit provided under this program was determined by applying the interest differential between the commercial bill discount rate and the rate charged for MAS financing to the principal amount of the loans received in 1983 and used to finance exports to the U.S., for the weighted-average number of days the loans were outstanding. We then allocated the aggregate benefit over total U.S. exports of the products under investigation. On this basis, we calculated a countervailable benefit in the amount of 0.005 percent *ad valorem* for textile mill products and 0.013 percent *ad valorem* for apparel.

B. Double Deduction of Export Promotion Expenses

Petitioners allege that firms exporting the merchandise under investigation are receiving benefits under the Singapore tax law which allows a double deduction from gross corporate income of expenses incurred in export promotion.

This program allows the double deduction of approved expenses incurred in the overseas promotion of Singapore-made products. Any company undertaking the following promotion activities is eligible for the benefit:

- Participation in an overseas trade fair, trade exhibition, and trade mission;
- Participation in an approved trade fair or exhibition;
- Maintaining an approved overseas trade office;
- Overseas market development program; and
- Advertising in an approved publication.

Every company is allowed a single deduction for promotional expenses, but since the double deduction is available only to exporters, we determine that this program confers a countervailable benefit upon the products under investigation. Only one company received tax benefits under this program. To calculate the benefit from this program, we determined the tax savings (half the amount of the double deduction claimed on the tax return filed during the review period applied to the corporate tax rate) and allocated that amount over the total value of export sales in 1983 to determine a countervailable benefit of less than 0.001 percent *ad valorem* for apparel.

II. Programs Determined not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel under the following programs.

A. Part VIA of the Economic Expansion Incentives Act (Investment Allowance)

Petitioners allege that under this program, producers and exporters receive tax credits for up to 50 percent of the outlays on approved new investments in plant, machinery, and factory buildings.

Under the Investment Allowance program, a company is granted a tax exemption on a specific amount of profits equal to a percentage of the fixed investments in plant and equipment incurred by the company on the project. Companies can receive the investment allowance if the investment meets one of the following criteria:

- The investment results in greater efficiency in resource utilization;
- The investment introduces new technology into an existing industry;
- The project is significantly more efficient in resource utilization than the industry average; or
- The project produces parts and components used by other industries.

We verified that all manufacturing companies investing in new productive equipment are eligible to participate in the program and that any such company which meets the above criteria will be approved to receive the investment allowance. Because the program is not limited, either *de jure* or *de facto*, to a specific enterprise or industery, or group of enterprises or industries, we determine that the program does not constitute a bounty or grant.

B. Skills Development Fund

Petitioners allege that the Singapore Development Board provides countervailable assistance to producers and exporters of the products under investigation through the Skills Development Fund, which provides assistance, usually in the form of grants, to employers undertaking to upgrade employee kills or to increase efficient production. The three programs under the Skills Development Fund are Training Grants, Interest Grants for Mechanisation, and the Development Consultancy Scheme.

The Skills Development Fund (SDF) was established in October 1979 to promote the training of the Singapore labor force. The SDF is financed through a levy on employers, currently amounting to four percent of the salaries of all employees earning less than $750 per month. We verified that all sectors of the economy are eligible to participate in the program. Because the program is not limited, either *de jure* or *de facto*, to a specific enterprise or industry, or group of enterprises or industries, we determine that this program does not constitute a bounty or grant.

C. Textile and Garment Industry Training Centre

Petitioners allege that the producers and exporters of the products under investigation receive a countervailable grant through the government's operation of a training center specifically for textile workers to the extent that this program involves an assumption of manufacturing and production costs.

The Textile and Garment Industry Training Centre was established, and is operated, by the Singapore Textile and Garment Manufacturers' Association (STGMA). The Centre provides to all employees of the textile and garment industry a wide range of courses aimed at training new workers and upgrading the skills of existing workers. The cost of courses taken is the responsibility of the participants' employers. Employers may apply to the Skills Development Fund (SDF) for training grants to cover these costs (see previous section).

The STGMA received funds from the SDF to assist in covering the Centre's start-up cost. We verified that this Centre is one of eleven centers in a wide range of industries, which were or are in the process of being established with funds provided by the SDF. We verified that the government of Singapore has made funds available to all other trade associations which have requested training centers. Since the provision of grants by the SDF to industry associations is not limited, either *de lure* or *de facto*, to a specific industry or group of industries, we determine that the Textile and Garment Industry Training Centre does not confer a bounty or grant upon the production or exportation of the products under investigation.

D. Public Utility Board Surcharge Exemption Programme

This program provides for exemption from the ten percent surcharge on Public Utility Board (PUB) bills. Exemption from the surcharge is granted on an approval basis to industrial establishments with a monthly electricity consumption of at least 100,000 kwh.

Criteria of energy conservation are the sole bases for determining whether a company qualifies for the exemption. A company with monthly electricity consumption of at least 100,000 kwh qualifies for the exemption as long as it meets one of the following criteria: (a) The company's energy efficiency in the current year is better than in the previous year, (b) the company's energy efficiency is better than the average for the same industry group, or (c) new investments in energy conservation equipment are equal to or greater than 15 percent of total annual energy costs.

We verified that any company meeting any of the above criteria which applies for the exemption has its application approved. We also verified that companies which apply, and whic' do not meet the specifications for approval, are denied the exemption. Since this program is not limited, either *de jure* or *de facto*, to a specific enterprise or industry, or group of enterprises or industries, we determine that this program does not constitute a bounty or grant.

E. Small Industries Finance Scheme

Under this program, the Economic Development Board provides fixed interest funds to financial institutions participating in the program for onward lending to qualifying small companies. Loans made to such companies are currently set at nine percent. The Economic Development Board and the participating financial institutions jointly administer the program and share equally in the credit risk. We verified that all small companies in manufacturing activities qualify for the program as long as they meet the normal credit risk criteria set by the participating financial institutions. We found in practice that there is no limitation on the companies which receive financing under this program, other than the regulatory guidelines of the program.

Since this program is not limited, either *de jure* or *de facto*, to a specific enterprise or industry, or group of enterprises or industries, we determine that this program does not constitute a bounty or grant.

III. Programs Determined Not To Be Used

We determine that manufacturers, producers or exporters in Singapore of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation.

A. Parts II, III, IV, IVA, IVB, and V of the Economic Expansion Incentives Act

Petitioners allege that the producers and exporters of the products under investigation benefit from exemptions on income tax based upon their classification under the Economic Expansion Incentives Act. We verified that the only part of the Economic Expansion Incentives Act used by producers and exporters was the investment allowance allowed under Part VIA of the Act (see the section "Programs Determined Not To Confer Bounties Or Grants").

B. Capital Assistance Scheme

Petitioners allege that producers and exporters of the products under investigation receive preferential loans

and loan guarantees under the Capital Assistance Scheme which is administerd by the Singapore Economic Development Board. We verified that the textile and apparel companies did not use this program.

C. Production Development Assistance Scheme

Petitioners allege that producers and exporters of the products under investigation receive grants from the Singapore Economic Development Board under the Product Development Assistance Scheme to finance technical improvements in products or manufacturing processes. We verified that the textile and apparel companies did not use this program.

D. Research and Development Tax Incentives

Petitioners allege that the producers and exporters of the products under investigation receive special tax treatment for approved research and development costs. We verified that the textile and apparel companies did not use this program.

E. Export Credit Insurance Corporation

Petitioners allege that exporters benefit from the provision of export credit insurance at concessional rates not consistent with commercial considerations, which are inadequate to cover the long-term operating costs of the program.

The Export Credit Insurance Corporation insures exporters against the risk of non-payment. To qualify for export credit insurance coverage, the exporter must be a company incorporated in Singapore and operating out of a permanent establishment in Singapore. During verification we found that this program was not used to insure exports to the U.S.

Petitioners' Comments

Comment 1: Petitioners argue that the Skills Development Fund, the Textile and Garment Industry Training Centre, the Public Utility Board Surcharge Exemption Programme, and the Small Industries Finance Scheme may not be limited *de jure* to a specific industry or group of industries, but that they are administerd *de facto* in a way that particularly benefits the textile and apparel industries in Singapore.

DOC Position: During verification of these programs, we examined the administration of these programs and determined that the administration did not provide preferential treatment to selected companies or industries. The only criterion in determining whether a company was approved or denied participation in a program was whether it met the regulatory guidelines of the program.

Comment 2: Petitioners argue that we should determine the Textile and Garment Industry Training Centre to be countervailable because during the period of review, the textile and apparel industries were the sole beneficiaries of this program.

DOC Position: We disagree. We verified that the Textile and Garment Industry Training Centre is one of eleven centers that have and are being established with government assistance. Every trade association which has applied has received this assistance. This assistance is neither *de facto* or *de jure* limited to a specific enterprise or industry or group of enterprises or industries.

Comment 3: Petitioners argue that the Small Industries Finance Scheme should be determined countervailable because a program benefiting small businesses discriminates among businesses based on size. They state that the Department has consistently found that regional programs provide bounties or grants. Therefore, the Department should find programs discriminating in favor of small businesses countervailable as well.

DOC Position: We disagree. The Department has consistently held that small and medium sized businesses constitute more than one group of enterprises or industries. (See for example, *Certain Softwood Products from Canada*, 48 FR 24159.)

Comment 4: Petitioners argue that the Department's use in the preliminary determination of the average prime rate as the benchmark for calculating benefits of the loans rediscounted with MAS was in error. The appropriate benchmark is the weighted-average interest rate reported by the companies in the responses and represents the actual borrowing experience of the exporting firms.

DOC Position: We disagree with petitioners' argument that we should use a weighted-average company-specific interest rate as our benchmark in the final determination. It is a long-standing Department policy to use a comparable national average commercial interest rate as a benchmark in measuring the preferentiality of short-term financing. See our Subsidies Appendix (49 FR 18016), for an elaboration of our reasoning for using a national average benchmark. We believe that the commercial bill discount rate is the appropriate national average commercial benchmark rate.

For our final determination, we used the rate of three month commercial bill discounts as our benchmark because we determined that it was the most comparable, predominant short-term debt instrument. We used the prime rate for our benchmark in the preliminary determination because we were unsure whether the rates on the commercial bill discounts which were published in the Monetary Authority of Singapor's *Monthly Statistical Bulletin* were nominal or effective rates. We had also used the prime rate in the preliminary determination of *Certain Refrigeration Compressors from Singapore* (48 FR 39109) in measuring the preferentiality of MAS rediscounting. During verification we obtained information on the amount of additional bank charges which are normally added to the published commercial bill discount rates. We also verified the value of commercial bill transactions and found that the commercial bill discounting operates in a similiar manner to the rediscounting of bills with the MAS. These factors led us to conclude that the three month commercial bill discount rate is the more appropriate commercial benchmark for measuring the preferentiality of MAS rediscounting.

Comment 5: Petitioners argue that under the MAS program banks may charge up to a 1.5 percent commission, which is three times higher than the commission banks charge on commercial bills. Therefore, although the interest rates charged to borrowers appear to be the same, banks have an incentive to provide MAS loans over loans based on commercial bills. This provides, in effect, a preference for MAS loans.

DOC Position: Banks are not limited on the rates of commission they may charge on commercial bill discounts. Therefore, the amount of commission they are able to charge under the MAS rediscount program does not provide an incentive to the banks to provide MAS loans over commercial bill discount financing.

Comment 6: Petitioners argue that we should reject respondents claim that the Skills Development Fund is not countervailable because it is paid for our of employer levies.

DOC Position: We did not address this issue because we determined that the Skills Development Fund is not limited to a specific enterprise or industry, or group of enterprises or industries.

Respondents Comments

Comment 1: Respondents argue that the Department used the wrong commercial benchmark to measure the preferentiality of loans rediscounted at

the MAS rediscount facility. The correct commercial benchmark is the rate for three month commercial bill discounting, which is the predominant source for short-term financing of trade transactions.

DOC Position: We agree that the three month commercial bill discount rate is the appropriate benchmark. See the DOC position on Petitioners' Comment 4.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During verification we followed normal verification procedures, including meetings with government officials and inspection of documents and on-site inspection of accounting records of companies exporting merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present oral views in accordance with our regulations (19 CFR 355.35). Neither petitioners nor respondents requested a public hearing. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been submitted and considered in this determination.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985

Appendix.—List of TSUSA Codes Which Covered Singapore's Exports of Certain Textile Mill Products and Apparel to the United States in 1983

A. Textile Mill Products

Yarns

300.6026	310.1135	310.4047	310.5049	310.9140	

Fabrics

312.0012	320.0013	320.0032	320.0033	320.0034	320.0043	320.0044
320.0045	320.0050	320.0051	320.0052	320.0062	320.0063	320.0071
320.0077	320.0085	320.0089	320.0091	320.0095	320.1001	320.1012
320.1013	320.1018	320.1019	320.1021	320.1022	320.1024	320.1031
320.1032	320.1033	320.1034	320.1038	320.1042	320.1043	320.1044
320.1045	320.1049	320.1050	320.1051	320.1052	320.1054	320.1057
320.1062	320.1063	320.1065	320.1071	320.1072	320.1074	320.1077
320.1080	320.1085	320.1089	320.1091	320.1095	320.1098	320.1027
320.2021	320.2022	320.2024	320.2031	320.2038	320.2042	320.2049
320.2054	320.2057	320.2065	320.2072	320.2074	320.2080	320.2098
322.1012	322.1013	322.1021	322.1022	322.1024	322.1031	322.1032
322.1033	322.1038	322.1042	322.1043	322.1044	322.1049	322.1054
322.1057	322.1062	322.1063	322.1065	322.1072	322.1074	322.1080
322.1098	322.3003	322.3021	322.3022	322.3024	322.3038	322.3042
322.3049	322.3054	322.3057	322.3065	322.3072	322.3074	322.3080
322.3098	322.4016	322.4023	322.4069	322.4073	322.5003	322.5021
322.5022	322.5024	322.5038	322.5042	322.5049	322.5054	322.5057
322.5065	322.5072	322.5074	322.5080	322.5098	322.6003	322.6021
322.6022	322.6024	322.6038	322.6042	322.6049	322.6054	322.6057
322.6065	322.6072	322.6074	322.6080	322.6098	323.1021	323.1022
323.1024	322.1031	322.1038	322.1042	322.1049	322.1054	322.1057
322.1065	322.1072	322.1074	322.1080	322.1098	323.2003	323.2021
323.2024	323.2038	323.2042	323.2049	323.2054	323.2057	323.2065
323.2072	323.2074	323.2080	323.2098	326.0001	326.0050	326.0051
326.0052	326.0062	326.0063	326.0085	326.0089	326.0091	326.0095
328.1001	326.1062	326.1063	328.2003	328.2021	328.2022	328.2024
328.2038	328.2042	328.2049	326.2054	328.2057	328.2065	328.2072
328.2074	328.2080	328.2098	328.3016	328.3023	328.3069	328.3073
328.4003	328.4021	328.4022	328.4024	328.4038	328.4042	328.4049
328.4054	328.4057	328.4065	328.4072	328.4074	328.4080	328.4098
329.1021	329.1022	329.1024	329.1031	329.1038	329.1042	329.1049
329.1054	329.1057	329.1065	329.1072	329.1074	329.1080	329.1098
336.6451	336.6453	337.2005	337.2015	338.5008	338.5009	338.5010
338.5012	338.5015	338.5035	338.5065			

Special Construction Fabrics

345.1040	349.1060	351.6030	353.5052	355.6510	357.9000	358.0290

Textile Furnishings

360.1515	360.1520	360.3000	360.4225	360.4825	360.7000	363.5030
363.5130	363.6015	366.2460	367.3428	367.7500		

Miscellaneous

385.1500	385.5000	385.5500	385.6120	386.3000	386.5045	389.6265
389.7000						

Appendix.—List of TSUSA Codes Which Covered Singapore's Exports of Certain Textile Mill Products and Apparel to the United States in 1983—Continued

B. Apparel

Wearing Apparel

373.0500	373.2500	373.2700	374.3550	376.5412	376.5609	376.5612
378.0550	379.0211	379.0212	379.0220	379.0230	379.0240	379.0252
379.0254	379.0370	379.0610	379.0615	379.0620	379.0630	379.0640
379.0642	379.0646	379.0650	379.1710	379.1742	379.1744	379.1746
379.1748	379.2320	379.2360	379.2350	379.2610	379.2620	379.2630
379.3120	379.3130	379.3140	379.3190	379.3310	379.3332	379.3925
379.3930	379.3940	379.4020	379.4030	379.4050	379.4060	379.4330
379.4620	379.4640	379.4650	379.4660	379.4670	379.5510	379.5520
379.5525	379.5530	379.5535	379.5540	379.5545	379.5550	379.5555
379.5560	379.5565	379.5800	379.6210	379.6217	379.6219	379.6220
379.6230	379.6240	379.6250	379.6260	379.6270	379.6280	379.6470
379.6984	379.6992	379.7620	379.6730	379.7650	379.8318	379.8360
379.8420	379.8906	379.8911	379.8915	379.8930	379.8935	379.8940
379.9010	379.9020	379.0925	379.9030	379.9035	379.9040	379.9250
379.9515	379.9520	379.9530	379.9540	379.9555	379.9575	379.9580
379.9585	379.9605	379.9630	379.9620	379.9822	379.9824	379.9826
379.9828	379.9830	379.9832	383.0205	383.0213	383.0219	383.0222
383.0226	383.0228	383.0232	383.0234	383.0305	383.0335	383.0350
383.0390	383.0505	383.0506	383.0507	383.0509	383.0608	383.0612
383.0622	383.0631	383.0606	383.0622	383.0631	383.0616	383.0805
383.0815	383.0856	383.1602	383.1804	383.1805	383.1806	383.1807
383.1809	383.1811	383.1812	383.1820	383.1841	383.1843	383.1846
383.1848	383.1860	383.1910	383.1915	383.1922	383.1924	383.1926
383.1928	383.1935	383.1940	383.2013	383.2016	383.2020	383.2035
383.2040	383.2052	383.2056	383.2058	383.2205	383.2225	383.2227
383.2228	383.2229	383.2231	383.2232	383.2233	383.2234	383.2236
383.2237	383.2241	383.2243	383.2245	383.2250	383.2305	383.2320
383.2354	383.2590	383.2706	383.2715	383.2716	383.2718	383.2721
383.2720	383.2726	383.2728	383.2730	383.2731	383.2750	383.2815
383.2814	383.2816	383.2818	383.2821	383.2820	383.2826	383.2828
383.2835	383.2838	383.2842	383.2844	383.2910	383.2920	383.3030
383.3040	383.3050	383.3060	383.3069	383.3080	383.3085	383.3090
383.3415	383.3430	383.3435	383.3440	383.3445	383.3446	383.3448
383.3450	383.3452	383.3460	383.3465	383.3466	383.4300	383.4702
383.4704	383.4705	383.4709	383.4711	383.4720	383.4724	383.4726
383.4747	383.4748	383.4750	383.4753	383.4754	383.4756	383.4761
383.4762	383.4764	383.4765	383.4818	383.4821	383.4825	383.4900
383.5020	383.5027	383.5028	383.5029	383.5090	383.5032	383.5034
383.5037	383.5041	383.5042	383.5043	383.5046	383.5051	383.5054
383.5082	383.5086	383.5090	383.5304	383.5365	383.5366	383.5830
383.6200	383.6371	383.6385	383.6395	383.6610	383.6649	383.6651
383.7210	383.7510	383.7522	383.7532	383.7534	383.7536	383.7538
383.7542	383.7544	383.7546	383.7548	383.7552	383.7554	383.7556
383.7528	383.7558	383.7562	383.7595	383.7768	383.7772	383.8002
383.8007	383.8009	383.8011	383.8012	383.8014	383.8017	383.8019
383.8024	383.8026	383.8028	383.8030	383.8045	383.8048	383.8050
383.8052	383.8069	383.8071	383.8073	383.8110	383.8114	383.8115
383.8117	383.8125	383.8126	383.8137	383.8139	383.8141	383.8143
383.8145	383.8147	383.8156	383.8158	383.8162	383.8164	383.8605
383.8620	383.8621	383.8622	383.8635	383.8645	383.8650	383.8660
383.8661	383.8663	383.8667	383.8669	383.8670	383.9010	383.9015
383.9020	383.9025	383.9027	383.9029	383.9035	383.9040	383.9032
383.9042	383.9050	383.9051	383.9056	383.9057	383.9058	383.9059
383.9061	383.9062	383.9063	383.9064	383.9066	383.9065	383.9070
383.9072	383.9074	383.9076	383.9210	383.9211	383.9215	383.9225
383.9246	383.9270	383.9276	383.9280	383.9291		

Footwear

700.4506

Gloves

704.4508 704.5015 704.8520 704.8550

Luggage and Handbags

706.4121 706.4140 706.4150

1. For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example U.S. Import Statistical Number 320.0012 represents TSUSA numbers 320.0112 through 320.0912 and 329.1098 represents TSUSA numbers 329.1098 through 329.1998. The fourth and fifth digits of these TSUSA numbers are the yarn count numbers.

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[C-357-404]

Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders; Certain Textile Mill Products and Apparel From Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty laws are being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel. The estimated net bounty or grant is 4.53 percent *ad valorem* for certain textile mill products and 15.87 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain textile mill products and apparel from Argentina that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of these products in the amount equal to the estimated net bounty or grant for duty deposit purposes.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0189.

SUPPLEMENTARY INFORMATION:

Final Determinations and Orders

Based upon our investigations, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel. For purposes of these investigations, the following programs are found to confer a bounty or grant:

- Post-Export Financing under Circular OPRAC 1-9.
- Circular RF-153 (Pre-Export Financing through Dollar-Indexed Peso Loans).
- Reembolso (Tax and Duty Rebate on Exports).
- Regional Tax Incentives.
- Incentives for Exports from Southern Ports.

We determine the estimated net bounty or grant to be 4.53 percent *ad valorem* for certain textile mill products and 15.87 percent *ad valorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Argentina of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32641). These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Argentina." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of these investigations to "Certain Textile Mill Products and Apparel from Argentina." The scope of these investigations remains the same as announced in the initiation and the preliminary determinations.

We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise under investigation is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Argentina in Washington, D.C., on August 24, 1984. On October 23, 1984, we presented the detailed government and company questionnaires to the government of Argentina in Washington, D.C. Because the responses to the preliminary questionnaire were incomplete, we requested the government of Argentina to present the detailed questionnaire to the largest producers who account for at least 60 percent of the textile mill products and 60 percent of the apparel exported to the United States. We received only three responses to our detailed questionnaires on November 27, 1984. The three responses were from textile mill product producers and exporters. No apparel producers or exporters responded to the detailed questionnaire.

On December 17, 1984, we preliminarily determined that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of textile mill products and apparel (49 FR 49667).

The government of Argentina subsequently supplemented its response to include responses from five additional textile companies and one apparel producer.

For purposes of the investigation of textile mill products, we are basing our final determination on the four largest textile companies which account for over 60 percent of the textile exports to the United States during our period of investigation. One of the four textile companies, Primotex, did not respond to our questionnaire until January 30, 1985, the last day of verification. We received this response in Spanish and it was not served on petitioners. Consequently, for this company we are using as best information available for each program, the highest benefit received by a textile company for that program.

For purposes of the apparel investigation, only one apparel firm responded to our questionnaire. The responding firm accounted for approximately 44 percent of the apparel exports to the United States during our period of investigation. Since our 60 percent requirement was not met by the one company that responded, we are using best information available for our final determination on apparel. As best information, we are using a weighted average of the responding company's rate and the highest rate, from both company and petitioner provided data, for each program.

A hearing was requested and took place on February 7, 1985. We received briefs from the parties to the proceeding on February 1 and 15.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised issues as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires and our investigation of only those companies that account for 60 percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determinations on *Certain Textile Mill Products and Apparel from Malaysia*, published concurrently with this notice. See that notice for our comments on these issues.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel which are described in Appendix A, which is attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the Federal Register on April 26, 1984 (49 FR 18006).

For purposes of these determinations, the period for which we are measuring bounties or grants is calendar year 1983.

Based upon our analysis of the petition, responses to our questionnaires and information gathered at verification, we determine the following:

I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exports in Argentina of certain textile mill products and apparel under the following programs.

A. Post-Export Financing Under Circular OPRAC 1–9

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1–9. OPRAC 1–9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. The interest rate charged on OPRAC 1–9 loans is the regulated rate used by commercial banks, as established by Central Bank Regulations. The system of financing is through the Central Bank of Argentina, which delegates the responsibility for granting the loans to intermediary banks.

In June 1982, the Central Bank of Argentina restructured the banking and financial system. All outstanding short-term loans were refinanced under a regulated interest rate, which is set monthly by the Central Bank. During this period banks also were allowed to lend a portion of their deposits at an unregulated rate, known as the tasa libre.

During the period for which we are measuring bounties or grants, various short-term borrowing rates were available from Argentine banks. From April 1983 to July 1983 the regulated and unregulated rates were in effect. Beginning August 10, 1983, funds were no longer lent at the unregulated rate. For the months of August and September, only the regulated rate was in effect. In October 1983, the acceptance rate came into use in Argentina. Acceptance lending involves the bank acting as an intermediary between cash rich and cash poor firms. The bank puts the two firms in touch with one another, and endorses the loan agreement between the firms. The terms for acceptance loans are for up to 90 days.

Because the amount of credit that can be extended by Argentine banks is closely controlled by the government, two types of extra-bank lending have come into practice in Argentina. While not illegal, these forms of borrowing are not monitored or regulated by the banking system in any way, and thus no official government statistics on the lending rates or on the size of these credit pools exist. One type of extra-bank loan, known as Bonex repurchase agreements, involves an agreement which is guaranteed by the sale and repurchase of Argentine government dollar-denominated bonds. The other type of extra-bank transaction is a loan guaranteed by a post-dated check. Both forms of borrowing are for very short periods, normally two to seven days.

While the regulated rate makes up the major portion of bank lending, we do not consider that this rate alone adequately represents the national average rate for comparable alternative short-term borrowing. Because the amount of lending which can occur at the regulated rate is restricted by the Central Bank, it is likely that if a firm had to seek alternative borrowing, it could not fulfill all of its short-term export financing requirements at the regulated rate. We consider that the most likely secondary sources of borrowing would be the tasa libre and acceptance rate lending.

In calculating a weighted-average benchmark, we have included the regulated rate, the unregulated (tasa libre) rate and the acceptance rate, because we felt that these rates best represent the national average rate for comparable alternative short-term borrowing. We have not included the Bonex repurchase rates or rates on loans guaranteed by post-dated checks, because these loans are outside the banking system and are for very short periods. Thus, they would not be a likely source of borrowing to finance 180-day transactions.

To determine if the loans provided under the OPRAC 1–9 program constitute a bounty or grant, we compared the rate of interest charged on the OPRAC 1–9 loans with the national average commercial rate for short-term borrowing, as required in the Subsidies Appendix.

Using this weighted average as a benchmark, we calculate an estimated net bounty or grant of 0.75 percent *ad valorem* for textile mill products and 0.18 percent *ad valorem* for apparel.

B. Circular RF–153 (Pre-Export Financing Through Dollar-Indexed Peso Loans)

This program was authorized by Central Bank Circular RF–153. This program permits exporters to receive pre-export financing through peso loans equal to 60 percent of the export sale's f.o.b. value. The loans are given in pesos but are denominated in U.S. dollars at the exchange rate prevailing at the time of the loan. Repayment also must be in pesos, but the peso amount is established by the exchange rate prevailing at the time of repayment. In addition to repaying the peso amount of the loan at the exchange rate prevailing

at the time of repayment, the borrower must also pay a one-percent interest rate. The funds are drawn from the Central Bank of Argentina and then loaned through private commercial banks to individual corporate borrowers. The maximum length of the loan is 120 days, but repayment must take place no later than 60 days from the effective export date.

We compared the cost for these loans with what the firms would have paid commercially for the same loan, using as the benchmark the weighted average of the regulated rate, the tasa libre rate and the acceptance rate. On this basis, we determine Circular RF–153 loans confer an estimated net bounty or grant of 1.04 percent *ad valorem* for textile mill products and 0.24 percent *ad valorem* for apparel.

C. Reembolso—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund by cash payment on export of taxes and import duties "that bear directly or indirectly" on exported products and/or their component raw materials for the purposes of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by industry, and only some industries are reimbursed for duties.

In the final determinations on *Certain Textile Mill Products and Apparel from Thailand*, published concurrently with this notice, we explain our policy for determining whether rebate systems that are designed to rebate both prior-stage indirect taxes and import duties confer bounties or grants upon exports. The test for such rebate systems is similar to the so-called linkage test for systems which purport to rebate prior-stage indirect taxes only.

Based on our investigations, we determine that the reembolso is designed to rebate prior-stage taxes and import duties. For textile mill products, we further determine that the Argentine government has reasonably calculated the incidence of indirect taxes and import duties on the exported products and inputs into these products. Therefore, the only question remaining is whether the reembolso constitutes an excessive remission of indirect taxes and import duties. This is discussed below.

For apparel, we determine that the government has not reasonably calculated, nor can it demonstrate the bases for its calculations, of the level of the reembolso payment. Therefore, for apparel products we find the entire reembolso of 10 percent to be an excessive remission of indirect taxes and import duties. On this basis, we determine that the reembolso confers and estimated net bounty or grant of 10 percent *ad valorem* on apparel during the period of investigation.

For textile mill products, the Argentine government submitted three studies on cotton yarn, wool fabric, and towels. In these studies, the Argentine government listed various types of direct and indirect taxes and import duties which have an incidence on the final products and inputs into those products. We determine that the government has adequately documented the incidence of indirect taxes and import duties on domestic raw materials, imported raw materials and packing materials, and that these inputs meét our test for physical incorporation. Therefore, we are allowing the amounts claimed for these inputs. The government studies also included prior-stage taxes on such non-physically incorporated inputs as labor, fuel, energy and indirect expenses. We are disallowing the amounts claimed on these items. The government study demonstrated the incidence of final stage taxes, including municipal taxes, capitals taxes (an inventory turnover tax), and taxes paid upon export. We determine that these amounts claimed are allowable because they are final-stage indirect taxes.

Of the total tax incidence calculated in the studies, the following amounts are allowable as explained above: 8.62 percent for cotton yarns, 5.64 percent for wool fabric, and 12.16 percent for towels. During the period of investigation, the reembolso rate was 5 percent for cotton yarns and wool fabric, and 10 percent for towels. Since the allowable tax incidence exceeds the reembolso rate for all three products, we determine that there is no excessive remission of taxes or duties. On this basis, we conclude that the reembolso did not confer a countervailable benefit on textile mill products.

As of October 29, 1984, the reembolso rate was reduced by 6 percent on all products, including the products subject to these investigations. As of that date the reembolso rates in effect are zero percent for cotton yarns and wool fabric, and 4 percent for towels and apparel. Consequently, we determine the cash deposit rate to be 4.00 percent *ad valorem* for apparel.

D. Corrientes Regional Tax Incentives

Under National Law 20560, Corrientes Law 5751/74, and Decrees 2633/75, 9641/81 and 32031/76, companies located in the Corrientes Province are eligible for certain tax benefits. One company, Tipoiti, has four plants located in the Province of Corrientes and has used some of these benefits. Because this is a national law which benefits companies in a specific region, we determine that it provides countervailable benefits to the products under investigation. The benefits are described below:

1. Exemption for 10 years starting in 1977, of all provincial real estate, stamp and municipal taxes. Tipoiti benefitted from exemptions from turnover and real estate taxes.

2. Reduction for 10 years, beginning in 1977, from income taxes on a decreasing scale. We verified that two plants received a 90 percent reduction in income taxes and two plants were exempted from income taxes.

3. Exemption from the capital tax. Tipoiti received an exemption from the capital tax during the period of investigation.

4. Exemption from the value added tax based on a percentage of the scale used in determining the income tax exemption in number 2 above. All four of Tipoiti's plants used this benefit during the period of investigation.

5. Exemption from taxes on the amount of private investment in a company located in Corrientes. Tipoiti benefitted from this provision during the period of investigation.

To calculate the value of these regional benefits, we assumed, as best information available, that Primotex received these tax exemptions. Therefore, we allocated the total amount of taxes exempted for these firms in 1983 over the total 1983 sales value for the four textile firms. On this basis, we determine that this program provides an estimated net bounty or grant of 2.74 percent *ad valorem* on textile mill products.

Based on the fact that one textile company received regional tax benefits, we determine, as best information available, that apparel producers also might have benefitted form regional tax benefits. Since we have no information on the level of usage with which to calculate benefits, we are using a weighted average of the information provided in petitioners' prehearing brief and the apparel producer's response. On this basis, we determine that this program provides an estimated net bounty or grant of 3.78 percent *ad valorem* on apparel.

E. Incentives for Exports From Southern Ports

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel

received incentives for exports from southern Argentine ports. From the government of Argentina's response, we know that several firms are located in southern Argentina. Therefore, for apparel, as best information available, we assume that at least one apparel produdcer would be located in southern Argentina and would use this program. To calculate the benefit, we relied on a weighted average of the rate in the final results of administrative review of the countervailing duty order on wool from Argentina (49 FR. 17559) and the response from the apparel producer. On this basis, we determine that this program confers an estimated net bounty or grant of 1.67 percent *ad valorem* on apparel.

II. Programs Determined not to be used

We determine that manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel did no use the following programs which were listed in our notice of initiation.

A Tax Reductions for Investors

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel have benefited under Decree No. 2332/83, which grants tax benefits to investors in Patagonian corporations. The government of Argentina stated in its response and we verified that due to their geographic location, investors in firms subject to these investigations are not eligible for benefits under this program.

B. Refund on Patagonian Exports

Petitioners alleged that exports originating from Patagonia qualify for a refund if they originate in, or are exported from, Patagonia. The government of Argentina replied in its response and we verified that because of their geographic location the manufacturers, producers and exporters of textile mill products and apparel are ineligible for benefits under this program.

C. Industrial Parks

Petitioners alleged that firms which operate in designated industrial parks receive special credit from local banks, tax exemptions and infrastructure benefits. The government of Argentina reported and we verified that the firms under consideration in these investigations are not eligible for this program.

D. Low Cost Loans for Projects Outside Buenos Aires

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel benefit from government mandated medium- and long-term loans under the 1977 Industrial Promotion Law for Projects Outside Buenos Aires. The companies under consideration in these investigations stated and we verified that they did not receive benefits under this program.

E. Corrientes Regional Tax Incentives

Under National Law 20560, Corrientes Law 5751/74, and Decrees 2633/75, 9641/81, and 32031/76, companies located in the Corrientes Province are eligible for certain tax benefits. One company, Tipoiti, has four plants located in the Province of Corrientes.

1. Exemption from capital tax on assets for new projects during the period between the approval of a new project and the beginning of its operations. Tipoiti did not use this benefit during the period of investigation.

2. Exemption from the stamp tax on all national and provincial contracts, and on the issuance of stock. Tipoiti did not use this benefit during the period of investigation.

3. Waiver of the value-added tax during the stage(s) of production occurring in Corrientes, only if the product is sold as raw material to another processor in Corrientes. No benefit was received by Tipoiti from this provision.

4. Exemption from import duties on machinery imported under approved investment projects. Tipoiti did not use this benefit during the period of investigation.

F. Discounts of Foreign Currency Accounts Receivable Under Circular RF-21

This program was not alleged in the petition. During verification the Argentine government referred to transactions involving a 7.5 percent interest rate. We have determined that these transactions are the discounting of foreign currency accounts receivable authorized by Central Bank Circular RF-21. We have no information that any of the companies used this program during the period of investigation. If, however, during our administrative review of this program, we find that this program is used, we will reexamine it at that time.

III. Programs Determined to Have Been Suspended

A. Income Tax Exemptions for Exports

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel in Argentina benefit from an income tax exemption for exports. The government of Argentina states and we verified that this program was terminated as of June 30, 1980, and, therefore, manufacturers, producers and exporters cannot benefit from this program.

Petitioners' Comments

Comment 1: Petitioners argue that the Department should continue to find the reembolso fiscal incidence study in the record to be inadequate. They further argue that the 3.60 percent deduction in the preliminary determinations should be disallowed because the government of Argentina has not satisfied the requirement that "the [foreign] government has reasonably calculated and documented the actual tax incidence borne by the product concerned. . . ." No deductions should be made, petitioners argue, if that requirement is not met.

In addition, petitioners argue that:

- the Department may not take account of post-initiation changes in the reembolso, but rather should base its calculations on verified calendar year 1983 information; and
- even if the Department considers the new reembolso rates, it should find these rates fully countervailable because the government has supplied no fiscal-incidence study to justify the rate.

DOC Position: We agree with the first argument insofar as it concerns apparel. In that investigation, the Argentine government submitted a study regarding wool apparel, but did not list the indirect taxes borne by raw material imports or the rates of these taxes. Because raw materials account for over 80 percent of the cost of producing apparel, we cannot conclude that the Argentine government has either reasonably calculated or adequately documented the actual tax incidence borne by apparel. Accordingly, for apparel we have countervailed the entire amount of the reembolso.

With respect to textile mill products, we find that the Argentine government has adequately documented the tax incidence on the finished products as well as their inputs. The studies also included the various taxes applicable to each input and the rates of each tax. Further, since there have been no significant changes in tax incidence on these products since 1981, we consider the studies a proper basis for our conclusion that the Argentine government adequately documented the fiscal incidence on textile mill products.

We disagree with petitioners' position that the Department may not take into account post-initiation changes in the reembolso rate for apparel. When there is a fundamental change in the benefit

from a program after the period of investigation, we take cognizance of that change if we have been able to confirm that the change has occurred through verification and if there is no reason to believe that there has been a shift of these benefits to other programs. In the final determinations on *Certain Textile Mill Products and Apparel from Peru*, published concurrently with this notice, we explain our policy on post-initiation changes in a program.

In this case we verified that the change did occur and that it applied to the entire reembolso program. The reduction of the maximum allowable rate from 10 percent to 4 percent is, in fact, the latest in a series of reductions over a number of years designed to gradually eliminate the program. Further, the change encompasses exports of all products to all countries. We also have no reason to believe that the benefits have been shifted to other programs. Accordingly, we have followed Department practice by adjusting the cash deposit rate to reflect the change in the reembolso rate from 10 percent to 4 percent as of October 29, 1984.

With respect to petitioners' last argument, we have adopted the 10 percent reembolso rate as the best information available for apparel for the investigation period, because it is the highest rate respondent could have received during that period. We have assumed the full amount of the reembolso to be countervailable at this maximum rate because the Argentine government failed to provide adequate documentation to justify the rate claimed by the respondent. We have also verified that the highest rate currently available to apparel producers is 4 percent. Again, we have used the maximum, unadjusted rate in determining the cash deposit rate in view of the government's failure to provide an adequate fiscal incidence study.

Comment 2: Petitioners argue that the Department's method of analyzing the potential benefit from RF–153 loans is incorrect. They contend that these loans effectively operate as dollar loans for which the only cost is the 1 percent interest rate.

DOC Position: We believe that RF–153 loans, which are provided in pesos but indexed to the dollar, are peso loans, and that the most appropriate benchmark is the weighted average of the regulated, tasa libre, and the acceptance rates. Indexing these loans to the dollar is simply a method by which banks can account for the falling value of the peso, much like indexing loans to the rate of inflation.

Comment 3: Petitioner argue that the subsidy rate for RF–153 and OPRAC 1–9 export loans is understated because the Department did not take into account, in calculating its benchmark rate, post-dated check arrangements and Bonex repurchase agreements for August–December 1983.

DOC Position: As stated in the "Analysis of Programs" section of this notice, we have not included rates for Bonex repurchases or loans guaranteed by post-dated checks, in calculating a weighted-average benchmark, because such loans do not constitute comparable alternative instruments of borrowing to either OPRAC 1–9 or RF–153 loans. We base this on the fact that Bonex repurchase and post-dated check loans are normally extended for periods of two to seven days, which make them noncomparable to the preferential loans in question. In addition, it is our practice to look first to the normal banking sector in our search for a national average commercial benchmark rate. In Argentina, the preponderant source of lending is the banking sector, and thus we have no reason to look beyond this sector in calculating a benchmark. Bonex repurchase and post-dated check loans constitute extra-bank borrowing, which are not monitored or regulated in any way by the Argentine banking authorities.

Comment 4: Petitioners argue that because two firms outside the Department's "sample" are reported to be located in southern Argentina, best information available should be used to calculate a subsidy rate for these firms.

DOC Position: We have addressed the issue of our selection of companies in our final determinations of *Certain Textile Mill Products and Apparel from Malaysia*, published concurrently with this notice. See that notice for our comments with respect to textile mill products.

For apparel, we are using best information available, since we received only one response from a firm which accounted for less than 60 percent of apparel exported to the United States. Consequently, we agree with petitioners and have calculated a bounty or grant rate based on a weighted average of the rate in the final administrative review of the countervailing duty order on wool from Argentina (49 FR 17559) and the apparel producer's response.

Comment 5: Petitioners argue that the Argentine textile mill products industry used tax incentives for firms in Catamarca and Corrientes and that these benefits should be included in the final determinations.

DOC Position: We agree. One of the textile companies upon which we are basing our final determination was located in the Province of Corrientes and benefitted from regional tax incentives. We have also assumed as best information available that Primotex also benefitted from these incentives. See discussion of this program earlier in this notice.

For apparel, we have calculated a rate for regional tax incentives based on a weighted average of petitioners' information and the apparel producer's response.

Comment 6: Petitioners argue that the export financing program for dollar loans at a 7.5 percent rate of interest, referred to in the government's response of February 6, 1985, should be countervailed because the terms are not consistent with commercial considerations.

DOC Position: We have reviewed this program and determine that it is properly classified as discounts of foreign currency accounts receivable under Circular RF–21. This program was not used by any of the selected companies during the period of investigation. See discussion earlier in this notice.

Respondents' Comments

Comment 1: Respondents argue that the Department should use the information provided in the responses, not the best information available, in its final determinations in these cases. Respondents state that over 70 percent of textile mill products exports were covered in the responses and over 60 percent were verified.

DOC Position: For apparel we are using best information available. We requested responses from the largest exporters of apparel who together accounted for at least 60 percent of the exports of apparel to the United States during the period of investigation. We received only one response from an apparel producer, representing approximately 44 percent of apparel exports to the United States. This did not meet our 60 percent requirement. Therefore, we are using best information available for our final determination on apparel.

We also requested responses from the largest exporters of textile mill products who together accounted for 60 percent of the exports of textiles to the United States during the period of investigation. We received responses from textile mill products firms accounting for over 60 percent of the textile exports to the United States. We did not, however, receive a response from the third largest textile exporter, Primotex, until January 30, 1985, the last day of verification. The

response was received in Spanish with no English translation and was not served on petitioners.

Consequently, we are using company provided, verified information for three of the textile mill products companies, and we are using best information available for Primotex.

Comment 2: Respondents argue that the reembolso program does not confer a countervailing benefit in this case because:

- the applicable reembolso rates are either 4 percent or 0 percent, depending upon the particular product; and
- the allowable tax incidence verified in this case exceeds the applicable reembolso rate for each product.

DOC Position: We agree with respect to textile mill products. However, as the government of Argentina was not able to document the fiscal incidence on apparel, we found the reembolos on apparel countervailable in its entirety.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, meetings with government officials, and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on February 7, 1985. In accordance with the Department's regulations (19 CFR 355.34(a)), all written views have been received and considered in reaching these final determinations.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative determinations shall remain in effect until further notice. The estimated net bounty or grant for duty deposit purpose is 4.53 percent *ad valorem* for certain textile mill products and 9.87 percent *ad valorem* for apparel.

In accordance with section 706(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amounts indicated above for each entry of the subject merchandise from Argentina which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to sections 303, 705 and 706 of the Act (19 U.S.C. 1303, 1671d, 1671e).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985.

Appendix A.—Imports of Certain Textile Mill Products and Apparel From Argentina in 1983 Subject to the Petition; Tariff Schedule Numbers of Imports Subject to Investigations

A. Textile Mill Products

Yarns					
301.0000	301.1000	301.2000	301.3000	302.0024	302.1020
302.1024	302.1026	302.2020	302.2024	302.3022	302.3026
303.2042	307.6810	307.6850			

Fabrics [1]					
323.1021	323.1022	323.1024	323.1031	323.1038	323.1042
323.1049	323.1054	323.1057	323.1065	323.1072	323.1074
323.1080	323.1098	335.9500	336.6247	336.6249	336.6251
336.6253	336.6255	336.6257	336.6441	336.6447	336.6451
337.9035	338.1530	338.1574	338.1578	338.5021	338.5048

Special Construction Fabrics
346.6065

Textile Furnishings				
366.2420	366.2440	366.2460	366.2780	

Miscellaneous				
385.5500	385.6120	388.4000	389.6265	390.4000

B. Apparel

Apparel					
372.7540	374.2500	374.3530	374.6500	376.2830	379.0640
379.0642	379.0646	379.4050	379.4060	379.4670	379.5550
379.6240	379.9030	379.9035	379.9540	379.9585	383.0207
383.0208	383.0212	383.0236	383.0306	383.0335	383.0350
383.0390	383.0608	383.0805	383.0844	383.0855	383.1000
383.1319	383.1321	383.1611	383.1612	383.1613	383.1680
383.1920	383.2005	383.2016	383.2050	383.2716	383.2718
383.2721	383.2722	383.2724	383.2726	383.2728	383.2730
383.2750	383.3465	383.4709	383.4747	383.4761	383.4825
383.5034	383.5090	383.5326	383.5830	383.6310	383.6330
383.6340	383.6350	383.6360	383.6371	383.6372	383.6385
383.7010	383.7020	383.7210	383.7510	383.7522	383.7532
383.7534	383.7536	383.7538	383.7542	383.7544	383.7546
383.7548	383.7552	383.7554	383.7556	383.7528	383.7558
383.7562	383.7595	383.8024	383.8026	383.8073	383.8125
383.8300	383.9015	383.9245			

Gloves
704.6500

[1] For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendixes for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example, U.S. Import Statistical Number 323.1021 represents TSUSA number 323.1021 through 323.1921, and 323.1098 represents TSUSA number 323.1098 through 323.1998. The fourth and fifth digits of these TSUSA numbers are the yarn count numbers.

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BILLING CODE 3510-DS-M

[C-557-401]

Final Negative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products and apparel. The net countervailable benefits are *de minimis*, and therefore our final determinations are negative.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0167.

SUPPLEMENTARY INFORMATION:

Final Determinations

For purposes of these investigations, the following programs are found to confer countervailable benefits:

- Tax Incentives for Exports.
- Preferential Short-Term Financing.

The estimated net countervailable benefit is 0.22 percent *ad valorem* for textile mill products and 0.27 percent *ad valorem* for apparel. These amounts are *de minimis*. Therefore, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products and apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union (ACTWU), and the International Ladies' Garment Workers Union (ILGWU), on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Malaysia of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32641).

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Malaysia." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textile and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of these investigations to "Certain Textile Mill Products and Apparel from Malaysia." The scope of these investigations remains the same as announced in the initiation and the preliminary determinations.

We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. industries.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Malaysia in Washington, D.C., on August 24, 1984. Based on the responses to the preliminary questionnaire, we identified the four textile mill products producers and exporters, and the six apparel producers and exporters who account for at least 60 percent of the textile mill products and apparel exported to the United States. Two additional companies made timely requests for exclusion. These twelve firms were selected to respond to the detailed company questionnaire. On October 24, 1984, we presented the detailed government and company questionnaires to the government of Malaysia in Washingon, D.C. The responses to our detailed questionnaires were received on November 26, 1984.

On December 21, 1984, we published our preliminary determinations that benefits constituting subsidies were being provided to manufacturers, producers or exporters in Malaysia of certain apparel, and that no benefits constituting subsidies were being provided to manufacturers, producers, and exporters of certain textile mill products (49 FR 49651).

With regard to the two apparel companies, Eastern Garment Mfg. Co. Sdn. Bhd. ("Eastern") and Palace Garment Mfg. Sdn. Bhd. ("Palace"), which had requested exclusion, Eastern's response indicated that it received benefits which were *de minimis*, and it was, therefore, excluded from the preliminary determination. Palace, however, received countervailable benefts above the *de minimis* rate of 0.50 percent, and we, therefore, included Palace in the suspension of liquidation pursuant to the preliminary determination.

We conducted verification of the questionnaire responses of the government of Malaysia and the textile and apparel companies between January 9 and January 21, 1985, in Malaysia.

On February 2, 1985, a proposed suspension agreement was initialed which provided for the renunciation of all subsidies by the producers and exporters accounting for more than 85 percent of the total exports of textile mill products and more than 85 percent of the total exports of apparel from Malaysia to the United States. On March 1, 1985, the Malaysian respondents informed the Department that they no longer wished to enter into a suspension agreement.

At the request of both petitioners and respondents, we held a hearing on February 13, 1985, to allow the parties an opportunity to address the issues arising in the investigations. We received pre-hearing briefs from the respondents and petitioners on February 6 and 7, respectively. Post-hearing briefs were received on February 22.

Standing of Petitioners

The issue of whether the petitioners have standing has been protracted and contentious. We addressed this issue initially in our preliminary determinations. See *Textile Mill Products and Apparel from Indonesia*, 49 FR 49672 (1984). At that time, we determined that ATMI did not have standing. However, we determined that the eight individual U.S. companies, substituted as petitioners by

amendments to the petitions dated December 3, 1984, did have standing with respect to textile mill products. In addition, we determined that the two unions, ACTWU and ILGWU, had standing with respect to apparel.

After the preliminary determinations, various respondents continued to argue that petitioners lack standing, and that the Department should rescind its initiations of these investigations. On January 16, 1985, various respondents in the Philippines, Thailand, Colombia, and Malaysia investigations filed suit in the U.S. Court of International Trade to enjoin the disclosure pursuant to administrative protective order of confidential information to petitioners' counsel. The plaintiffs in these cases argued, *inter alia*, that disclosure was improper, because the investigations were invalid due to petitioners' alleged lack of standing. The court denied plaintiffs' motions for temporary restraining orders. Plaintiffs subsequently moved for dismissal and the cases were dismissed.

In the meantime, the Department had sent questionnaires to petitioners and to those U.S. companies that had expressed opposition to the investigations. The purpose of these questionnaires was to enable the Department to determine the extent of the opposition and whether rescissions of the initiations were appropriate. The Department received very limited responses to these questionnaires from companies that had expressed opposition to the petitions. The Department did receive some additional information from petitioners.

For purposes of these final determinations, the Department reaffirms its preliminary decisions concerning standing. ATMI lacks standing as an interested party, because this trade association has failed to establish that a majority of its members produce any of the 152 like products involved in these investigations. 19 U.S.C. 1677(9)(E). The eight companies have standing because collectively they are interested parties for all of the like products involved, 19 U.S.C. 1677(9)(C), and because they have filed on behalf of the concerned textile mill products industry. The two unions have standing because they are interested parties, 19 U.S.C. 1677(9)(D), and because they, too, have filed on behalf of the concerned apparel industries.

Respondents' arguments that petitioners lack standing challenge the basis of our investigations, and we will address their arguments herein. Although the various respondents expressed their arguments somewhat differently, the gravamen of their respective arguments was the same.

1. The Standing of the Eight Companies

With respect to the eight companies, respondents argue that the companies have failed to establish affirmatively that they have filed "on behalf of" the industries involved. Respondents rely on *Gilmore Steel Corp.* v. *United States*, 585 F Supp. 670, 676 (Ct. Int'l. Trade 1984), in which the court stated that in order to have standing a petitioner "[m]ust also show that a majority of [the] industry backs its petition."

We do not believe that the holding of *Gilmore* requires petitioners to establish affirmatively that a majority of the relevant industries back their petitions. In *Gilmore*, unlike the present case, a majority of the U.S. industry affirmatively *opposed* Gilmore's petitions, and so indicated to the Department. Under these circumstances, the court held that Gilmore lacked standing. However, this holding does not amount to a requirement that a petitioner somehow prove, when a petition is filed, that at least 51 percent of an industry has expressed itself in support of a petition. To the extent that language in *Gilmore* suggests such a requirements, such language is *dictum*. Moreover, when the Department promulgated the current countervailing duty regulations, it rejected a proposal "[t]hat petitioners be required to state the position of other industry members on the petition." 45 FR 4935 (1980). We continue to believe that such a requirement is unduly burdensome, is unwarranted, and is not required by the statute. Nothing in the statute or its legislative history indicates that Congress intended that anyone wishing to file a petition be required to poll all of the domestic industry.

In the instant investigations, the eight companies continue to receive the support of ATMI, whose members account for over 85 percent of U.S. textile mill products production. Moreover, in light of the inadequacy of information provided by those who expressed opposition to the petitions, the Department cannot presume that a majority of a particular industry opposes the petitions. We cannot presume even that there is any substantial opposition.

The other principal argument against the standing of the eight companies is that the amendments to the petitions, substituting the eight companies as petitioners, were untimely, and that petitioners cannot cure an allegedly defective petition by amendment.

The statute provides that a "[p]etition may be amended at such time, and upon such conditions, as the [Department] * * * may permit." 19 U.S.C. 1671a(b)(1). This language grants the Department considerable discretion. Moreover, the legislative history does not detract from this discretionary authority. S. Rep. No. 249, 96th Cong., 1st. Sess. 46 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 50 (1979).

In seeking guidance on the exercise of this discretionary authority to permit amendments to petitions, we find *Zenith Radio Corp.* v. *United States*, 5 C.I.T. 178 (1983), instructive. In that case, a situation analagous to the instant one existed. The court had ruled that COMPACT, an "umbrella" organization, lacked standing to challenge a Department determination, because COMPACT was not an interested party within the meaning of section 771(9). Subsequently, COMPACT moved to substitute as plaintiffs three of its member unions which were interested parties and which the court found had been parties to the administrative proceeding. The Government and defendant-intervenors opposed the motion to substitute on the grounds that it was unjustifiably late and prejudiced their interests. The court ruled in favor of the unions, because it was

> [i]nclined to exercise its discretion in a lenient manner, where it sees the late emergence of the correct party as understandable in the context of a relatively new and complex field of litigation.

id. at 179.

Given the circumstances of these investigations, we are inclined at this time to follow the example of leniency set by the court. The standing rules for countervailing duty and antidumping investigations are still in the process of development. Moreover, the acceptance by the Department of ATMI as an interested party in *Textiles, Apparel, and Related Products from the People's Republic of China*, 48 FR 46600 (1983), although incorrect in hindsight, gave ATMI some reason to believe that the Department would accept it as an interested party for purposes of the instant investigations. As soon as ATMI realized that the Department was likely to correct its error, ATMI substituted the eight companies as petitioners. Thus, under these circumstances, we consider the amendments to the petitions to be timely.

As for prejudice to respondents as a result of the amendments, the only real prejudice is that the focus of their standing arguments had to shift from ATMI to the companies. However, these arguments were largely restatements of the same *Gilmore*-type arguments that respondents had made from the outset

of these investigations. Thus, we cannot conclude that the substitution of the eight companies created any undue hardship for respondents.

2. The Standing of the ACTWU and the ILGWU

The question of the standing of the ACTWU and the ILGWU is more difficult. It is an issue of first impression, and the relevant statutory provisions are less than precise.

The first issue concerns whether the ACTWU and the ILGWU are "interested parties." Section 771(9)(D) provides that an "interested party" may consist of

> a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production or wholesale in the United States of a like product.* * *

Section 771(4)(A) of the Act, as amended by the Trade and Tariff Act of 1984, defines "industry," in pertinent part, as

> [t]he domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.* * *

Relying on a strict approach to statutory construction, one could conclude that in order to have standing, unions must represent companies. The logic would be that under section 881(9)(D), a union must represent an "industry," which the statute arguably defines as companies producing the like product in question. *See* 19 U.S.C. 1677(4)(D) and 1677(9)(C). However, this approach would conflict with the clear congressional intent to give unions standing if they "[r]epresent *workers* in the relevant U.S. industry." S. Rep. No. 249, 96th Cong., 1st Sess. 90 (1979) (emphasis added). Because Congress intended only that unions be representative of workers, we conclude that the term "producers," as used in section 771(4)(A), refers to workers, as well as companies, for purposes of determining standing.[1]

We then must determine how "representative" of workers the union must be, and how this "representative" status can be established. Several respondents have argued that a majority of the workers in each of the apparel industries identified in these investigations must be members of the ACTWU and the ILGWU in order for these unions to be representative of each industry. Respondents derive this 50 percent requirement from the U.S. labor laws, which, according to respondents, provide that a union is not representative of a company unless it represents at least 50 percent of the workers in that company. Respondents argue that there is no reason why a similar 50 percent requirement should not apply for purposes of determining standing under the countervailing duty law.

We disagree with respondents' conclusion. In section 771(9), Congress imposed a "majority" requirement three times. 19 U.S.C. 1677(9) (A), (E), and (F). Such a requirement is notably absent from section 771(9)(D). If Congress had intended a "majority representation" requirement for unions, it easily could have used language similar to that used in the other paragraphs of section 771(9). This suggests that Congress did not intend a "majority representation" requirement for purposes of determining a union's status as an "interested party." Moreover, there is no indication in the legislative history that Congress intended to engraft the standards of the labor laws onto section 771(9)(D). Therefore, we conclude that because the ACTWU and the ILGWU have demonstrated that they represent workers producing each of the apparel like products, they have established their status as "interested parties."

The remaining question is whether the ACTWU and the ILGWU have filed "on behalf of" the apparel industries. With respect to this question, our discussion of this issue concerning the eight companies, *supra*, is pertinent. As with the eight companies, we do not believe that the statute or the regulations require the unions to establish affirmatively that they have the majority support of a particular industry. Rather, the question is whether a majority of a particular industry opposes a petition.

Here, too, the question of who are the "producers," and thus what constitutes the "industry," is relevant. In the case of apparel products, many leading companies have voiced opposition to the petitions. If these companies, as opposed to the unions, are regarded as the "industries," arguably the unions do not have standing due to the companies' opposition. As indicated *supra*, we are inclined towards the view that an "industry" can consist of either workers or companies producing a like product.

However, we need not resolve this issue here. As discussed *supra*, the Department sent questionnaires to those companies expressing opposition to the petitions, and received inadequate responses. The Department was not able to determine for any particular apparel like product involved in these investigations that companies accounting for a majority of the domestic production of that product opposed the petitions. Therefore, while there may be opposition to the apparel petitions, there is insufficient evidence to warrant a conclusion that the ACTWU and the ILGWU have not filed "on behalf of" the relevant apparel industries.

The Department's Selection of Companies to Receive Questionnaires

When this and the other textile mill and apparel products investigations began, the Department immediately realized that, given the tremendous number of foreign companies producing or exporting the subject merchandise, it would be impossible to investigate each of these companies individually within the statutory deadlines. Therefore, the Department decided to use a two-stage questionnaire process. The Department sent an initial set of questionnaires to the concerned foreign governments in order to solicit preliminary information as to the companies and programs involved. The Department anticipated that the information provided in response to this first questionnaire would enable the Department to devise a sample of firms to whom the Department could issue detailed countervailing duty questionnaires.

The responses to the first set of questionnaires confirmed the Department's prior conclusion that the number of companies exporting the subject merchandise was so large as to make it administratively impossible to issue detailed questionnaires to each company involved. However, the responses also revealed that the proper application of scientific sampling techniques was not feasible. The Department either would have had to sample a number of companies, once again too large to be administratively possible, or would have been faced with the unacceptably large degree of statistical uncertainty inherent in small sample results.

Given this situation, the Department decided to follow its normal practice of obtaining at least 60 percent coverage of the merchandise in question. Thus, the Department issued detailed questionnaires to those companies which accounted for at least 60 percent of textile mill products exported to the United States and at least 60 percent of apparel products exported to the United States from each of the countries involved. This practice is codified in the antidumping regulations in 19 CFR 383.38(a). Although the countervailing duty regulations do not contain a comparable provision, the Department

[1] In this regard, we note that certain of the statutory criteria for determining injury to a U.S. industry expressly concern the effects of imports on workers, as opposed to companies. 19 U.S.C. 1677(7)(C)(iii)(III).

has followed this 60 percent rule in countervailing duty investigations. See, e.g., *Bars and Shapes from Mexico*, 49 FR 32887 (1984); and *Oil Country Tubular Goods from Mexico*, 49 FR 47054 (1984).

In their letter of October 23, 1984, petitioners objected to the Department's approach, claiming that the Department's so-called "sampling" was not permitted by law. Petitioners requested that the Department send detailed questionnaires to all firms identified as producers or exporters of the subject merchandise. Alternatively, petitioners requested that the Department use a sampling approach which, presumably in petitioners' view, was "scientific."

We considered, but rejected, both of petitioners' requests. With respect to petitioners' suggestion that we examine *all* companies, as discussed *supra*, such an approach would have been administratively impossible in these cases. Moreover, the Department is not required to examine 100 percent of exports to the United States in a countervailing duty investigation. During the course of these investigations, Department officials asked, both formally and informally, that counsel for petitioners cite to any authority for their claim that the Department must examine 100 percent of exports. For example, at the hearing on the Peruvian investigations, a Department official asked counsel to "[a]ddress the specific portion of the statute that you feel requires us to look at 100 percent of the exports of the subject merchandise." Transcript, at 38. In response to this request, in their post-hearing briefs petitioners merely cited, without any explanation, section 702(b) of the Act, 19 U.S.C. 1671a(b). We do not see anything in the cited provision which supports petitioners' theory.

Petitioners have cited repeatedly section 777A of the Act, as amended by the Trade and Tariff Act of 1984. Section 777A provides that under certain circumstances, the Department may use "generally recognized sampling techniques" in antidumping proceedings and countervailing duty administrative reviews under section 751 of the Act, 19 U.S.C. 1675. According to petitioners, this express grant of authority to sample in countervailing duty administrative reviews implies a lack of authority to sample in a countervailing duty investigation.

We are not sure exactly what point petitioners are trying to make with this argument. To the extent that petitioners argue that the Department may not use generally recognized sampling techniques in countervailing duty investigations, we disagree. However, this argument is irrevelant here, because the Department's 60 percent approach was not, and never purported to be, a scientific sample as envisaged by section 777A. Indeed, it was because the Department concluded that it could not devise a scientific sampling method that it chose to proceed with its standard 60 percent coverage approach.

To the extent that petitioners argue that section 777A requires the Department to examine 100 percent of exports in countervailing duty investigations, we also disagree. We do not find in section 777A, its legislative history, or in administrative or judicial precedent support for the proposition that the Department must examine 100 percent of exports.

Moreover, nothing in the statute requires the Department to examine any particular percentage of exports or companies. *Cf., American Spring Wire Corp.* v. *United States*, 590 F. Supp. 1273 (Ct. Int'l Trade 1984), *appeal filed*, Sept. 10, 1984. The statute expressly provides that the Department may estimate the amount of the net subsidy. 19 U.S.C. 1671e(a)(1). In addition, with respect to the suspension agreement provisions of section 704(b) of the Act, 19 U.S.C. 1671c(b), Congress provided that an agreement signed by exporters accounting for less than 100 percent of exports is sufficient to suspend an investigation.

With respect to petitioners' alternative request that we devise a "scientific" sampling approach, we note again that the Department believes that in the instant investigations, application of such an approach would either have been administratively impossible, or have yielded unacceptably uncertain results. Petitioners' specific suggestions would not result in an unbiased, statistically valid sample, but merely would produce a sample biased in favor of petitioners and against respondents.

Subsequent to their October 23 letter, petitioners raised additional objections to the Department's approach. In their pre-hearing briefs, petitioners argued that the Department's approach violates section 776(a) of the Act, 19 U.S.C. 1677e(a). Section 776(a) requires the Department to verify information relied upon by it in its final determinations. According to petitioners, implicit in any sampling approach is the assumption that the distribution and level of benefits among companies not sampled would yield a rate the same as for the nonsampled companies. Because the Department has not verified this assumption, petitioners argue, the Department's methodology violates section 776(a)

Again, petitioners have missed the point. As Department officials informed counsel on numerous occasions, the Department's methodology is not a scientific or statistical sampling approach, and therefore is not based on the assumption cited by petitioners. The Department has not "assumed" anything regarding the 40 percent of exports not covered by its questionnaires. All the Department sought to do was to ensure accurate subsidy rates for the covered exports. As stated *supra*, petitioners have not provided any authority for their theory that the Department must investigate 100 percent of exports and all alleged subsidy programs.

In their pre-hearing briefs, petitioners also argued that the Department should have sent questionnaires to those companies accounting for 60 percent of each of the 152 like products preliminarily found by the Department to exist for purposes of determining petitioners' standing to file the subject petitions. Here, petitioners are confusing two basic statutory terms of art: "class or kind" and "like product." "Class or kind," which is not defined in the statute, governs the scope of the Department's investigations. 19 U.S.C. 1671(a)(1), 1671a(c)(2). "Like product," which is defined in section 771(10) of the Act, 19 U.S.C. 1677(10), governs the definition of "industry" for purposes of determining injury and the standing of petitioners. 19 U.S.C. 1671(a)(2), 1671a(b)(1), 1677(4). It is not unusual in a particular case that "like product" is defined differently than "class or kind," as is the case here. See, e.g., *Oil Country Tubular Goods from Brazil, Korea, and Spain*, USITC Publication No. 1633 (Jan. 1985), in which the ITC divided the Department's single class or kind of merchandise, oil country tubular goods, into more than one like product. Given the different purpose of the term "like product," it would have been inappropriate for the Department to send questionnaires on the basis of its 152 "like product" categories. Instead, the Department acted correctly and in accordance with prior practice by basing its questionnaires upon the "class or kind" of merchandise in these investigations.

Petitioners also argue that the Department should use the best information available with respect to those companies to which the Department did not send questionnaires. We also disagree with this argument. Section 776(b) of the Act provides, *inter alia*, for the use of the best information otherwise available in making a determination "whenever a party or any other person refuses or is unable to

produce information requested in a timely manner and in the form required. * * *" We do not believe that this provision mandates the use of the best information available where we have received the information we requested, we have been able to verify that information, and the information provides a sufficient basis for our final determinations.

Finally, petitioners also alleged in their letter of October 23, 1984, that they were "[e]xcluded from meaningful participation in the development and formulation of the staff's 'sampling' plan." We object to this statement, and in order to clarify the record, we note that staff of Import Administration and the Office of the General Counsel met with counsel for petitioners prior to a decision as to the methodology to be used in these investigations. Counsel's views were considered fully, and, in fact, the Department did adopt petitioners' suggestion to send questionnaires to all foreign companies requesting exclusion. Petitioners also were able to review the detailed questionnaires and make numerous suggestions, many of which the Department adopted. The fact that the Department did not adopt petitioners' other suggestions does not mean that petitioners were "excluded from meaningful participation"; it simply means that the Department reached different conclusions.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel which are described in Appendix A attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

For purposes of these determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments submitted by interested parties, we determine the following:

I. Programs Determined To Confer Countervailable Benefits

We determine that countervailable benefits are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products and apparel under the following programs.

A. Tax Incentives for Exports

The government of Malaysia uses several tax incentives to promote textile exports. First, a double tax deduction is granted for expenses related to export sales, including advertising costs outside Malaysia, export market research, participation in trade exhibitions and overseas sales offices. Secondly, Malaysian companies can deduct from net taxable income eight percent of the FOB value of export sales if Malaysian content of the product is more than 50 percent; they can deduct five percent if Malaysian content is less than 50 percent.

We verified that section 27 of the Investment Incentives Act of 1968 allows exporters to obtain a double deduction of eligible export promotion expenses in determining taxable income. In addition, section 29 of the same act provided (for tax years prior to 1983) a deduction of two percent of the ex-factory value of exports from taxable income and a deduction of 10 percent of the increase in export value from the preceding year. In 1983, the government of Malaysia amended the "export allowance" provisions, i.e., section 29 of the law, by eliminating the two types of deductions provided under that section and by providing only a deduction of five percent of export revenues from taxable income.

Because these special tax deductions are granted on the basis of exports, we determine that they confer a subsidy. To calculate the benefit from these deductions, we determine the tax savings directly attributable to their use and allocated that amount over the total value of export sales in 1983. We calculated a net benefit of 0.09 percent for apparel. We verified that none of the textile mill products companies under investigation claimed these special export tax deductions during the review period.

B. Preferential Short-Term Financing

Petitioners allege that the government of Malaysia provided preferential pre- and post-export short-term refinancing through the Malaysian banking system. The commercial banks allegedly provide loans to exporters at the preferential rate of 4.5 percent, which the central bank then refinances.

We verified that Bank Negara Malaysia, Malaysia's central bank, maintains an export credit refinancing facility for both pre- and post-shipment refinancing. This facility allows commercial banks to finance export transactions for a period of up to 92 days. Access to these funds is usually limited to 3 million Malaysian dollars for each exporter. The annual interest rates on these loans varied between 4.5 and 6 percent in 1983.

Because these loans are granted to finance exports and because the interest rates on these loans are lower than those available from commercial sources, we determine that these loans confer a countervailable benefit upon certain textile mill products and apparel from Malaysia. To calculate the benefit, we used as our benchmark the average Banker's Acceptance rate for 1983 of 8.9 percent. The Banker's Acceptance is the most comparable and commonly used alternative source of short-term financing. We then calculated the amount of the benefit using our short-term loan methodology. We calculated a benefit of 0.22 percent for textile mill products and 0.18 percent for apparel.

II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products and apparel under the following programs:

A. Free Trade Zones

Petitioners allege that textile and apparel exporters located in Free Trade Zones (FTZ's) receive countervailable benefits from tax and duty exemptions on imports of capital equipment and on other materials not physically incorporated into exported products.

We verified that companies located in the FTZ's do not receive treatment that differs from the treatment received by similar entities located outside the FTZ's. Since 1960, the government of Malaysia has imposed no import duties on imports of machinery for new manufacturing enterprises or expansion of existing enterprises regardless of a company's location. Companies which have received such exemptions have included the producers of textiles, chemicals, electronics, food products, metal products, and wood-based products.

As for import duties on "materials other than those physically incorporated into the exported products," we verified that companies located in the FTZ's like other companies, have to pay import duties on these materials.

Because companies located in the FTZ's do not receive preferential treatment vis-a-vis companies located outside the FTZ's, we determine that this program does not constitute a bounty or grant.

B. Reinstatement Allowance

Petitioners allege that textile and apparel manufacturers benefit from a Reinvestment Allowance which permits manufacturing companies to deduct 25 percent of their expansion costs in plant, equipment and machinery.

Schedule 7A of the Income Tax Act of 1967 authorizes a reinvestment allowance of 25 percent of the approval expenditure under the Industrial Coordination Act of 1975. In its response, the government of Malaysia stated that the program is not limited to any region, product or sector, and that according to section 4(3) of the Industrial Coordination Act, the approval of a license is based only on whether the project is "consistent with the rational economic and social objectives and would promote the orderly development of manufacturing activities in Malaysia."

During verification, we found that all kinds of companies involved in every industrial sector are eligible for and have received benefits from a reinvestment allowance. We also found that the approval process regarding expansion projects is merely a monitoring devide for the government to keep abreast of the industrial capacity of the country. Because the program is not limited, either *de jure* or *de facto*, to a specific enterprise or industry, or groups of enterprises or industries, we determine that the program does not constitute a bounty or grant.

Industrial Estates

Petitioners allege that under this program the government of Malaysia sponsors and finances industrial estates which provide real estate and financing at preferential rates to export-oriented, resource-based, labor-intensive industries. Petitioners claim the purpose of this program is to induce companies to settle away from congested areas.

We verified that the industrial estates in Malaysia are under the control of the state authorities. These industrial estates are a means of restricting commercial activities to certain areas, much the same as local U.S. zoning laws do. We also verified that there are industrial estates scattered throughout Malaysia and that a very wide and diversified range of industrial and commercial users are located in these estates. We found no evidence that there are restrictions in eligibility to become a tenant, nor did we find that the ability to locate in the industrial estates is in any way dependent upon export objectives or performance.

Because the program is not designed to promote exports, is not limited to any specific regions of the states or the country, and is not limited, either *de jure* or *de facto*, to a specific enterprise or industry, or group of enterprises or industries, we determine that the program does not constitute a bounty or grant.

III. Programs Determined Not To Be Used

We determine that manufacturers, producers, and exporters in Malaysia of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation:

A. Export Credit Insurance

Petitioners allege that exporters benefit from the provision of export credit insurance at rates which are inconsistent with commercial considertions and which are inadequate to cover the long-term operating risks of the insurance program. We verified that none of these companies used export credit insurance during the review period.

B. Preferential Financing for Bumiputras

Petitioners allege that textile and apparel manufacturers benefit from preferential financing and other types of assistance that are especially available to Bumiputras, the indigenous people of Malaysia. We verified that none of these companies received such financing or assistance during the review period.

C. Labor Utilization Relief Program

Petitioners allege that companies in labor-intensive industries such as textiles and apparel receive tax relief under the Labor Utilization Relief Program. We verified that none of these companies applied for or received benefits under this program during the review period.

D. Investment Tax Credits

Petitioners allege that exporters benefit from investment tax credits of at least 25 percent of capital expenditures on factories, machinery and equipment for use on a government-approved project. We verified that none of these companies has been approved for receipt of the investment tax credit during the review period.

E. Increased Capital Allowance

Petitioners allege that textile and apparel exporters benefit from an increased capital allowance for deductions on new equipment and modernization costs. We verified that none of these companies received the increased capital allowance during the review period.

F. Locational Incentives Program

Petitioners allege that exporters may benefit from a Locational Incentives Program, which provides up to 10 years of tax relief to companies which are located away from congested areas, and which have been deemed by the government to be a priority industry or whose products contain a certain percentage of Malaysian content. We verified that none of these companies received locational incentives benefits during the review period.

G. Industrial Building Allowance

Petitioners allege that exporters benefit from an Industrial Building Allowance, instituted by the government, which provides exporters with deductions from the cost of acquisition of warehouses and facilities. We verified that none of these companies claimed a deduction for the special building allowance for export-related warehouse and storage facilities during the review period.

H. Accelerated Depreciation for Exports

Petitioners allege that the Malaysian manufacturers benefit from accelerated depreciation on equipment used to build, modernize or expand plant facilities when their exports total more then 20 percent, by value, of total production. We verified that none of these companies used the special accelerated depreciation available to exporters during the review period.

Comments

Comment 1: Petitioners argue that respondents failed to submit certain documents such as income tax returns, lists of short-term and long-term loans and annual reports and statistical publications of the Central Bank Malaysia. Therefore, the Department must reject respondents' questionnaire responses for purposes of its final determinations and must instead base its findings with respect to preferential financing and tax benefits on the best available information.

DOC Position: During verification, we received and verified all information necessary to make the final determinations. In addition, the documents mentioned are ordinarily received during verification rather than included with questionnaire responses. They are in the nature of verification

exhibits, and do not themselves constitute a questionnaire response.

Comment 2: Petitioners allege that Malaysian producers of textiles and apparel located in Free Trade Zones benefit from preferential exemption of customs duties and taxes on imported capital equipment and other goods not physically incorporated into exported textiles and apparel. They argue that it is not apparent whether all imports of machinery listed as "eligible for exemption" are automatically exempted from the payment of all customs duties and sales taxes. They also argue that, unless respondents can prove that goods, other than those physically incorported in exported products, imported by companies not located in FTZ's are actually exempted from duties and taxes to the same extent as goods imported by companies located in the FTZ's and, unless respondents can prove that the exemption of goods outside of the zones does not benefit specific industries, these programs must be considered as countervailable benefits.

Respondents argue that location in an FTZ does not confer any countervailable benefit because there are no cash savings that result from being located in an FTZ.

DOC Position: With regard to duties on imports of machinery and equipment, Malaysian law has exempted all machinery for new manufacturing enterprises or expansion of existing enterprises from import duties since 1980. We verified through checking the Trade Classification Customs Tariff, 1978, and Related Customs Regulations that non-payment of import duties on machinery and equipment is not limited to a specific enterprise or industry or a group of enterprises or industries.

With regard to duties on goods other than those physically incorporated in exported products, we verified that all companies, whether located in an FTZ or not, have to pay import duties on these goods.

Comment 3: Petitioners argue that the rates for land and services provided to companies in industrial estates are inadequate to cover the costs incurred by the administering entities in developing and administering the estates and are less than the rates charged for similar land and services outside of the industrial estates. Therefore, this program is a subsidy.

Respondents argue that location in an industrial estate does not confer any countervailable benefits because "nothing in the laws indicate any preferential treatment of companies in an industrial estate." Moreover, even if there were some benefits derived from locating in an industrial estate, these benefits are generally available and, therefore, not countervailable.

DOC Position: We verified that this program does not promote exports or regional development and that eligibility to become a tenant in the industrial estates is not limited to a specific enterprise or industry or group of enterprises or industries. Therefore, we determine that this program does not confer countervailable benefits.

In view of the finding of no limitation, the issue of whether the rates for the land and services provided to companies in industrial estates are inadequate to cover the costs incurred by the administering entities or whether they are less than the rates charged for similar land and services outside of the industrial estates is not relevant.

Comment 4: Petitioners argue that the reinvestment allowance benefits a specific enterprise or group of enterprises as a result of administrative discretion, and, therefore, is a subsidy.

Respondents argue that the reinvestment allowance is generally available, and, therefore, does not confer countervailable benefits.

DOC Position: We verified that the reinvestment allowance is not discretionary and does not benefit a specific enterprise or industry or a group of enterprises or industries. For more detailed discussion of this program see Section II B.

Comment 5: Petitioners argue that the accelerated depreciation deduction available under section 28 of the Investment Incentives Act which allows Malaysian enterprises to depreciate in one year the entire value of equipment purchased between January 1, 1981 and January 1, 1986, is not available equally to all industries or for all types of equipment, and, therefore, must be considered a subsidy.

DOC Position: We verified that the accelerated depreciation on factory machinery and equipment (ADA) is not limited to a specific enterprise or industry or group of enterprises or industries. All businesses are eligible for accelerated depreciation unless they are exempt from taxation under such programs as pioneer status, labor utilization, etc. At the expiration of their domestic tax holidays, these companies, too, can claim the ADA.

Comment 6: Petitioners argue that the Department should adjust the short-term financing benchmark used in its preliminary determination (1) to factor out preferential financing, and (2) to include sources of commercial financing other than commercial banks.

Respondents argue that the benchmark used in the preliminary determination does not accurately reflect the true cost of commercially available trade financing in Malaysia and that it vastly overstates the benefit received by exporters from Bank Negara Malaysia financing. They argue that the most comparable commercial financing is the Bankers Acceptance rate.

DOC Position: According to the 1983 annual report of Bank Negara Malaysia, Bankers Acceptances account for nearly 60 percent of all trade bill financing in Malaysia. Thus, it is clearly the predominant form of commercially available financing comparable to the preferential pre- and post-shipment financing examined in these investigations. For this reason, we believe that the Bankers Acceptance rate is a much more accurate measure of comparable commercially available financing than the weighted-average benchmark used in the preliminary determination—however adjusted—which included all types of financing such as long-term loans and consumer loans.

Comment 7: Petitioners argue that, in calculating the benefit conferred by the export allowance and the export deductions, the Department should not permit the deduction from taxable income of the reinvestment allowance or the reinvestment carried forward, prior to calculating the countervailable benefit from the export allowance and export deductions. It is petitioners' understanding that the export allowance must be used in the year it is incurred, while the reinvestment allowance may be carried forward to future years if the company has more reinvestment allowance than it has net taxable income. Therefore,

the reinvestment allowance carried forward would not be available to offset taxable income of the responding companies, absent the export allowance and the export deductions claimed in 1982, and is therefore countervailable. The reinvestment allowance for 1983 will presumably not be used by the responding companies in 1983, and will be carried forward again because of the export allowance available in 1983. The reinvestment allowance should thus not be credited against taxable income in 1983, and the benefit from the export allowance and export deductions should be increased accordingly.

DOC Position: We verified that both the reinvestment allowance and the export deductions, as well as all other deductions, can be carried forward from year to year. Therefore, the companies are free to use any deductions they are eligible for in the year of their choice.

We have determined that the reinvestment allowance is not

countervailable (see section IIB). Therefore, we are treating it as we would treat any normal deduction and have allowed the total reinvestment allowance claimed as an offset against taxable income for 1983 and see no reason to increase the value of the export deduction as if the reinvestment allowance were not used.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including meetings with government officials and inspection of documents and on-site inspection of accounting records of certain companies exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34). A hearing was held and written views have been received and considered in reaching these final determinations.

Suspension of Liquidation

Pursuant to section 705(c)(2) of the Act, the suspension of liquidation of all entries entered, or withdrawn from warehouse, for consumption of certain apparel from Malaysia effective December 21, 1984, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination: Certain Apparel from Malaysia", (49 FR 49651) is hereby terminated. Any cash deposits on entries of certain apparel from Malaysia pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

This notice is published pursuant to sections 303 and 705 of the Act (19 U.S.C. 1303, 1671d).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985.

Appendix A.—List of TSUSA Codes Which Covered Malaysia's Exports of Certain Textile Mill products and Apparel to the United States in 1983

A. Textile Mill Products

Yarns and Threads

310.4047	310.5049

Woven Fabrics

320.0012	320.0013	320.0032	320.0033	320.0034	320.0043	320.0044
320.0045	320.0050	320.0051	320.0052	320.0062	320.0063	320.0071
320.0077	320.0085	320.0089	320.0091	320.0095	320.1019	320.1034
320.1038	320.1045	320.1054	320.1071	320.1077	320.1094	320.2038
320.4028	322.1050	322.1051	322.1052	322.1087	322.1093	323.1021
323.1022	323.1024	323.1031	323.1038	323.1042	323.1049	323.1054
323.1057	323.1065	323.1072	323.1074	323.1080	323.1098	325.1050
325.1051	325.1052	325.1087	325.1093	325.8003	325.8021	325.8022
325.8024	325.8031	325.8038	325.8042	325.8049	325.8054	325.8057
325.8065	325.8072	325.8074	325.8080	325.8098	326.3034	326.3042
326.3071	326.3077	326.4021	326.4022	326.4024	326.4031	326.4038
326.4042	326.4049	326.4054	326.4057	326.4065	326.4072	326.4074
326.4080	326.4098	326.6016	326.6023	326.6069	326.6073	327.1034
327.1045	327.1071	327.1077	327.2092	327.3050	327.3051	327.3052
327.3085	327.3087	327.3089	327.3091	327.3093	327.3095	327.4021
327.4022	327.4024	327.4031	327.4038	327.4042	327.4049	327.4054
327.4057	327.4065	327.4072	327.4074	327.4080	327.4098	328.0021
328.0022	328.0024	328.0031	328.0038	328.0042	328.0049	328.0054
328.0057	328.0065	328.0072	328.0074	328.0080	328.0098	328.1050
328.1051	328.1052	328.1089	328.1091	328.1095	328.1085	328.1092
328.2021	328.2022	328.2024	328.2031	328.2034	328.2038	328.2042
328.2045	328.2049	328.2050	328.2051	328.2052	328.2054	328.2057
328.2065	328.2071	328.2072	328.2074	328.2077	328.2080	328.2085
328.2089	328.2091	328.2094	328.2095	328.2098	328.3014	328.3016
328.3023	328.3038	328.3034	328.3035	328.3039	328.3046	328.3064
328.3067	328.3069	328.3071	328.3073	328.3077	328.3078	328.3092
328.4021	328.4022	328.4024	328.4031	328.4038	328.4042	328.4049
328.4054	328.4057	328.4058	328.4065	328.4072	328.4074	328.4080
328.4094	328.4098	328.5058	328.5068	328.9021	328.9022	328.9024
328.9031	328.9038	328.9042	328.9049	328.9054	328.9057	328.9065
328.9066	328.9072	328.9074	328.9080	328.9098	330.2021	330.2022
330.2024	330.2031	330.2038	330.2042	330.2049	330.2054	330.2057
330.2065	330.2072	330.2074	330.2080	330.2098	331.1021	331.1022
331.1024	331.1031	331.1038	331.1042	331.1049	331.1054	331.1057
331.1065	331.1072	331.1074	331.1080	331.1098	331.2021	331.2022
331.2024	331.2031	331.2038	331.2042	331.2049	331.2054	331.2057
331.2065	331.2072	331.2074	331.2080	331.2098	331.4021	331.4022
331.4024	331.4031	331.4038	331.4042	331.4049	331.4054	331.4057
331.4065	331.4072	331.4074	331.4080	331.4098	331.7003	331.7021
331.7022	331.7024	331.7038	331.7042	331.7049	331.7054	331.7057
331.7065	331.7072	331.7074	331.7080	331.7098	338.5009	338.5010
338.5021	338.5024	338.5030	338.5031	338.5035	338.5036	338.5039
338.5041	338.5043	338.5044	338.5045	338.5046	338.5054	338.5060

Textile Furnishings						
366.4700	366.6550					
Miscellaneous						
389.6265						
B. Apparel						
370.0800	372.1540	372.1560	372.7520	374.4000	374.5020	376.2425
376.5408	376.5412	378.0550	378.1535	379.0240	379.0620	379.0640
379.0642	379.0646	379.2320	379.2360	379.2630	379.2650	379.3120
379.3905	379.3930	379.4020	379.4030	379.4040	379.4050	379.4060
379.4070	379.4330	379.4615	379.4620	379.4650	379.4660	379.4670
379.5220	379.5510	379.5520	379.5525	379.5530	379.5535	379.5545
379.5550	379.5555	379.5560	379.5565	379.5800	379.6210	379.6217
379.6219	379.6230	379.6240	379.6250	379.6260	379.6270	379.6280
379.6450	379.6470	379.7400	379.7610	379.7620	379.7630	379.7640
379.8311	379.8356	379.8357	379.8358	379.8359	379.8835	379.8915
379.8930	379.8940	379.9010	379.9020	379.9030	379.9035	379.9040
379.9250	379.9505	379.9525	379.9530	379.9535	379.9540	379.9545
379.9550	379.9555	379.9560	379.9562	379.9564	379.9566	379.9568
383.0213	383.0219	383.0222	383.0226	383.0228	383.0232	383.0234
383.0335	383.0350	383.0505	383.0506	383.0507	383.0509	383.0601
383.0603	383.0604	383.0606	383.0622	383.0631	383.0608	383.0616
383.0657	383.0805	383.0841	383.0856	383.1807	383.1822	383.1824
383.1841	383.1843	383.1846	383.1848	383.1910	383.1935	383.1940
383.2040	383.2052	383.2056	383.2205	383.2210	383.2227	383.2228
383.2229	383.2231	383.2232	383.2233	383.2234	383.2236	383.2237
383.2230	383.2352	383.2356	383.2365	383.2706	383.2715	383.2716
383.2718	383.2721	383.2722	383.2724	383.2726	383.2728	383.2730
383.2732	383.2736	383.2738	383.2750	383.2752	383.2754	383.2758
383.2807	383.2809	383.2820	383.2826	383.2828	383.2835	383.2838
383.2842	383.2844	383.2910	383.2920	383.3030	383.3040	383.3037
383.3038	383.3060	383.3069	383.3070	383.3200	383.3415	383.3435
383.3445	383.3448	383.3450	383.3452	383.3465	383.3466	383.4200
383.4300	383.4702	383.4704	383.4705	383.4707	383.4709	383.4711
383.4720	383.4721	383.4724	383.4726	383.4747	383.4748	383.4750
383.4753	383.4654	383.4756	383.4757	383.4761	383.4762	383.4764
383.4765	383.4821	383.4825	383.5027	383.5041	383.5051	383.5086
383.5090	383.5630	383.6200	383.6310	383.6340	383.6360	383.6371
383.6372	383.7532	383.7534	383.7536	383.7538	383.7542	383.7544
383.7546	383.7548	383.7552	383.7687	383.7888	383.7892	383.8002
383.8007	383.8009	383.8011	383.8012	383.8005	383.8024	383.8026
383.8028	383.8030	383.8045	383.8048	383.8050	383.8052	383.8073
383.8110	383.8117	383.8141	383.8143	383.8162	383.8164	383.8660
383.8663	383.8669	383.8670	383.9010	383.9015	383.9025	383.9027
383.9029	383.9035	383.9040	383.9050	383.9051	383.9068	383.9069
383.9070	383.9210	383.9215	383.9225	383.9270	383.9290	383.9291
Miscellaneous						
702.1200	703.1610	703.1620	703.1630	703.1640	703.1650	704.3220
704.4010	704.4025	704.4502	704.4504	704.4506	704.4508	704.8520
704.8550	704.8520	704.3640	704.3680	704.3900	704.4106	

Note.—For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example U.S. Import Statistical Number 320.0012 represents TSUSA numbers 320.0112 through 320.0012 and 331.7098 represents TSUSA numbers 331.7098 through 331.7998. The fourth and fifth digits of these TSUSA numbers are the yarn count numbers.

[FR Doc. 85-5830 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DS-M

Management-Labor Textile Advisory Committee; Partially Closed Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held on March 14, 1:00 p.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington D.C. 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements).

General Session: 1:00 p.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 2:00 p.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR 166 (1982)) and listed in 5 U.S.C. 552b(c)(1).

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility Room 6628, U.S. Department of Commerce, (202) 377-4217.

This meeting is being called on short notice because of bilateral negotiations scheduled for this month with a number of countries and the need for public comments and committee members' views before such negotiations and consultations take place.

For further information or copies of the minutes contact Helen L. LeGrande (202) 377-3737.

Dated: March 7, 1985.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 85-5836 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DR-M

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

A meeting of the Importers and Retailers's Textile Advisory Committee will be held on March 13, 1985, 10:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements).

General Session: 10:30 a.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 11:00 a.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR 166 (1982)) and listed in 5 U.S.C. 552b(c)(1).

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility Room 6628, U.S. Department of Commerce, (202) 377-4217.

This meeting is being called on short notice because of bilateral negotiations

scheduled for this month with a number of countries and the need for public comments and committee members' views before such negotiations and consultations take place.

For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

Dated: March 7, 1985.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 85–5637 Filed 3–11–85; 8:45 am]

BILLING CODE 3510-DR-M

[C-560-401]

Termination of Countervailing Duty Investigations Under Section 303 and Preliminary Affirmative Countervailing Duty Determinations Under Title VII; Certain Textile Mill Products and Apparel From Indonesia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Indonesia has become a "country under the Agreement." Accordingly, we are terminating the pending countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended ("the Act"), and the investigations shall be subject to the provisions of Title VII of the Act as if preliminary determinations under section 703 were made on March 4, 1985, the effective date of the application of Title VII to Indonesia.

EFFECTIVE DATE: March 4, 1985.

FOR FURTHER INFORMATION CONTACT: Alain Letort, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–5050.

SUPPLEMENTARY INFORMATION:

Initiation of Investigations and Preliminary Determinations

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certin textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Indonesia of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initated such investigations (49 Fed. Reg. 32642). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "exraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

On December 17, 1984, we issued our preliminary determinations that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Indonesia of certain textile mill products and apparel (49 FR 49672).

On December 3, 1984 the petitioners amended their petitions to include the following ATMI member firms as individual petitioners with respect to textile mill products:

- Belton Industries, Inc., of Belton, S.C.
- Burlington Industries, Inc., of Greensboro, N.C.
- Chatham Manufacturing Company of Elkin, N.C.
- Milliken & Company of Spartanburg, S.C.
- Mount Vernon Mills, Inc., of Greensville, S.C.
- Shuford Mills, Inc., Hickory, N.C.
- J.P. Stevens & Co., Inc., of New York, N.Y. and
- West Point-Pepperell, Inc., of West Point, Ga.

On December 17, 1984, the Department determined that ATMI is not an "interested party" under section 771(9)(E) of the Act, and has no standing as a petitioner in these investigations. The Department accepted the amendment to add the eight firms listed above as petitioners with respect to textile mill products.

On March 4, 1985, the Office of the United States Trade Representative announced that Indonesia was a "country under the Agreement," as set out in section 701(b) of the Act (50 FR 9342). As a result, Title VII of the Act became applicable to the then pending countervailing duty investigations. According to section 102 of the Act, once Title VII becomes applicable, any pending investigation under section 303 of the Act must terminate. Where a preliminary determination, but not a final determination has been made under section 303, the case is to be treated as if the preliminary determination under section 703 was made the day Title VII first applied to that country. Therefore, we are terminating the investigations we initiated on August 9, 1984, under section 303 of the Act. The investigations shall be subject to the provisions of Title VII of the Act as if the affirmative preliminary determinations made on December 17, 1984, under section 303 (49 FR 49672) were affirmative preliminary determinations under section 703 of the Act made on March 4, 1985. The final determinations in these investigations now are due by May 20, 1985.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel which are described in the Appendix to this notice.

ITC Notification

Pursuant to section 703(f) of the Act, we are notifying the U.S International Trade Commission (ITC) and making available to it information relating to the matter under investigation. We will make available to the ITC all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

After our final determinations, the ITC will determine whether a industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of certain textile mill products and apparel from Indonesia.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix.—Imports of Certain Textile Mill Products and Apparel

Tariff Schedule Numbers Subject to Investigations

A. Textile Mill Products

Yarns and Threads

310.0250 310.5049

Woven Fabrics

320.0001	320.0012	320.0013	320.0019	320.0032	320.0033	320.0034
320.0043	320.0044	320.0045	320.0062	320.0063	320.0071	320.0077
320.1019	320.1034	320.1045	320.1071	320.1077	322.1015	322.1017
322.1029	322.1036	322.1040	322.1047	322.1055	322.1056	322.1065
322.1068	322.1070	322.1079	322.1097	322.3003	322.3018	322.3021
322.3022	322.3024	322.3027	322.3038	322.3042	322.3049	322.3054
322.3057	322.3065	322.3072	322.3074	322.3080	322.3098	322.4003
322.4021	322.4022	322.4024	322.4031	322.4038	322.4042	322.4049
322.4054	322.4057	322.4065	322.4072	322.4074	322.4080	322.4098
322.5021	322.5022	322.5024	322.5031	322.5038	322.5042	322.5049
322.5054	322.5057	322.5065	322.5072	322.5074	322.5080	322.5098
322.8003	322.8021	322.8022	322.8024	322.8038	322.8042	322.8049
322.8054	322.8057	322.8065	322.8072	322.8074	322.8080	322.8098
325.8021	325.8022	325.8024	325.8031	326.1050	326.1051	326.1052
326.1085	326.1089	326.1091	326.1095	326.3016	326.3018	326.3021
326.3022	326.3023	326.3024	326.3027	326.3031	326.3038	326.3042
326.3049	326.3054	326.3057	326.3065	326.3069	326.3072	326.3073
326.3074	326.3080	326.3098	332.4040	338.5021	338.5024	338.5030
338.5031	328.5035	328.5036	328.5039	338.5064	338.5069	

Special Construction Fabrics

347.3380

Textile Furnishings

361.4500	363.4500	363.5115	365.7825	365.7865	366.2740	366.2780
366.4800	366.4700	366.7925	366.7930	727.8630		

Luggage and Handbags

706.3400	706.3640	706.3680	706.3650	706.4106	706.4111	706.4140
706.4150						

Miscellaneous

386.1500	386.4000	386.5045	389.3000	389.7000

B. Apparel

Wearing Apparel

372.1060	372.1540	372.1560	372.2000	372.7000	372.7520	378.1540
379.0220	379.0620	379.0640	379.0642	379.0646	379.0810	379.2350
379.2630	379.3120	379.3940	379.4010	379.4020	379.4040	379.4050
379.4330	379.4630	379.4640	379.4650	379.4660	379.4670	379.5210
379.5220	379.5510	379.5520	379.5525	379.5530	379.5535	379.5540
379.5545	379.5550	379.5560	379.5565	379.5800	378.6210	379.6220
379.6230	379.6240	379.6250	379.6470	379.8915	379.9025	379.9030
379.9040	379.9250	379.9530	379.9535	379.9540	379.9545	379.9550
379.9555	379.9570	379.9575	379.9580	379.9585	379.9641	379.9650
383.0219	383.0222	383.0226	383.0228	383.0232	383.0234	383.0238
383.0242	383.0246	383.0248	383.0262	383.0264	383.0266	383.0268
383.0272	383.0305	383.0335	383.0361	383.0505	383.0506	383.0507
383.0509	383.0606	383.0608	383.0612	383.0614	383.0618	383.0622
383.0631	383.0616	383.0630	383.0638	383.0640	383.0805	383.0835
383.0838	383.0841	383.0856	383.0859	383.0860	383.1305	383.1802
383.1804	383.1805	383.1806	383.1807	383.1822	383.1824	383.1841
383.1910	383.1915	383.1920	383.1922	383.1924	383.1926	383.1928
383.2005	383.2013	383.2014	383.2020	383.2025	383.2035	383.2040
383.2050	383.2052	383.2058	383.2060	383.2205	383.2210	383.2212
383.2214	383.2225	383.2227	383.2228	383.2229	383.2231	383.2232
383.2233	383.2234	383.2235	383.2236	383.2237	383.2239	383.2241
383.2243	383.2245	383.2248	383.2251	383.2255	383.2305	383.2315
383.2320	383.2325	383.2330	383.2335	383.2340	383.2350	383.2252
383.2354	383.2356	383.2360	383.2365	383.2535	383.2550	383.2590
383.2710	383.2712	383.2714	383.2715	383.2716	383.2718	383.2721
383.2722	383.2724	383.2726	383.2728	383.2730	383.2732	383.2736

Tariff Schedule Numbers Subject to Investigations—Continued

383.2738	383.2814	383.2816	383.2818	383.2821	383.2828	383.2828
383.2835	383.2910	383.3030	383.3040	383.3060	383.3080	383.3090
383.3200	383.3430	383.3435	383.3445	383.3446	383.3448	383.3450
383.3460	383.3465	383.3466	383.3770	383.4015	383.4300	383.4702
383.4704	383.4705	383.4707	383.4709	383.4711	383.4716	383.4717
383.4718	383.4720	383.4721	383.4724	383.4726	383.4747	383.4748
383.4750	383.4753	383.4754	383.4756	383.4761	383.4762	383.4764
383.4765	383.4821	383.4825	383.4900	383.5026	383.5027	383.5028
383.5031	383.5034	383.5037	383.5043	383.5051	383.5078	383.5082
383.5084	383.5086	383.5088	383.5090	383.5295	383.5395	383.6371
383.7687	383.7688	383.7892	383.8002	383.8007	383.8009	383.8011
383.8012	383.8014	383.8017	383.8019	383.8024	383.8026	383.8028
383.8030	383.8045	383.8048	383.8050	383.8052	383.8069	383.8071
383.8073	383.8115	383.8137	383.8139	383.8145	383.8162	383.8164
383.8605	383.8620	383.8635	383.8645	383.8660	383.8663	383.8669
383.8670	383.8810	383.9005	383.9010	383.9015	383.9020	383.9025
383.9027	383.9029	383.9050	383.9051	383.9056	383.9057	383.9058
383.9059	383.9061	383.9062	383.9063	383.9064	383.9066	383.9068
383.9069	383.9070	383.9210	383.9220	383.9225	383.9235	383.9240

Headwear

702.1400

Gloves

704.4010	704.4025	704.4504	704.4506	704.4508	704.5015

Note.—For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example U.S. Import Statistical Number 320.0001 represents TSUSA numbers 320.0101 through 320.0901 and 320.3000 represents TSUSA numbers 320.3000 through 320.3099.

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[C-301-401]

Certain Textile Mill Products and Apparel from Colombia; Suspension of Countervailing Duty Investigations

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Suspension of Countervailing Duty Investigations.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigations involving certain textile mill products and apparel from Colombia. The basis for the suspension is an agreement to renounce completely all benefits provided by the government of Colombia which we find to constitute bounties or grants on certain textile mill products and apparel exported to the United States.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Tom Bombelles, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-3174.

SUPPLEMENTARY INFORMATION:

Case History

On July 23, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Colombia of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 13, 1984, we initiated such investigations (49 FR 32892). These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Colombia." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of these investigations to "Certain Textile Mill Products and Apparel from Colombia." The scope of these investigations remains the same as announced in the initiation and the preliminary determinations.

We stated that we expected to issue preliminary determinations by October 16, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 20, 1984 (49 FR 40198).

Since Colombia is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. industries.

Due to the broad scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Colombia in Washington, D.C., on August 24, 1984. Based on the response to the preliminary questionnaire, we selected four textile producers and exporters and three apparel producers and exporters who account for at least 60 percent of the textile mill products and apparel exported to the United States from Colombia. On October 23, 1984 we presented a supplemental questionnaire to the government of Colombia in Washington, D.C. requesting responses from these companies. We received responses to our supplemental questionnaire on December 4, 1984. One textile producer, Polymer, S.A., did not respond to our questionnaire. Although the response to the preliminary questionnaire states that Polymer receives certain export benefits, respondents have informed us that Polymer does not, in fact, export any products under investigation. One company, Creaciones Inesita, requested exclusion from these investigations on the grounds that it does not export any textile mill products or apparel.

On December 20, 1984, we issued our preliminary determinations in these investigations (49 FR 50753, December 31, 1984). We preliminarily determined that benefits constituting bounties or grants within the meaning of the Act were being provided to the manufacturers, producers, or exporters in Colombia of the subject merchandise.

We conducted verification of the responses of the government of Colombia and the textile and apparel companies between January 29 and February 8, 1985, in Washington, D.C. Petitioners and respondents waived the opportunity to participate in a public hearing. However, we did receive their written comments regarding our investigations in briefs received on February 1, and February 25, 1985.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires, and our investigation of only those companies that account for sixty percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determinations of *Certain Textile Mill Products and Apparel from Malaysia*, issued on March 4, 1985. See that notice for our comments on those issues.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in Appendix A, attached to this notice.

Changes Since the Preliminary Determination

A. Tax Reimbursement on Exports Under Law 636 of 1984

The government of Colombia provides payments to exporters of textile mill products and apparel in the form of negotiable tax certificates ("CATs") that may be used for the payment of various taxes or sold on the stock exchange at a discount. Rebates are calculated as a percentage of the value of the exported product attributable to the domestic value-added and imported inputs on which duties have been paid. The government of Colombia contends that the CAT represents a non-excessive rebate of indirect taxes.

In the final determinations on *Certain Textile Mill Products and Apparel from Thailand*, issued on March 4, 1985, we explain our policy for determining whether rebate systems that are designed to rebate both prior-stage indirect taxes and import duties confer bounties or grants upon exports. The test for such rebate systems is similar to the so-called linkage test for systems which purport to rebate prior-stage indirect taxes only.

The taxes and duties rebated under the CAT program include those on inputs that are physically incorporated in the final product. We examined documents submitted by the Colombian government itemizing the taxes and duties eligible for inclusion in the CAT rebate on textiles and apparel. We conclude that a significant portion of the CAT rebate applies to import duties and indirect taxes on inputs physically incorporated in the exported products. Therefore, we determine that the CAT program operates for the purpose of rebating import duties and indirect taxes with respect to textiles and apparel.

In its questionnaire response, the government of Colombia states that each of the major product categories of textile mill products and apparel was analyzed in the 1978 tax incidence study. Cost structures were established on a firm-by-firm basis for the major firms and the major products and the tax incidence on each input was calculated to determine the value of the taxes and import duties in the f.o.b. value of the final product.

On April 1, 1984, the Colombian government abolished the CAT program and replaced it with a new tax reimbursement program, the CERT. We have reviewed the documents submitted by the Columbian government at verification showing its detailed recalculations of the rebate rates in 1983 and 1984. These calculations separate the inputs for each product and list import duties and domestic indirect taxes, as well as indirect taxes embedded in domestically-produced inputs. The government also includes in its calculation of the CAT rebate rate payroll taxes and allowances for reductions in the value of the CAT due to devaluation and delays in receipt of the rebate. The rebate rate under the CERT program is 15.00 to 20.00 percent for textiles and 20.00 percent for apparel.

Review of documentation submitted with the questionnaire response and the information obtained during verification on the methodology used to calculate the rebate rates leads us to conclude that the government has reasonably calculated and documented the level of indirect taxes, and that the government has properly ascertained the level of the fixed drawback. Thus the only task that remains is to determine the extent to which the CERT is an excessive remission of indirect taxes and import duties.

To determine the allowable rebate of indirect taxes and import duties, we have calculated the average incidence of indirect taxes and import duties on physically incorporated inputs for textiles and apparel. The Colombian government provided tables at verification that show the average incidence of indirect taxes and import duties on physically incorporated inputs in textiles and apparel. In addition, we have allowed an adjustment to this rate based on the fact that the tax and duty incidence is calculated on the f.o.b. value of exported products, while the amount of CERT rebate upon export is determined by multiplying the CERT rate by the portion of the value of the exported product attributable to domestic value-added and imported inputs on which duties have been paid. Based on this calculation, we find an allowable rebate of 9.60 percent for textiles and 6.00 percent for apparel.

B. Export Financing Through the Export Promotion Fund

1. *Working Capital Loans Under Resolution 59.* Colombian exporters of certain textile mill products and apparel receive short-term financing under Resolution 59. Resolution 59 was passed by the Monetary Board of Colombia on August 30, 1972. It authorizes the provision of working capital loans to companies which produce, store or sell merchandise other than coffee and petroleum exclusively for export. Resolution 59 financing is administered by the Export Promotion Fund ("PROEXPO"), a government agency, and is disbursed by banks and other financial institutions.

The interest rate on such loans during the period of investigation was 19 percent until March 31, 1983, and 18 percent afterwards. The duration of these loans is six months, and the maximum principal is 80 percent of the value of the merchandise. In our preliminary determinations, we chose an interest rate of 36 percent, based on best evidence, as the short-term commercial interest rate against which to measure the benefit conferred by Resolution 59 loans.

At verification we examined data from the Central Bank, the Monetary Board, commercial banks and other financial institutions. The information we examined indicated that there is no predominant alternative source of non-preferential short-term financing to industry in Colombia.

In order to assist the country's economic development, the Colombian government has established many different lines of credit with fixed interest rates, rediscount rates and rediscount margins. Some credit lines, such as PROEXPO, are targeted to specific economic sectors, while others are available to all sectors of the economy. Through high reserve requirements and a variety of forced

investments in Agrarian Bonds and Treasury Bonds, the government controls a majority of the available lending capital in the economy. These funds are used to capitalize the diverse credit lines, which are lent to borrowers through banks and other financial institutions. The remaining resources of the credit institutions may be lent at or below the legal maximum interest rate of 36 percent per annum. they may also be lent in conjunction with the government-directed special credit lines. The total amount of government-directed loans that any credit institution processes is not limited to its required reserves and forced investments. Although credit institutions may lend from their own resources at rates as high as 36 percent, they may find it more profitable to process a government fund loan. The high rediscount margin of most government funds requires the credit institution to furnish on average only 10 percent of the principal amount of the loan, theoretically allowing a bank to increase its loan portfolio tenfold, albeit at a lower interest rate.

We have found that borrowers in Colombia generally negotiate a "package" loan agreement with a bank. The package will consist of funds drawn from several credit lines at statutorily-controlled interest rates and may include funds from the bank's own resources at an interest rate of 30 to 36 percent.

Thus, we determine that the predominant alternative to Resolution 59 loans is a package of government credit lines available to broad sectors of the economy and commercial bank's own resources. To calculate the short-term benchmark, we used Central Bank data to estimate the amount of capital lent through non-targeted government credit lines and the proportion of banks' own resources that is available for lending at unregulated (i.e., below 36 percent) interest rates. We then weight-averaged the statutory interest rates on the non-targeted government funds and the average interest rate in 1983 on the bank's own resurces to find a short-term benchmark interest rate of 28.19 percent.

2. *Special Line of Credit to the Textile Industry.* In 1982 the goverment of Colombia established a special line of credit to the textile industry, which refinanced all outstanding PROEXPO loans. All loans under this program were refinanced in December 1982, or early 1983, for a term of two years at an interest rate of 18 percent.

At verification, we learned that one of the conditions set by the government for refinancing under this program was that the companies meet minimum export goals for 1983. Since the refinancing is contingent upon export performance, we determine that the program constitutes an export bounty or grant to the extent that financing is made available at preferential rates.

In our preliminary determinations, we used the short-term commercial loan benchmark of 36 percent as the best information available for a long-term loan benchmark. During verification, we learned that all commercial banks and credit institutions are prohibited from lending at terms longer than one year. The only sources of long-term financing in Colombia are the various financial funds and special credit lines established by the government. The terms, conditions, and interest rates for all of these funds are regulated by the government. In Colombia, the cost of long-term credit does not vary widely from company to company because the interest rates are set by the government.

We determine that the most appropriate long-term benchmark is the weighted-average interest rate of those government funds that offer long-term financing to a broad spectrum of industries. These funds include the Industrial Financial Fund (FFI), the Private Investment Fund (FIP), the Industrial Development Institute (IFI), and the Capital Formation Fund (FCE). We calculated the weighted-average benchmark rate according to the total amount of loans made through each of these funds in 1983 and the corresponding average long-term interest rate established for each one. In this way, we determine that the national average long-term interest rate in Colombia during 1983 was 25.55 percent.

One of the firms that we verified, Fabricato, entered into court-ordered reorganization during the period of review. Interest and principal payments on all its outstanding debt were suspended. We verified that this practice is consistent with Colombian bankruptcy laws and procedures.

3. *Credits for Capital Investment Under Decree 2366.* Under Decree 2366, PROEXPO provides long-term financing for capital investment through commercial banks. The annual amount of the loan cannot exceed two million pesos and the maximum term is five years. The annual interest rate for these loans is 14 percent, though we found that banks can charge a spread over this amount in special circumstances.

This financing is available only to applicants whose investment projects are approved by PROEXPO. We determine that the most appropriate benchmark for this program is the long-term benchmark described under the Special Credit Line for Textiles.

C. Domestic Line of Credit to the Textile Industry

At verification we learned that a refinancing program was made available to the textile and apparel industries under Resolutions 24 and 64 of 1983. This program allows the refinancing of debts to domestic creditors and suppliers at a statutory rate of 26 percent per annum for a term of up to four years.

Although this line of credit is available only to the textile and apparel industries, we have found that it is not extended on terms inconsistent with commercial considerations. Therefore, we determine that this program does not confer countervailable benefits.

D. Financing through the Private Investment Fund and the Industrial Development Institute

The Private Investment Fund (FIP) and the Industrial Development Institute provide long-term financing to certain sectors and for selected projects. In our preliminary determination, we stated that these programs provide countervailable benefits. We verified that financing from these institutions is provided to more than a specific industry or enterprise or group of industries or enterprises and, thus, does not confer countervailable benefits.

E. Countertrade

The government-authorized program of countertrade, established by Decree 370 of February 15, 1984, allows any company to engage in countertrade, if such trade will create new markets for new products. In our preliminary determinations, we stated that we did not have enough information to determine whether this program provides countervaliable benefits. We now determine that this program was not used by the companies under investigation.

Petitioner's Comments

Comment 1: The draft suspension agreement is not signed by exporters of substantially all of each of the distinct "like products" covered by the investigations, as required by section 704(b) of the Act: Since the Department determined that there are many different texile "like products" in this investigation, the suspension agreement must cover exporters who account for "substantially all" of each distinct "like product" covered by the investigation.

DOC Position: As stated in our discussion of our selection of companies in the final determinations of "Certain Textile Mill Products and Apparel from Malaysia," published on March 4, 1984,

"like product" and "class or kind" of merchandise are different terms performing different functions. Section 704(b) of the Act requires that "exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation" sign a suspension agreement, and makes no reference to "like product." The suspension agreement in this case covers the exporters accounting for over 85 percent of the imported textile mill products and over 85 percent of the imported apparel under investigation (i.e., the "class or kind" of merchandise), as § 355.31(c) of the Department of Commerce Regulations requires.

Comment 2: There is no satisfactory evidence in the record that the signatory to the agreement ("signatories") account for "substantially all of imports" as required by section 704(b).

DOC Position: We disagree. Information in the record shows that the signatories to the agreement exported over 85 percent of the products covered by the agreement in 1983, the period of investigation.

Comment 3: The proposed agreement violates the requirements of section 704(i)(1) regarding action by the Department if the signatories cease at any time to represent 85 percent of exports. The legislative history of the Act (H. R. Rep. No. 317, 96th Cong., 1st Sess. at 54) is clear that the suspension will cease to have effect if the signatories represent at any time less than 85 percent of the imports of the merchandise.

DOC Position: We disagree that the wording in the statue, regulations, or legislative history means that the signatories must account for at least 85 percent of imports at each moment in time during the life of the agreement. Logic dictates that the calculation as to whether signatories account for this amount must be done using representative periods of time, not individual moments in time.

We agree, however, that the signatories must account for at least 85 percent of imports to the United States in each representative period throughout the life of the agreement. Thus, we have amended sectons IV.3 and 4 of the agreement to take this comment into consideration. In addition, we note that if the signatories to the agreement fall below 85 percent of exports to the United States the Department may attempt to negotiate with additional producers or exporters or may terminate the agreement. Furthermore, the government of Colombia has agreed in the letter attached to the agreement to tell the Department if it learns of any new exporter of the subject products to the United States. If we learn of new shippers who are not large enough to cause the signatories to fall below 85 percent of imports to the United States of the subject products, the Department still may decide that it should negotiage with them and amend the agreement to include them.

Comment 4: If the Department finds that imports from the signatories have fallen below 85 percent for any month, the suspension agreement should cease to have effect.

DOC Position: The signatories have agreed to provide us with quarterly value and volume of exports to the United States. The Department can check these numbers against U.S. Custom import statistic represent. We do not believe that monitoring on a monthly basis is practicable or necessary, since we have the authority to order suspension of liquidation as of 90 days before the notice of suspension is published if we find that the agreement no longer meets the requirements of section 704(b).

Comment 5: The exporters do not agree, as required by section 704(b), to eliminate the subsidy completely with respect to the subject merchandise exported to the United States. In the proposed agreement the exporters only agree that they will not receive subsidies on their shipments, leaving open the possibility that they may export the subject products manufactured by others who have received countervailable subsidies.

DOC Position: The suspension agreement pertains to products made by both producers and exporters whose merchandise is exported to the United States directly or indirectly. Thus, both producers and exporters agree that they will not receive subsidies on their merchandise which is exported to the United States. The Department believes that the agreement's language is unambiguous. To clarify any possible misunderstanding, however, we hereby state that we intend the language in the agreement to mean that there can be no countervailable subsidy on the subject products exported to the United States. If we find that the subject products entering the United States have benefitted from a countervailable subsidy, we will consider the agreement to have been violated.

Comment 6: The proposed agreement fails to address benefits received under several important programs covered by the Department's initiation, such as the SENA employee training program, the FFI financing program, short-term loans under special credit lines to the textile industry, and duty exemptions for imported capital equipment under Plan Vallejo.

DOC Position: The Department has found that the SENA employee training program does not confer a bounty or grant because it is not limited to a specific industry, group of industries, or region. We also verified that loans under the FFI program are provided to more than a specific industry or group of industries and, thus, do not confer a countervailable benefit. We have amended the agreement to short-term loans refinanced under special credit lines to the textile industry, and cover duty exemptions for capital equipment imported under Plan Vallejo.

Comment 7: The proposed agreement contains impermissibly narrow terms with respect to IFI financing. It should include all IFI loans without limitation as to purpose. Further, the limitation to "long-term" IFI loans is vague in that long-term is not defined.

DOC Position: The Department has found that IFI loans are not countervailable because they are not limited to a specific enterprise or industry, or group of enterprises or industries (see the "Changes Since the Preliminary Determination" section of this notice). Therefore, we have amended the agreement to exclude IFI financing.

Comment 8: The proposed agreement contains standards that are vague and susceptible to abuse. For example, Section II.b. does not define the "commercial interest rate" in Colombia. The agreement should require the producers and exporters to repay immediately all loans under the programs covered by the agreement.

DOC Position: We have amended the agreement to specify that any loans received from PROEXPO or under any special credit line for textile products shall be at the most recent benchmark interest rate determined by the Department. The Department, not the producers and exporters or the government of Colombia, will decide, for purposes of these suspended countervailing duty investigations, whether loans have been granted at non-preferential interest rates and terms in the context of an administrative review. We believe that requiring the producers and exporters to refinance outstanding preferential loans at the benchmark interest rate calculated by the Department eliminates the countervailable benefits conferred by these loans.

Comment 9: The proposed agreement improperly allows the exporters to continue to receive subsidies under the CERT program. Thus, it does not

eliminate or offset completely the amount of the net subsidy, as required by section 704(b) of the Act.

DOC Position: We believe that section 11.a. is clearly worded where it states that "producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Tax Certificate Rebate Program (CAT/CERT) . . . on shipments of the subject products exported . . . to the United States in excess of the import duties and indirect taxes on inputs physically incorporated into the exported products."

We have verified that the Colombian system of rebating indirect taxes and import duties through tax certificates under this program operates for the purpose of rebating indirect taxes and import duties and that the level of rebate has been reasonably calculated by the Colombian Government.

We have examined extensive documentation concerning the calculation of the level of rebate under this program and have established the allowable levels of rebate by disallowing charges which do not constitute duties or taxes on physically incorporated inputs.

Due to the nature of indirect tax rebate calculations, which are based on production models which change over time, we believe it is appropriate to take into consideration the possibility that there may be at some time a slight overreabate. Accordingly, we believe that there should be a provision for offsetting such an inconsequential overrebate. This will ensure that there is no net benefit to the subject products while preventing an inconsequential overrebate from forcing the cancellation of the entire suspension agreement.

In order to monitor this program in the agreement, we have added a requirement that the government of Colombia will notify us of any changes that have taken effect in the rebate rates or in the rates of indirect taxes or import duties applicable to the subject products. In this manner, we will be able to confirm that no overrebates are received, as petitioners request.

Comment 10: The sections of the proposed agreement which attempt to cover additional countervailable subsidies not specifically dealt with elsewhere are insufficiently rigorous. The producers and exporters should be required to notify the Department of any new benefit that conceivably might be countervailable. They should not be able to take any benefit before either the Department has notified them that the benefit is not likely to be countervailable or 60 days have passed after the notification by the signatory to the Department. In addition, the provisions should not be limited to new benefits but should include all programs except those explicitly covered in the agreement or found in a final determination in this proceeding to be not countervailable. Finally, the confusion in section 11.f over "benefits" and "bounties or grants" should be resolved.

DOC Position: We disagree with the petitioners' first and second points. We believe that the wording in section II.f. "likely to be found countervailable," is sufficiently strong, and that the revision suggested by petitioners ("conceivably might be regarded to be countervailable under the Act") is too tenuous. In any case, the burden is on the respondents to notify us of any potential problem before it arises. The meaning in II.f is clear. The signatories may not receive any countervailable "bounties or grants," as used in section 303 of the Act.

As to petitioners' second point, we believe that the 30 days of prior notice in section II.g of the agreement allows the Department sufficient time to adequately monitor this agreement. We believe the petitioners' third point is moot. We have covered in section II all programs under investigation that we believe may provide countervailable benefits. The programs that we have found not to confer countervailable benefits are mentioned in the section of this notice entitled "Changes Since the Preliminary." We agree with petitioners' fourth point and have amended the agreement to include this.

Comment 11: The proposed agreement fails to deal adequately with transshipments. The proposed agreement should require the signatories to notify the Department when anyone transships the subject products to the United States. If the signatories are not in a position to do this, effective monitoring of the agreement is not practicable, as required by section 704(d)(1)(B) of the Act.

DOC Position: We disagree. If a signatory transships to the United States, it must notify the Department. If anyone else transships the subject products to the United States, the merchandise should be labelled as a product of Colombia and the Department will then know of the shipment. If it is mislabelled, the U.S. Customs Service is the proper authority to conduct an investigation.

Comment 11: The proposed agreement is procedurally out of time. Since an investigation must be suspended before a final determination, a copy of the proposed suspension agreement and an explanation of how it will be carried out and enforced must be provided 30 days before a final determination. Here the Department provided a copy of the proposed agreement on the thirtieth day before the date of the final determination, but provided no consultation and explanation until 9 days later.

DOC Position: The Department notified petitioners of the proposed suspension agreement on the date it was initialled, stating that we intended to sign the agreement in 30 days and inviting their comments on the proposed agreement. Petitioners picked up a copy of the agreement on February 4.

We held a lengthy meeting on the date that petitioners requested, to allow the petitioners sufficient time to read the document and develop questions in order to facilitate their meaningful participation in this case.

Comment 13: Petitioners have been denied a meaningful opportunity to comment on the proposed agreement because pertinent information in the record has been improperly withheld. The Department is withholding new information submitted during verification from release to petitioners' counsel under an administrative protective order (APO).

DOC Position: The Department disagrees. We have released the verification reports to petitioners' counsel. The only information in the record to which petitioners' counsel has not had access are the non-public exhibits to the verification report, which we do not release in any event. These exhibits consist of photocopied documents from company and government records which we examined during the verification. Our findings, based on the records, are included in the verification report. The exhibits are simply back-up documentation for the report and are gathered to aid the Department's analysts.

Comment 14: The proposed agreement is not in the public interest and not in the interest of the domestic industry. The proposed agreement will not be as effective as a countervailing duty order in eliminating the impact of countervailable benefits on Colombian exports of textiles and apparel. In addition, the Department has made no finding that the proposed agreement is in the interest of the domestic industry.

DOC Position: We disagree. We believe that the proposed agreement has the same effect as that of a countervailing duty order in this case—eliminating bounties or grants on the exports of the products under investigation from Colombia to the United States. Thus, the domestic

industry is receiving the same relief that it would receive were a countervailing duty order issued. The Department believes that this suspension agreement, based on the renunciation of bounties or grants, serves the public interest by removing these trade distorting measures on the subject products from the U.S. Market. We note that petitioners are misguided in their assertion that the agreement must be more beneficial to the U.S. industry than an order. That requirement is only applicable to suspension agreements under section 704(c). This agreement is pursuant to section 704(b).

Comment 15: Effective monitoring of the proposed agreement is not practicable, which section 704(d)(1)(B) of the Act requires. The proposed agreement does not have adequate provisions for monitoring transshipments, market share of the signatories, the segregation or allocation of subsidy benefits, the actual incidence of subsidy benefits received, or the receipt of new benefits.

DOC Position: We disagree. These issues are discussed in the comments and DOC positions above. All these items are covered by the monitoring provisions of the agreement. In addition, we have made changes to strengthen the effectiveness of the provisions of the agreement on market share of the signatories, the actual incidence of subsidy benefit received, and the receipt of new benefit.

Suspension of Investigation

The Department has consulted with the petitioners and has considered the comments submitted with respect to the proposed suspension agreement. The agreement has been signed by a representative of producers and exporters who account for at least 85 percent of exports of certan textile mill products and apparel from Colombia to the United States. We consider the active participation of the government of Colombia essential to the effective implementation and monitoring of this agreement.

Therefore, the government of Colombia has agreed to take certain steps essential to the implementation and operation of the renunciation of benefits by the producers and exporters. We have determined that the agreement will eliminate or offset completely the net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed March 5, 1985 are set forth in Appendix B to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of certain textile mill products and apparel from Colombia, effective December 31, 1984, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination: Certain Textile Mill Products and Apparel from Colombia," 49 FR 50753, is hereby terminated. Any cash deposits on entries of the subject merchandise from Colombia pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within 12 months of the anniversary date of publication of this suspension of investigation pursuant to section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A—List of TSUSA Codes Under Which There Were Imports From Colombia Into the United States During 1983

The products covered by these investigations are certain textile mill products and apparel. The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States Annotated (TSUSA)* listed below.

Textile Mill Products

Yarns and Threads

3006020	3006028	3010000	3012000	3013000	3022024	3023026	.....
3024026	3024028	3025026	3032042	315047	3109120		

Fabric

3200019	3200034	3200045	3200050	3200051	3200052	3200062	3200063
3200071	3200077	3200085	3200089	3200091	3200095	3201019	3201021
3201022	3201024	3201031	3201034	3201038	3201042	3201045	3201049
3201050	3201051	3201052	3201054	3201057	3201063	3201065	3201071
3201072	3201074	3201077	3201085	3201087	3201089	3201091	3201093
3201095	3201080	3201098	3202018	3202021	3202022	3202024	3202027
3202031	3202038	3202042	3202049	3202050	3202051	3202052	3202054
3202057	3202065	3202072	3202074	3202080	3202085	3202089	3202091
3202095	3202098	3203016	3203023	3203050	3203051	3203052	3203069
3203073	3203085	3203089	3203091	3203095	3204003	3204021	3204022
3204024	3204038	3204042	3211062	3201063	3211021	3211022	3211024
3211031	3211038	3211042	3211049	3211054	3211057	3211062	3211065
3211072	3211074	3211080	3211098	3221050	3221051	3221052	3221065
3221089	3221091	3221095	3223021	3223022	3223024	3223031	3223038
3223042	3223049	3223054	3223057	3223065	3223072	3223074	3223080
3223098	3230006	3230072	3230074	3230080	3230098	3230021	3230022
3230024	3230031	3230038	3230042	3230049	3230054	3230057	3230065
3230060	3230072	3230074	3230080	3230098	3231066	3231072	3231074
3231080	3231098	3241021	3241022	3241024	3241031	3241038	3241042
3241049	3241054	3241057	3241065	3241072	3241074	3241080	3241098
3251021	3251022	3251025	2351031	3261021	3261022	3261024	3261031
3261038	3261042	3261049	3261054	3261057	3261065	3261072	3261074
3261080	3261098	3312014	3312035	3312039	3312046	3312064	3312067
3312078	3313014	3313035	3313039	3313046	3313064	3313067	3313078
3361540	3366457						

Special Construction Fabrics

3455075	3461000	3513000	3514010	3518060	3556510	3571500
3574500						

Textile Furnishings

3601515	3604825	3630520	3631500	3636540	3638000	3642300
3657825	3657865	3658640	3658670	3658680	3661540	3662180
3662460	3662480	3666500	3666900	3667925	3670025	

Miscellaneous						
3865045	3894000	3896265				
Wearing Apparel						
Apparel						
3702400	3702800	3721030	3721050	3721060	3724500	3741000
3743550	3746040	3762430	3762830	3762886	3780550	3780553
3786030	3786530	3790210	3790220	3790240	3790490	3790640
3790642	3790646	3792020	3792350	3792610	3793162	3793164
3793166	3793168	3793180	3794020	3794050	3794320	3794620
3794640	3794670	3795550	3796210	3796217	3796219	3796220
3796230	3796240	3796260	3796280	3797250	3797630	3798311
3798340	3798351	3798356	3798357	3798358	3798359	3798360
3798420	3798735	3798904	3798922	3798924	3798926	3798928
3799020	3799510	3799530	3799540	3799555	3799562	3799564
3799566	3799568	3799575	3799585	3799610	3799620	3799645
3830213	3830226	3830228	3830306	3830330	3830350	3830390
3830505	3830506	3830570	3830609	3830606	3830622	3830631
3830616	3830630	3830805	3830810	3830815	3830841	3830860
3831510	3831611	3831612	3831613	3831680	3831841	3832014
3832018	3832060	3832205	3832212	3832214	3832230	3832240
3832305	3832310	3832315	3832325	3832330	3832340	3832350
3832352	3832360	3832365	3832715	3832730	3832920	3833010
3833090	3833445	3833448	3833465	3833770	3834300	3834709
3834716	3834717	3834718	3834724	3834726	3834753	3834761
3834765	3835026	3835028	3835041	3835086	3835090	3835830
3836200	3836330	3836360	3836371	3837205	3837210	3837522
3837532	3837534	3837536	3837538	3837542	3837544	3837546
3837548	3837552	3837554	3837556	3837528	3837558	3837562
3837595	3838012	3838045	3838125	3838621	3838670	3839015
3839032	3839037	3839040	3839050	3839056	3839057	3839058
3839059	3839061	3839062	3839063	3839064	3839066	3839070
3839211	3839225	3839230	3839240	3839245	3839255	
Headwear						
7020600	7021200	7031610	7031620	7031630	7031640	7031650
Gloves						
7041595						
Luggage and Handbags						
7063640	7064106	7064150				
Mattresses, Pillows and Cushions						
7278200						

Note.—For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers. For example U.S. Import Statistical Number 320.0019 represents TSUSA numbers 320.0119 through 320.0919 and 331.3078 represents TSUSA numbers 331.3078 through 331.3978. The fourth and fifth digits of these TSUSA numbers are the yarn count numbers.

Appendix B—Suspension Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters of certain textile mill products and apparel in Colombia listed in Appendix 1 hereto (hereinafter "the producers and exporters"), enter into the following Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Central Bank of Colombia, PROEXPO and any other administering authority have agreed voluntarily to take certain steps essential to the implementation and operation of the renunciation of benefits by the producers and exporters. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on August 17, 1984 (49 FR 32892) with respect to textile mill products and apparel from Colombia subject to the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to the textile mill products and apparel described in Appendix 2 ("the subject products") exported directly or indirectly from Colombia to the United States.

II. Basis of the Agreement

The producers and exporters listed in Appendix 1, accounting for more than eighty-five (85) percent of the total exports of the textile mill products, and more than eighty-five (85) percent of the total exports of apparel from Colombia to the United States, agree as follows:

a. The producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Tax Rebate Certificate Program (CAT/CERT) or any other provision of law on shipments of the subject products exported, directly or indirectly, from Colombia to the United States in excess of the import duties and indirect taxes on items that are physically incorporated into the exported products. Non-excessive indirect taxes on items that are physically incorporated into the subject products shall be equal to the most recent amount determined by the Department to exist in this proceeding. If necessary, the producers and exporters agree to repay to the Government, in an annual adjustment, any amount by which the tax certificates or other rebates, remissions or exemptions exceed the amount of indirect taxes and import duties. Such payment may be made in cash or by surrendering unused tax certificates. The annual adjustments shall be calculated as follows:

(i) Any amount of overrebate found by the Department to exist during the course of an administrative review of this Agreement under section 751 of the Act; plus

(ii) Interest on that amount, calculated in accordance with section 778(o) of the Act, from the date of issuance of the tax certificate or other rebate, remission or exemption, to the date of payment of the annual adjustment.

b. The producers and exporters will not apply for, or receive, any short-term export financing provided by the Export Promotion Fund, PROEXPO (e.g., Resolution 59 loans) and under any special government credit line for textile products on or after the effective date of the Agreement, other than those offered at or above the most recent short-term benchmark interest rate determined by the Department, and on non-preferential terms. Any such financing outstanding as of the effective date of this Agreement shall be repaid, or refinanced at the most recent short-term benchmark interest rate determined by the Department, and on non-preferential terms, by the original due date of the loan, or by the thirtieth day from the effective date of this Agreement, whichever comes first.

c. The producers and exporters will not apply for, or receive, any long-term financing provided by the Export Promotion Fund, PROEXPO (e.g., Resolution 2366 loans and Resolution 14 loans) and under any special government credit line for textile products, other than those offered at or above the most recent long-term benchmark interest rate determined by the Department, and on non-preferential terms. Any such financing outstanding as of the effective date of this Agreement shall be repaid, or refinanced at the most recent long-term benchmark interest rate determined by the Department, and on

non-preferential terms, by the original due date of the loan, or by the sixtieth day from the effective date of this Agreement, whichever comes first. Any such repayment must be consistent with Colombian bankruptcy laws and procedures.

d. The producers and exporters will not apply for, or receive any benefits from duty free importation of capital equipment as a result of location in a Free Industrial Zone, or duty and tax exemptions for capital equipment under the Plan Vallejo. Also, the producers and exporters will not apply for or receive any benefits from the Export Credit Insurance program with respect to exports of the subject products exported, directly or indirectly, to the United States.

e. The producers and exporters shall notify the Department in writing prior to applying for approval for any countertrade transaction.

f. The producers and exporters agree that they will not apply for, or receive, any bounties or grants on shipments of the subject products exported, directly or indirectly, from Colombia to the United States which are countervailable under the Act. Bounties or grants on exports of the subject products to the United States include any which have been found or are likely to be found countervailable in any investigation or review under section 751 of the Act, including bounties or grants which the Department determines may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports.

g. The producers and exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable bounty or grant on shipments of the subject products exported from Colombia.

h. If any program under which benefits have been received in the past, and which is included in this Agreement, is found not to constitute a bounty or grant under the Act in the notice of suspension of investigation, the final determination, or the final results of an administrative review of this Agreement under section 751 of the Act in this proceeding, then the renunciation of the benefits under that program will no longer be required.

III. Monitoring of the Agreement

1. The producers and exporters agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of this Agreement.

2. Each producer or exporter will notify the Department if it:

a. Transships the subject products through third countries to the United States;

b. Alters its position with respect to any terms of the Agreement; or

c. Applies for, or receives, directly or indirectly, the benefits of the programs described in Section II for the manufacture or export of the subject products exported, directly or indirectly, from Colombia.

3. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.1 and 2, above.

4. The producers and exporters agree to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement.

5. The producers and exporters agree to notify the Department of the value and volume of exports of the subject products to the United States within 45 days from the end of each calendar quarter beginning with the quarter ending March 31, 1985.

6. All producers and exporters agree to provide to the Department a periodic certification that they continue to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar quarter beginning with the quarter ending March 31, 1985.

IV. General Provisions

1. In entering into this Agreement, the producers and exporters do not admit that any of the programs investigated constitute countervailable benefits within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(i) shall apply if:

a. The producers and exporters withdraw from this Agreement; or

b. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. If the Department learns of any new producers or exporters to the United States of the subject products, it may attempt to negotiate an agreement with the additional producers or exporters.

4. Additionally, should exports to the United States by the producers and exporters of either textiles or apparel account for less than 85 percent of the textiles or apparel imported, directly or indirectly, into the United States from Colombia, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation or issue a countervailing duty order as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject products as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

5. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of this Agreement shall be consistent with the final determination issued in the continued investigation.

V. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register**. The provisions of paragraphs II.a-h apply with respect to exports of the subject products on or after the effective date. No applications may be made after the effective date of this Agreement for the benefits described in Section II on the subject products exported from Colombia before the effective date.

Signed on this 5th day of March, 1985, for the producers and exporters.

Walter J. Spak,

Wald, Harkrader & Ross.

I have determined pursuant to section 704(b) of the Act that the provisions of Section II completely eliminate the subsidies that the Government of Colombia is providing with respect to certain textile mill products and apparel exported, directly or indirectly, from Colombia to the United States. Furthermore, I have determined that suspension of the investigation is in the public interest, that the provisions of Sections III and the attached undertaking of the Government of Colombia ensure that this Agreement can be monitored effectively, and that this Agreement and attached undertaking meet the requirements of section 704(d) of the Act.

United States Department of Commerce.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix 1

The following companies represent over eighty-five (85) percent of the exports of textile mill products from Colombia to the United States:

1. Mishaan Hermanos Limitada Textiles
2. FCA de Prods Textiles Protela Ltda
3. FCA Nal de Tejidos Lafayette
4. Hilaturas Colombia Ltda.
5. Textiles Konkord Ltda.
6. Textiles Espinal
7. Tejidos el Condor S.A.
8. Cia Col. de Tejidos S.A. Coltejer
9. Cia Textil Col. Satexco
10. FCA de Hilados y Tejidos del Hato
11. FCA de Calcetines Crystal, Ltda.

The following companies represent over eighty-five (85) percent of the exports of apparel products from Colombia to the United States:

1. De la Pava Palacio Gustavo
2. Celis Cantor Hernando
3. Forero Orosa Heli
4. De Gutierrez Ana Maria
5. Rodriguez Latorre America de
6. Vivas Rincon Raquel
7. Villegas Beatriz de Restrepo
8. Porras de Quiroz Ana Cecilia
9. Velenzuela Maria Cristina
10. Schonwald Herard Andres
11. Panda Leather Mcader M
12. Manhattan de Colombia Ltda.
13. Textiles Sabrina Ltda.
14. Artesanias de Colombia
15. Ind Persa Ltda.
16. Tapetes Tab Ltda.
17. Esmegatex y Cia Ltda.
18. El Tejedor el Gusano de Lana
19. Prodeco S.A.
20. Fundacion Menonita Para el Desarrollo
21. Textiles Konkord Ltda.
22. Vicky Ltda.
23. Monserrate Ltda-Represent. E Inv.
24. La Tribu Ltda.
25. Artesanias Bochica Ltda.
26. Industrias Kempes y Cia Ltda.
27. Confecciones Mony
28. Comercializadoras Internal Andina Ltda.
29. Bermudez Jose Alejandro
30. Lynch W Dennis
31. Confecciones SAAD Ltda.
32. Confecciones Vanytor Ltda.
33. Artesoro Ltda.
34. Confecciones Vargas Ltda.
35. Dismoda Ltda.
36. Anglo American Carpet Co. Ltda.
37. Jose E Isodoro Esquenazi y Cia Ltda.
38. Uribe Obyrne Ltda.
39. Plasticos Aliados Ltda.
40. Seccol Ltda.
41. Creaciones Lady Joanne Y Cia
42. Confecciones Colombia
43. Industrias e Inversiones Cid. Ltda.
44. Comercializadora Internacional Ley S.A.
45. Industrias Crisaza C P A
46. Industrias Charles Imperial Ltda.
47. Caribu Internacional S A
48. C.I. Agroindustrial S A Cinsa
49. Ind. de Bordados Clemdorada y Confecciones Ltda.
50. Confecciones Valher S A
51. Nicole Ltda.

March 5, 1985

Investigation No. C–301–401

Mr. Alan F. Holmer,
Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW., Room 3099, Washington, D.C.

Re: Countervailing Duty Investigation Involving Certain Textile Mill Products and Apparel from Colombia

Dear Mr. Holmer: In consideration of the Suspension Agreement between the producers and exporters of certain textile mill products and apparel in Colombia and the Department of Commerce, the Central Bank of Colombia, PROEXPO, and any other administering authority voluntarily agree to take certain steps essential to the implementation and operation of the renunciation of benefits by the producers and exporters in the Agreement, including:

1. Notifying the relevant authorities of the Government of Colombia of the terms of this Agreement in order to ensure action by those agencies consistent with the terms of this paragraph;
2. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance by the producers and exporters with the terms of this Agreement;
3. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;
4. Notifying the Department if it becomes aware that a producer or exporter is transshipping the subject products through third countries to the United States;
5. Notifying the Department if it alters its position with respect to any of the terms of this Agreement;
6. Notifying the Department if it changes the tax rebate under the CERT program for the subject products, indirect tax rates, or import duty rates;
7. Notifying the Department if a producer or exporter of the subject products exported, directly or indirectly, from Colombia to the United States applies for, or receives, directly or indirectly, the benefits of the programs described in paragraph II a–f;
8. Notifying the Department if the producers or exporters become eligible for, apply for, or receive any new or substitute benefits on the subject products exported from Colombia in contravention of paragraph II.g. of the Agreement; and
9. Notifying the Department of any new firms that it learns are exporting the subject products to the United States.

The Central Bank, PROEXPO and any other administering authority also voluntarily agree to provide to the Department within 45 days of the end of each calendar quarter, beginning with the quarter ending March 31, 1985, all relevant information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A verification (provided after consultation with each agency responsible for administering the programs in Section II) that the producers and exporters have not applied for or received any benefits described in Section II on shipments of the subject products exported from Colombia;
2. A certification that the producers and exporters continue to account for 85 per-cent of total exports of textile mill products, and 85 per-cent of total exports of apparel, exported, directly or indirectly, from Colombia to the United States; and
3. A certification that the producers and exporters continue to be in full compliance with this Agreement.

The Central Bank, PROEXPO and any other administering authority's voluntary undertaking is not an admission that any of the programs investigated or included in the Suspension Agreement constitute countervailable benefits under the Act of the Subsidies Code.

The Central Bank, PROEXPO and any other administering authority recognize that their undertaking is essential to the continuation of the Agreement.

Sincerely yours,

Andres Lloreda,
Commercial Attache.

[FR Doc. 85–5828 Filed 3–11–85; 8:45 am]

BILLING CODE 3510-DS-M

[C–333–402]

Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders; Certain Textile Mill Products and Apparel From Peru; and Rescission of Initiation of Investigations With Respect to Hand-Made Alpaca Apparel and Hand-Made Carpets and Tapestries

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products and apparel. The estimated net bounty or grant during the period we investigated is determined to be 22.28 percent *ad valorem* for certain textile mill products and 19.91 percent *ad valorem* for apparel. However, prior to our preliminary determinations the government of Peru eliminated the eligibility of textile and apparel exporters for two major subsidy programs. Thus, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain textile mill products and to suspend liquidation of all entries of certain apparel from Peru that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of these products in the amount equal to 2.88 percent *ad valorem* for certain textile mill products and zero percent *ad valorem* for apparel.

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link or Peter Sultan, Office of Investigations, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2815.

SUPPLEMENTARY INFORMATION:

Final Determinations and Orders

Based upon our investigations, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products and apparel. For purposes of these investigations, the following programs are found to confer a bounty or grant:

- Certificate of Tax Rebate System (CERTEX).
- Non-traditional Export Fund (FENT).
- Law for the Promotion of Exports of Nontraditional Goods (Export Law).
- Revaluation of Assets for Textile Firms.
- Employment Benefit for Decentralized Companies.

We determine the estimated net bounty or grant to be 22.28 percent *ad valorem* for certain textile mill products and 19.91 percent *ad valorem* for apparel.

Case History

On July 19, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Peru of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 8, 1984, we initiated such investigations (49 FR 3261). These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Peru." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of these investigations to "Certain Textile Mill Products and Apparel from Peru." Except as to the products for which we are rescinding our investigations, discussed below, the scope of these investigations remains the same as announced in the initiation and the preliminary determinations. We stated that we expected to issue preliminary determinations by October 12, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause of threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Peru in Washington, D.C., on August 24, 1984. Based on the responses to the preliminary questionnaire, we identified the 5 textile mill products producers and exporters, and 1 apparel producer and exporter which account for at least 60 percent of the textile mill products and 60 percent of the apparel exported to the United States. These firms were asked to respond to the detailed questionnaire. On October 22, 1984, we presented the detailed government and company questionnaires to the government of Peru in Washington, D.C. The responses to these questionnaires were received on November 27, 1984.

On December 17, 1984, we issued our preliminary determinations in these investigations (49 FR 49678). We preliminarily determined that benefits constituting bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products, and that no such benefits have been provided to manufacturers, producers, or exporters in Peru of apparel after November 1, 1984.

Our notice of preliminary determinations gave interested parties an opportunity to submit oral and written views. On February 5, 1985, a hearing was held. We received briefs from the parties to the proceeding. We also received written views from other parties and have taken them into consideration in these determinations.

Certain respondents in the *Textile Mill Products and Apparel* investigations have raised issues as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires, and our investigation of only those companies that account for sixty percent of exports of the subject merchandise to the United States. We have addressed these issues in our determinations on *Certain Textile Mill Products and Apparel from Malaysia*, published concurrently with this notice. See that notice for our positions on those issues.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel which are described in Appendix A to this notice.

Rescission of Initation of Investigations With Respect to Hand-Made Alpaca Apparel, and Hand-Made Carpets and Tapestries

The government of Peru has requested that the Department rescind these investigations with respect to alpaca yarns, alpaca woven fabrics, and alpaca carpets, tapestries, mufflers, scarves, shawls, sweaters, and with respect to certain textile mill products and apparel fabricated by hand (hereinafter "certain articles of alpaca and certain hand-made articles"). The government of Peru argues that rescission of these investigations with respect to these articles is warranted because petitioners do not produce "like products" and, therefore, lack standing to file countervailing duty petitions on these products.

The U.S. Court of International Trade has held that the Department may rescind an initiation of an investigation where the Department subsequently discovers that the petitioner lacks standing. *Gilmore Steel Corp. v. United States*, 585 F. Supp. 670 (1984). Thus, the Department has the authority to rescind its initiation in these investigations, with respect to certain articles of alpaca and certain hand-made articles, should it determine that petitioners lack standing with respect to these products.

Under section 702(b)(1) of the Act, in order to have standing to file a countervailing duty petition, a petitioner must be a domestic interest party within the meaning of sections 771(9)(C), (D), or

(E), and must file the petition on behalf of an industry in the United States. Both the definitions of domestic interested parties and industry depend upon the definition of "like product," which is defined in section 771(10) of the Act as:

> . . . a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

If a "like product" is not produced in the United States, a potential petitioner would not have standing to file a countervailing duty petition.

The Peruvian government contends that petitioners do not produce alpaca products. It also argues that because of alpaca's special properties and characteristics and because alpaca products from Peru are mostly fabricated by hand, such products do not compete with wool or products of other fibers made in the United States. If they do not so compete, there cannot be a "like product" produced in the United States. *See Rescission of Initiation of Investigation With Respect to Hand-made Turkish Carpets*, 49 FR 49655, 49658–60 (December 21, 1984). With respect to hand-made articles that are not made of alpaca, the government of Peru argues that the workmanship, coloring, styles and patterns of these articles make them unique, and that petitioners do not produce "like products." This category of hand-made articles for which rescission is sought includes men's and women's cotton knit sweaters.

Petitioners have asserted that union members do produce apparel made of alpaca. We have, however, not received information from petitioners to substantiate this claim. The one domestic company which petitioners named as a producer of alpaca products, French Creek Sheep & Wool Company, is neither a petitioner nor are its employees members of ACTWU or ILGWU. Petitioners further argue that similar products of other high-quality fibers produced by petitioners compete with, and are "like," aplaca products.

As for hand-made articles that are not made of alpaca, petitioners also oppose a rescission.

Considering all evidence on the record, and having examined relevant samples and consulted with textile experts in the Department of Commerce we conclude that there are no domestic "like products" with respect to hand-knit apaca apparel, and hand-made carpets and tapestries.

As to alpaca, alpaca itself is a unique fiber, having a characteristic loft and tensile strength that distinguishes it from other fibers. However, as a fiber or yarn, or when machine-made into finished products, the yarn and end products are similar in characteristics and uses, and compete with, yarns and products produced in the United States of other luxury fibers such as fine wools and mohair. While a highly sophisticated consumer might prefer an alpaca yarn over other fibers, or a machine-made alpaca sweater over machine-made sweaters of other fibers, such fibers and machine-made products are generally sold through the same channels of trade and are generally competitively priced. Thus, as we preliminarily determined with respect to cotton knit sweaters from Peru, we cannot find in accordance with the statutory definition that there is no "like product" with respect to alpaca yarn and machine-made alpaca products.

However, we believe that hand-knit alpaca apparel and hand-made carpets and tapestries from Peru are sufficiently different in terms of physical characteristics, prices, channels of trade, and consumer expectations that rescission of our investigations with respect to these products is warranted. The reasoning expressed in our rescission of investigation with respect to hand-made turkish carpets, floor coverings and wall hangings is equally applicable to Peruvian hand-made carpets and tapestries. *See* 49 FR 49655, 49658–60 (December 21, 1984).

Similarly, we are persuaded that hand-knit alpaca apparel from Peru does not compete with products produced in the United States. The record supports the conclusion that there are no such hand-made products produced in the United States by union members. The imported products are hand-knit on needles by artisans in the Andes mountains. These local craftsmen use only the finest hand-dyed alpaca yarns, and many of the finished products show traditional folklore designs. Moreover, the Peruvian products of this Peruvian cottage industry are sold only in a relatively few, highly specialized stores, and at prices that clearly make them non-competitive with machine-made apparel, or even hand-made apparel of other fibers. United States merchandisers of the Peruvian products have asserted that the quality of the workmanship of these garments, and the originality of the designs—which are peculiar to the Peruvian Indians—clearly distinguish them from any other products.

Accordingly, we determine that there are no "like products" for hand-knit alpaca apparel or hand-made carpets and tapestries in the United States, and that petitioners lack standing to file a petition against these products. As to hand-made cotton sweaters, we reaffirm our decision in our preliminary determinations that petitioners have standing with regard to this product.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Effective November 1, 1984, the government of Peru rendered the products under investigation ineligible for benefits under the CERTEX and FENT programs. As explained in the preliminary determinations, it has long been the Department's policy to take program-wide changes into account where they are implemented after the period we investigate, but prior to a preliminary determination. We believe that this policy is desirable, because it promotes the expeditious elimination or phase-out of subsidies and deters an increase in subsidies. Normally, the Department takes such changes into account by raising or lowering, as appropriate, the rate for cash deposit or bonding purposes. In the case of apparel from Peru, when the cash deposit rate is lowered to account for program-wide changes implemented by the Peruvian government, the result is a zero rate, as exports of apparel to the United States made after November 1, 1984, do not benefit from bounties or grants.

In the preliminary determinations, we expressed the belief that our policy warranted a preliminary negative determination with respect to apparel. However, we also expressed our concern that after a negative final determination, a government could reinstitute its subsidy programs, and we detailed the actions the Department would take should an abuse occur. Because of the importance of this issue, we invited comments on our proposed method of accounting for changes implemented during a countervailing duty investigation when those changes result in a zero deposit rate.

Comments were received from U.S. Steel Corporation and counsel for LTV Steel Company and Inland Steel Company, in addition to comments from petitioners and respondents. While respondents supported a negative final determination with respect to apparel, we received many persuasive arguments

against a negative final determination from the other commenting parties.

The concern most frequently expressed in the comments is that the proposed policy provides no monitoring to ensure that the subsidy will not be quietly reinstated after a negative final determination, and no provision for the speedy reinstitution of the investigation if the same (or "substitute") bounties or grants are reinstituted. Those commenting argued that the appropriate way to deal with the reduction of a subsidy program during a countervailing duty investigation is by a suspension agreement pursuant to section 704 of the Act.

Section 704 contains safeguards, such as monitoring and annual reviews, to ensure that eliminated subsidies are not reinstituted. Commenters also expressed the concern that a negative final determination may even encourage government subsidization of exports to the United States, because a foreign government could escape the adverse consequences of a countervailing duty determination merely by terminating a subsidy prior to a preliminary determination. Finally, both U.S. Steel and counsel for LTV Steel Company and Inland Steel Company argued that the ineligibility of exporters of textile mill products and apparel for CERTEX and FENT benefits on exports to the United States is not a program-wide change.

We have analyzed all the comments received and find the arguments against a final negative determination to be persuasive. The elimination of these benefits on exports of the subject merchandise to the United States occurred outside the period of our investigation; exporters and producers of apparel in Peru did receive countervailable benefits during that period. The statute expressly provides for suspension agreements with countries that are willing to eliminate countervailable subsidies. Continued, effective monitoring is required under all such agreements, and there are express provisions for violations of agreements. It is critical to our determination that, if we were to issue a final negative determination based on the changes in the programs, we would be without any mechanism for monitoring the continued elimination of all countervailable benefits. We do not believe that the government of Peru intends to reinstate eligibility for textile and apparel exports to the United States under CERTEX and FENT; we also do not believe that eligibility for these benefits could be quietly reinstated considering the government action that would be required to reverse the ineligibility.

However, we do not believe Congress intended that a government that eliminates a subsidy program due solely to the initiation of a countervailing duty investigation should be accorded the same treatment either as governments that provide no countervailable subsidies or that eliminate such subsidies without the initiation of an investigation. A final negative determination would permit governments to circumvent all the safeguards expressly provided for by Congress under suspension agreements. If a government could achieve a final negative determination by eliminating countervailable subsidies during an investigation, there would be no need for any government ever to enter into a suspension agreement.

However, we believe that it is proper to account for changes made in the CERTEX and FENT programs by appropriate reduction to the duty deposit rate in this case, even when such reduction results in a zero rate. Under the law, we cannot assess duties on products with respect to which no countervailable benefits are conferred. Here, we were able to verify the elimination of such benefits as of November 1, 1984, and the non-receipt of these benefits under these programs after that date. A deposit rate greater than zero would not be an accurate estimate of the duties likely to be assessed.

Petitioners have argued that the changes to the CERTEX and FENT programs are not "program-wide" so as to warrant our taking them into account. We note that the changes made are not company-specific, but rather apply to an entire sector of the Peruvian economy, and to hundreds of companies; that the changes were effected by the passage of a new law, and an implementing decree; and that elimination of the benefits on exports of the subject products to the United States is no more or less than what the government would have had to do if it had entered into a suspension agreement. However, we are aware that the facts of every investigation differ widely, and we wish to make it clear that we will carefully examine all facts and circumstances of any program-wide change to subsidy programs made after initiation but before a preliminary determination on a case-by-case basis.

Should it appear that changes in subsidy programs are more company-specific in fact or in effect, or easily instituted (and thereby easily reversed), or if the timing of such changes is such that we cannot verify the elimination of benefits or the amount of the reduction of benefits, we may not take account of those changes in the same manner. Moreover, if this policy results in a widespread proliferation of post-initiation changes in subsidy program, we may re-evaluate the policy accordingly.

Based on the facts of this case and our analysis of the comments received, we are issuing a final affirmative countervailing duty determination on apparel. We are, however, taking into account for our cash deposit rate the elimination of the CERTEX and FENT programs for both textile mill products and apparel after November 1, 1984. We believe that this determination fairly addresses the concerns on both sides of this issue, since it provides effective monitoring under administrative reviews to ensure the elimination of the subsidy programs, and a zero cash deposit rate which acknowledges the reduction of the government subsidy programs.

For purposes of these determinations, the period for which we are measuring bounties or grants is calendar year 1983.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments submitted by interested parties we determine the following:

I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products and apparel under the following programs:

A. *Certificate of Tax Rebate System (CERTEX).* Under this program, qualifying exporters are eligible to apply for certificates issued by the government in amounts equal to a percentage of the f.o.b. invoice price of export shipments. The applicable CERTEX percentage is determined by whether the exports are classified as being of low, medium or high value added and whether they are produced outside of the Province of Lima and/or the Constitutional Province of Callao. Once the gross amount of the rebate certificate is determined, 2 percent of this amount is issued to the Fund for the Provision of Nontraditional Exports (FOPEX), and 10 percent is issued to the Provisional Municipal Town Council of the municipality from which the product originated. The exporter then receives the balance, 88 percent of the gross amount. The value of the certificate is expressed in soles as determined by the official exchange rate on the day of shipment. CERTEX certificates may be applied against taxes owed the Peruvian government or they may be negotiated as commercial paper.

The CERTEX program is specifically export oriented. The amount of benefits available under the program is based solely on export performance. All of the five textile mill products companies and the one apparel company that were asked to respond to our questionnaire participated in the program. Consequently, we determine that the CERTEX program operated to confer countervailable export bounties or grants on Peruvian textile mill products and apparel during the period we investigated.

To calculate the benefit derived from this program prior to November 1, 1984, we allocated the total amount of CERTEX certificates received by the five textile mill products companies during the review period over the value of those companies' total exports to all markets during the review period and did the same for the apparel producer. On this basis, we determine that during the period we investigated the estimated bounty or grant conferred by this program on textile mill products exports is 17.37 percent *ad valorem* and 14.50 percent *ad valorem* for apparel.

However, as of November 1, 1984, exports to the United States of the products subject to these investigations became ineligible for receipt of CERTEX certificates. We verified that exports of the products under investigation to the United States after that date have not benefited from this program. As explained above, we have taken this into account for purposes of our duty deposit rate.

B. *Nontraditional Export Fund ("FENT").* Under this program, the government of Peru provides short-term export financing to exporters of goods not traditionally exported. Three types of short-term financing are provided: Soles loans, foreign currency loans, and mixed soles and foreign currency loans. In most instances, this financing is available at concessional rates. The loans are drawn from a fund established by the Banco Central de Reserve del Peru ("BCRP"), and passed through the Banco Industrial del Peru and a commercial disbursing bank. All of the five textile mill products companies and the one apparel company that were selected to respond to our questionnaire participated in this program during the period we investigated. However, not all companies received all three types of loans.

Because this program provides preferential financing on the basis of export performance at rates less than commercially available, we determine that it confers bounties or grants on Peruvian textile mill products and apparel. We used the following methodologies to calculate benefits for exports prior to November 1, 1984.

For soles loans, which are made for a maximum of 180 days, we calculated the interest rate differential between the rate charged on soles loans and the monthly rate charged by commercial banks on promissory notes. Both rates were adjusted to reflect the durations of the loans. To calculate the benefit, we multiplied the interest rate differential by the aggregate principal amount of loans.

Foreign currency loans are made for a maximum of 180 days at the concessional rate of 1 percent. These loans are actually disbursed in soles and are available in amounts of up to 90 percent of the export value of a given shipment. At the same time that a firm receives the loan proceeds in soles, it must borrow, from a lender outside of Peru, and amount equal to 80 percent of the value of the loan in foreign currency, usually U.S. dollars, and deposit this with the BCRP for the duration of the FENT loan. This deposit is known as the "advance account" and the company earns interest on this deposit. During the period we investigated, the cost to the firm in borrowing foreign currency exceeded the return on the advance account. To calculate the benefit, we converted the aggregate principal amount of each company's foreign currency loans from U.S. dollars to soles. We used an average exchange rate for 1983 to make this conversion. To determine the gross benefit, the aggregate principal amount, in soles, was multiplied by the difference between the FENT rate for foreign currency borrowing and the benchmark rate for the cost of short-term foreign currency borrowings from external sources. Both rates were adjusted to reflect the durations of the loans. We then calculated the net cost to each company of its foreign currency borrowings and advance account deposits. After converting this amount to soles, we subtracted it from the gross benefit to obtain the net benefit.

The mixed currency financing permits exporters to obtain pre-shipment financing in both dollars and soles for up to 90 percent of the export value of each shipment; of this 90 percent, 50 percent of the loan is available in soles and 40 percent is available in dollars. Similar to the foreign currency alternative, mixed loans require that the exporter borrow 32 percent of the total value of the loan in a foreign currency and establish an advance account with the BCRP. The foreign currency portion of these loans is disbursed in soles at a concessional rate of 1 percent. The soles portion of these mixed loans is available at the rate charged on the soles type of loan. To calculate the benefit to each company from the foreign currency portion of mixed loans, we calculated the total foreign currency loan principal for mixed loans. The amount was converted to soles using the average exchange rate for 1983. Using the same method as described above for foreign currency loans, we calculated a gross benefit, and a net cost of foreign borrowing and advance account deposits. To calculate a net benefit, we subtracted the net cost from the gross benefit. The benefit from the soles portion of mixed loans we calculated in the same manner as for soles loans.

We totaled the benefits received for each type of loan and allocated this amount over total exports for the textile mill products companies and did the same for the apparel company. We determine that during the period we investigated, there was an estimated *ad valorem* bounty or grant on exports of textile mill products to the United States of 2.01 percent and an estimated *ad valorem* bounty or grant on exports of apparel of 5.41 percent.

However, as of November 1, 1984, exports of the products subject to these investigations to the United States became ineligible for FENT financing. Exporters of these products have also been required to prepay all FENT loans outstanding as of November 1, 1984. Thus, exports of the products under investigation to the United States after November 1, 1984, have not benefited from this program. As explained in the "Analysis of Programs" section of this notice we have taken this into account for our duty deposit rate.

C. *Articles 8, 9, 12 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).* Petitioners alleged that a number of benefits are provided to producers, manufacturers, or exporters of textile mill products and apparel in Peru under various articles of the Export Law.

The aim of the Export Law is to improve the foreign trade structure of Peru by promoting nontraditional exports. We determine that benefits are provided under Articles 8, 9, 12 and 16 as described below:

1. The General Law of Industries established for priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit. Under Articles 8 and 9 of the Export

Law, exporters are permitted to upgrade their priority one level. One textile mill products company used this program during the period we investigated.

Since this upgrading is contingent on export performance, we determine that it confers a bounty or grant upon exports. The value of the benefit is the additional amount of tax credit which exporters of textile mill products receive by upgrading one priority.

We calculated the benefit by totaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports. On this basis we calculate an estimated bounty or grant of 0.003 percent *ad valorem* for textile mill products. The apparel producer did not participate in this program. Therefore, we determine that this program was not used with respect to apparel.

Since the reinvestment priority system was terminated by the General Law of Industries enacted in 1982, and the textile mill products and apparel exporters are not able to benefit from these Articles after 1983, these benefits are excluded from the estimated duty deposit rates.

2. Article 12 allows exporters to claim an additional amount of depreciation on their tax returns. The amount they are able to claim is 50 percent above the normal rate of depreciation. One exporter of textile mill products used Article 12 during the period we investigated. Since the additional depreciation is contingent on export performance, we determine that Article 12 confers a bounty or grant on the export of textile mill products from Peru.

The amount of the benefit was determined by totaling the tax savings during the review period to each company and allocating this value over total exports. On this basis we calculate an estimated bounty or grant of 0.10 percent *ad valorem* for textile mill products. Since the apparel producer did not participate in this program, we determine that this program was not used with respect to apparel.

3. Article 16 of the Export Law provides for an interim suspension and eventual exemption of import duties on imported capital equipment or machinery if an exporter of nontraditional goods meets certain requirements established by law and signs a written contract with the government. To obtain the exemption, the exporter must export 40 percent of its annual production within a maximum of two years from the date of the importation of the equipment or machinery and must generate a net profit in foreign currency equal to 100 percent of the value of the imported machinery or equipment within five years of the importation.

The exporter's duties are suspended during the two-year period in which the first requirement must be met, and, if it is met, they continue to be suspended until the second requirement is met. This must occur within five years. When this second requirement is met, there is full exoneration of the suspended duties. If the exporter cannot meet the two requirements for exemption within the applicable time periods, for reasons approved by the Ministry of Industry, Tourism and Integration, it may cancel the contract with the government and repay the duties over a term of years, without penalties or interest. If the exporter otherwise fails to meet the terms of the contract, the exporter may be subject to the payment of penalties and interest.

Article 16 of the Export Law provides a suspension and/or exemption from the payment of import duties on capital equipment and machinery contingent upon export performance. Exporters of textile mill products have received suspensions and/or exemptions from import duties under Article 16. Therefore, we determine that it confers a bounty or grant on these exports.

To calculate the benefit arising from this program we treated the duty suspensions that were approved prior to 1983 and oustanding during 1983 as interest-free one-year loans on which interest, at the 1982 interest rate, would otherwise have been payable during 1983. For duty exemptions granted during 1983, we treated the amount of the exemption as a grant received during that year. We added the amount of the benefits from the duty suspensions to those from the duty exemptions and allocated the total benefits over total exports. On this basis, we calculate an estimated bounty or grant of 2.77 percent *ad valorem* for textile mill products. Since the apparel producer did not benefit from the suspension of or the exemption from import duties, we determine that this program was not used with respect to apparel.

D. *Revaluation of Assets for Textile Firms.* Supreme Decree 158–82–EFC, published on May 30, 1982, allowed textile firms to revalue their fixed assets to market value. Article 3 stated that this applied to assets bought by December 31, 1980, and that were in the books by December 31, 1981. As a result of the revalution of their assets, textile firms were able to claim higher depreciation for 1982 taxes payable in 1983.

Because the 1982 revaluation applies only to textile firms, we determine that the higher depreciation available to those firms for taxes payable in 1983 provides a benefit to a specific industry or group of industries. Therefore, the program is countervailable.

During verification we found that one textile mill products producer revalued its assets under Supreme Decree 158–82–EFC in 1982. the benefit was determined by totaling the 1983 tax savings from the increased depreciation and allocating this amount over total sales value. On this basis we calculate an estimated bounty or grant of 0.02 percent *ad valorem* for textile mill products. Since the apparel producer was not eligible to participate in this program, we determine that this program was not used by manufacturers, producers and exporters of apparel.

Subsequent to the 1982 decree, which applied only to textile firms, Supreme Decree 009–83–EFC was published. This decree established new revaluation rates for all industries in Peru. Thus, for purposes of 1983 taxes payable in 1984, all industries are eligible to revalue their assets. Consequently, from 1983 onward, no benefit is being provided to a specific industry or group of industries through the revaluation of assets. Therefore, this benefit is excluded from any estimated duty deposit rate.

E. *Employment Benefit for Decentralized Companies.* Article 8 of Decree Law 22836 provides that decentralized industrial firms, fisheries and health services may use as a tax credit an amount which is the product of multiplying the average rate of the tax by 5 percent of the total remunerations paid to employees of the enterprise.

We determine that this program confers a countervailable benefit because it is limited to firms in specific regions. One textile firm used this program during the period of investigation.

To calculate the benefit, we allocated the tax credit received during 1983 over total sales. On this basis we calculate an estimated bounty or grant of 0.008 percent *ad valorem* for textile mill products.

The apparel producer did not participate in this program. Therefore, we determine that this program was not used with respect to apparel.

Program Determined Not To Confer Counties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers or exporters in Peru of certain textile mill products and apparel under the following program:

A. *Article 24 of the Export Law.* Article 24 allows an exemption from duties on raw materials and/or

unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacture of unfinished goods for export and in the manufacture of unfinished goods which, once processed, are exported. Only one textile mill products company was exempt from import duties on raw materials. We verified that all of the imported product was exported in the finished goods. Therefore, we determine that no countervailable benefit is conferred on exports of textiles. Since the apparel producer did not participate in this program, we determine that this program was not used by manufacturers, producers, and exporters of apparel.

III. Program Determination Not To Be Used

We determine that manufacturers, producers, or exporters in Peru of certain textile mill products and apparel did not use Article 13, 14, 23, and 31 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law) and regional incentive under the 1982 Industrial law, which were listed in our notice of initiation.

A. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with an exemption from the income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law 22037 of December 1977, any company may capitalize earnings which are invested or reinvested within five years, and receive an exclusion from the five percent income tax on capitalization. The benefit provided by this Article is the additional year in which exporters are allowed to capitalize earnings with an exemption from income tax. Our verification revealed that neither the textile mill products producers nor the apparel producer used this program.

B. Artilce 14 of the Export Law permits exporters of nontraditional goods that increase the number of permanent jobs in relation to those existing in the previous year to deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created. We verified that the textile mill products producers and the apparel producer did not use this program.

C. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods as exemption from various taxes. We verified that the five textile mill products companies and the one apparel company responding to our questionnaire did not use this program.

D. Article 31 permits shippers to make preferential rates available to exporters of nontraditional goods. We verified that none of the companies selected to respond to our questionnaire use this program.

E. Under the 1982 Industrial Law, Peruvian firms may receive tax inventives for investments outside the Department of Lima or the Province of Callao. These incentives are not available until the 1983 tax year, for which returns would be filed no earlier than 1984. Since this is outside the period we investigated, we determine that this program was not used.

Petitioners' Comments

Comment 1: Petitioners argue that countervailing duties should be imposed with respect to the CERTEX and FENT programs for exports of textile mill products and apparel, unless Peru enters into a suspension agreement.

DOC Position: We disagree. See our comments in the "Analysis of Programs" section of this notice.

Comment 2: Petitioners argue that respondents have failed to show that benefits under Article 12 of the Export Law are generally available. Further, petitioners aregue that the Department must include benefits received in a year in which a company had no taxable income, unless the Department verifies that loss carry forwards are not available under Peru's tax code.

DOC Position: We agree that accelerated depreciation has not been shown to be provided to more than a specific industry or group of industries. See DOC Position on Respondents' Comment 4. We disagree with the contention that we should countervail Article 12 benefits in a year in which a company had no taxable income. Article 44 of Legislative Decree 200 expressly rules out a carry-forward of depreciation. Even if this were not so, benefits carried forward to years beyond the period we investigated would be subject to examination in the appropriate administrative review, not in these determinations

Comment 3: Petitioners argue that respondents have failed to show that benefits under Article 14 of the Export Law are generally available.

DOC Position: None of the companies subject to these investigations used this program. See "Programs Determined Not to be Used" section of this notice.

Comment 4: Petitioners argue that the Department was correct in its preliminary determinations, in treating benefits bestowed by Article 16 of the Export Law as a series of short-term loans and grants.

DOC Position: We agree that suspensions of duties should be treated as short-term loans and exemptions should be treated as grants. See DOC position on Respondents' Comment 6.

Comment 5: Petitioners argue that Article 31 of the Export Law confers countervailable benefits on the export of textile mill products.

DOC Position: We disagree. It was verified that none of the producers and exporters of textile mill products and apparel which were selected to respond to our detailed questionnaire used this program.

Comment 6: Petitioners argue that the Department should not rescind these investigations with respect to certain textile mill products and apparel which are either made of alpaca or handmade.

DOC Position: We disagree with petitioners with respect to hand-made alpaca apparel and hand-made carpets and tapestries. We agree with Petitioners with respect to all other articles which are of alpaca and/or hand-made. See our comments in the "Rescission of Investigations" section of this notice.

Respondents' Comments

Comment 1: Respondents argue that the Department can take into account changes in subsidy programs occurring after the initiation of a proceeding, and that the Department was correct in excluding CERTEX and FENT from estimated duty deposit rates in its preliminary determinations. Respondents also argue that the actions of the government of Peru in eliminating CERTEX and FENT benefits on exports of the subject merchandise to the United States should be regarded as a "program-wide change."

DOC Position: We agree. See our discussion in the "Analysis of Programs" section of this notice.

Comment 2: Respondents argue that the Department is correct in not taking account of benefits under Article 8 and 9 of the Export Law for duty deposit purposes.

DOC Position: We agree. See "Programs Determined to Confer Bounties or Grants" section of this notice.

Comment 3: Respondents argue that benefits under Article 12 of the Export Law have been shown to be a generally available tax benefit in Peru and are thus not countervailable. Respondents contend that Article 81 of D.S. No. 302-82-EFC has made accelerated depreciation available to all firms in Peru.

DOC Position: We disagree. Article 81 involves governmental discretion in

authorizing accelerated depreciation rates, providing that any firm in Peru may request, and the Directorate of Taxation may authorize, an accelerated or other depreciation rate. In contrast, Article 12 confers the absolute right to take accelerated depreciation on exporters of nontraditional goods. Furthermore, we were unable to verify that accelerated depreciation rates are available to all firms in Peru.

Comment 4: Respondents argue that Article 13 of the Export Law was not used by producers and exporters of textile mill products and apparel.

DOC Position: We agree. See "Programs Determined Not to be Used" section of this notice.

Comment 5: Respondents argue that Export Law Article 14 employment tax credits should be excluded from duty deposit rates, since such benefits have become generally available.

DOC Position: We verified that Article 14 benefits were not used by the firms investigated.

Comment 6: Respondents argue that Export Law Article 16 import duty suspensions are more appropriately treated as long-term loans or, in the alternative, as five-year bonds, than as a series of short-term loans. They also argue that the Department should not countervail for both duty suspensions as loans and exemptions as grants, in a year in which the exemption is granted.

DOC Position: We disagree. After initially obtaining a suspension of import duties on imported capital equipment or machinery, an exporter of nontraditional goods must continue to meet certain threshold requirements to maintain the suspension and, eventually, to achieve the exemption. There is also a substantial possibility that the requirements for exemption may be met well before five years have expired. Thus, a firm which has obtained a suspension of import duties cannot know, from year to year, whether the suspension will remain in effect and if and when an exemption will be granted. Such a firm may also withdraw from its commitment, without incurring penalties. For these reasons, we consider the benefit conferred by the suspension of import duties is best characterized as a series of short-term loans rather than as long-term financing. We continue to calculate the benefit from suspensions that were finally exempt during 1983 as both an interest-free loan and a grant. We have, however, adjusted our benefit calculations with respect to suspensions to ensure that the present value (in the year of importation) of the amounts countervailed over time does not exceed the face value of duties suspended.

Comment 7: Respondents argue that the textile industry in Peru did not use benefits under Export Law Article 23.

DOC Position: We agree. See "Programs Determined Not to be Used" section of this notice.

Comment 8: Respondents argue that benefits under Export Law Article 24 are an exemption from duties and are of a sort not countervailable under the Department's regulations.

DOC Position: See "Program Determined Not to Confer Bounties or Grants" section of this notice.

Comment 9: Respondents argue that Article 31 of the Export Law was not used by companies investigated and, in any case, that it does not confer countervailable benefits upon firms in Peru.

DOC Position: We agree that this program was not used. See "Programs Determined Not to be Used" section of this notice.

Comment 10: Respondents believe that these investigations should be rescinded with respect to certain textile mill products and apparel which are either made of alpaca or handmade because petitioners do not produce "like products" and therefore lack standing with respect to these products.

DOC Position: We agree with respondents with respect to hand-made alpaca apparel and hand-made carpets and tapestries. We disagree with respect to all other articles which are of alpaca or hand-made. See our comments in the "Rescission of Investigation" section of this notice.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, meetings with government officials, and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

Administration Procedures

The Department has afforded interested parties an opportunity to present information and written views, in accordance with Commerce regulations (19 CFR 355.34(a)). A public hearing was held on February 5, 1985, at which interested parties had an opportunity to present oral views, in accordance with 19 CFR 355.35.

Suspension of Liquidation

The suspension of liquidation with regard to textile mill products, ordered in our preliminary affirmative determinations, shall remain in effect until further notice. We are also directing the U.S. Customs Service to suspend liquidation on all entries of certain apparel from Peru with the exception of those for which we are now rescinding our investigations, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** The estimated net bounty or grant for duty deposit purposes is 2.88 percent *ad valorem* for certain textile mill products and 0.00 percent *ad valorem* for apparel.

In accordance with section 706(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amounts indicated above for each entry of the subject merchandise from Peru which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to sections 303, 705 and 706 of the Act (19 U.S.C. 1303, 1671d, 1671e).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

March 4, 1985.

Appendix A

The products covered in these investigations are certain textile mill products and apparel from Peru.

The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States, Annotated* listed below:

A. Textile Mill Products						
Yarns and Threads						
301.0000	303.2040	303.2042	307.6600	307.6810	307.6840	307.6850
310.9120						

Cordage

316.4000

Fabric [1]

320.001	320.0003	320.0012	320.0013	320.0021	320.0022	320.0024
320.0031	320.0032	320.0033	320.0038	320.0042	320.0043	320.0044
320.0049	320.0050	320.0051	320.0052	320.0054	320.0057	320.0062
320.0063	320.0065	320.0072	320.0074	320.0080	320.0085	320.0089
320.0091	320.0095	320.0098	320.1001	320.1012	320.1013	320.1016
320.1021	320.1022	320.1023	320.1024	320.1031	320.1032	320.1033
320.1038	320.1042	320.1043	320.1044	320.1049	320.1050	320.1051
320.1052	320.1054	320.1057	320.1062	320.1063	320.1065	320.1069
320.1072	320.1073	320.1074	320.1080	320.1085	320.1089	320.1091
320.1095	320.1098	320.2003	320.2016	320.2018	320.2021	320.2022
320.2023	320.2024	320.2027	320.2031	320.2034*	320.2038	320.2042
320.2049	320.2050	320.2051	320.2052	320.2054	320.2057	320.2065
320.2069	320.2071*	320.2072	320.2073	320.2074	320.2077*	320.2080
320.2085	320.2089	320.2091	320.2095	320.2098	320.3003	320.3016
320.3018	320.3020	320.3021	320.3022	320.3023	320.3024	320.3027
320.3031	320.3034*	320.3038	320.3042	320.3045*	320.3049	320.3050
320.3051	320.3052	320.3054	320.3057	320.3065	320.3069	320.3071*
320.3072	320.3073	320.3074	320.3077*	320.3080	320.3085	320.3089
320.3091	320.3095	320.3098	320.4003	320.4021	320.4022	320.4024
320.4038	320.4042	320.4049	320.4054	320.4057	320.4065	320.4072
320.4074	320.4080	320.4098	320.5003	320.5021	320.5022	320.5024
320.5038	320.5042	320.5049	320.5054	320.5057	320.5065	320.5072
320.5074	320.5080	320.5098	320.6016	320.6023	320.6069	320.6073
320.8016	320.8023	320.8069	320.8073	321.0034	321.0045	321.0071
321.0077	321.1001	321.1021	321.1022	321.1024	321.1031	321.1034
321.1038	321.1042	321.1045	321.1049	321.1054	321.1057	321.1062
321.1063	321.1064	321.1065	321.1066	321.1071	321.1072	321.1074
321.1077	321.1080	321.1098	321.2118	320.2023	321.2027	321.2034
321.2069	321.2071	321.2073	321.2077	321.3021		
321.3022	321.3024	321.3031	321.3038	321.3042	321.3049	321.3054
321.3057	321.3065	321.3072	321.3074	321.3080	321.3098	321.4003
321.4016	321.4021	321.4022	321.4023	321.4024	321.4038	321.4042
321.4049	321.4054	321.4057	321.4065	321.4069	321.4073	322.0062
322.0063	322.1001	322.1012	322.1013	322.1016	322.1021	322.1022
322.1023	322.1024	322.1031	322.1032	322.1033	322.1034	322.1038
322.1042	322.1043	322.1044	322.1045	322.1049	322.1050	322.1051
322.1052	322.1054	322.1057	322.1062	322.1063	322.1065	322.1066
322.1069	322.1071	322.1072	322.1073	322.1074	322.1077	322.1080
322.1087	322.1093	322.1098	322.3021	322.3022	322.3024	322.3031
322.3038	322.3042	322.3049	322.3054	322.3057	322.3065	322.3072
322.3074	322.3080	322.3098	322.4003	322.4016	322.4021	322.4022
322.4023	322.4024	322.4031	322.4038	322.4042	322.4049	322.4054
322.4057	322.4065	322.4069	322.4072	322.4073	322.4074	322.4080
322.4098	322.8003	322.8021	322.8022	322.8024	322.8038	322.8042
322.8049	322.8054	322.8057	322.8065	322.8072	322.8074	322.8080
322.8098	323.0003	323.0021	323.0022	323.0024	323.0031	323.0038
323.0042	323.0049	323.0054	323.0057	323.0065	323.0066	323.0072
323.0074	323.0080	323.0098	323.1008	323.1009	323.1021	323.1022
323.1024	323.1031	323.1038	323.1042	323.1049	323.1054	323.1057
323.1058	323.1059	323.1065	323.1072	323.1074	323.1080	323.1098
324.2003	324.2021	324.2022	324.2024	324.2038	324.2042	324.2049
324.2054	324.2057	324.2065	324.2072	324.2074	324.2080	324.2098
326.0019	326.0034	326.0045	326.0071	326.0077	326.1001	326.1050
326.1051	326.1052	326.1062	326.1063	326.1087	326.1093	326.3003
326.3021	326.3022	326.3024	326.3038	326.3042	326.3049	326.3054
326.3057	326.3065	326.3072	326.3074	326.3080	326.3098	327.1001
327.1062	327.1063	327.3003	327.3021	327.3022	327.3024	327.3031
327.3038	327.3042	327.3049	327.3054	327.3057	327.3065	327.3072
327.3074	327.3080	327.3098	328.3003	328.3021	328.3022	328.3024
328.3031	328.3038	328.3042	328.3049	328.3054	328.3057	328.3065
328.3072	328.3074	328.3080	328.3098	336.1505	336.1510	336.6241
336.6243	336.6251	336.6253	336.6257	336.6441	336.6443	336.6451
336.6453	336.6455	336.6457	338.5021	338.5041	338.5059	338.5069

Special Construction Fabrics

345.1040	346.3530	346.5200	346.6020	346.6050	352.8095	353.5032
357.1500						

Textile Furnishings

360.0600	360.1515	360.4225	360.4825	360.7000	361.0520	361.4500

361.4800	363.0120	363.1040	363.1500	363.2000	363.4500	363.6520
363.6540	363.7000	364.2000	364.2300	365.7865	365.8610	365.8620
366.2460	366.2480	366.2780	366.4700	367.3424	367.3428	
			Miscellaneous			
385.3000	385.5000	386.0600	386.5045	388.1000	388.2000	388.4000
			B. Apparel			
			Apparel			
372.1010	372.1020	372.1050	372.1070	372.3000	372.3500	372.4500
372.7000	372.8000	373.1500	373.2500	374.3000	374.5020	374.5040
376.2000	378.1520	379.0252	379.0254	379.1100	379.1530	379.1720
379.3905	379.3930	379.4042	379.4040	379.4050	379.4060	379.4070
379.5520	379.5550	379.6470	379.7240	379.7250	379.7295	379.7540
379.7545	379.7550	379.7555	379.7580	379.7620	379.7630	379.7650
379.7830	379.7900	379.8318	379.8360	379.8420	383.0390	383.0805
383.1205	383.1220	383.1319	383.1321	383.1340	383.1560	383.1580
383.1611	383.1612	383.1613	383.1614	383.1616	383.1618	383.1619
383.1621	383.1626	383.1628	383.1629	383.1630	383.1680	383.2013
383.2050	383.2060	383.2305	383.2715	383.2716	383.2718	383.2721
383.2722	383.2724	383.2730	383.2732	383.2736	383.2738	383.2750
383.2752	383.2754	383.2758	383.3037	383.3038	383.3090	383.3465
383.3770	383.4705	383.4709	383.4761	383.4821	383.4825	383.5027
383.5090	383.5395	383.5510	383.5515	383.5520	383.5525	383.5540
383.5820	383.5830	383.5845	383.6200	383.6310	383.6330	383.6340
383.6345	383.6350	383.6360	383.6371	383.6372	383.6385	383.6395
383.6690	383.7010	383.7020	383.7210	383.7510	383.7522	383.7528
383.7558	383.7562	383.7595	383.9255	383.9580	383.9581	383.9583
383.9584	383.9585	383.9586	383.9587	383.9589	383.9591	383.9593
383.9595	383.9596					
			Headwear			
702.5400	702.5600	702.6000	702.7000	702.7500	702.8000	703.1610
703.1620	703.1630	703.1640	703.1650			
			Gloves			
		704.2500	704.6000	704.6500		
			Luggage and Handbags			
		706.3650	706.4140			

[1] For the woven cotton fabric under investigation the U.S. Department of Commerce, in preparing the Appendices for these investigations, has used the U.S. Import Statistical Numbers which closely parallel the TSUSA numbers for example, U.S. Import Statistical Numbers 320.0001 represents TSUSA numbers 320.0101 through 320.0901 and 328.3096 represents TSUSA numbers 328.3098 through 328.3998. The fourth and fifth digits of these TSUSA numbers are yarn count numbers.

Carded cotton items that are within the TSUSA numbers above, that have an "*" to their right, are excluded from these investigations.

[FR Doc. 85-5821 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Plan Team for the Gulf of Alaska Groundfish Fishery Management Plan will convene a public working session, March 14–15, 1985, at the National Marine Fisheries Service's conference room, Federal Building, 709 W. 9th Street, Juneau, AK, beginning at 9 a.m. on March 15, to complete preparation of draft decision documents for the 1985 Gulf of Alaska groundfish amendment. For further information contact Ron Berg, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802; telephone: (907) 586.7229.

Dated: March 6, 1985.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-5820 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a public meeting in Beaufort, SC, March 25–28, 1985 to discuss billfish, mackerel and snapper-grouper; the FY 85 mid-year financial review and other fishery management business. A detailed agenda will be available around March 15. For further information contact David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: March 6, 1985.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-5819 Filed 3-11-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, March 19–21, 1985, in Seattle, WA, to develop groundfish landing projections; review reports on long-range management of groundfish and minimum by-catch levels; and review a request for a groundfish plan amendment. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201; telephone: (503) 221–6352.

Dated: March 7, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85–5878 Filed 3–11–85; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea; Correction

March 7, 1985.

On February 1, 1985 a notice was published in the **Federal Register** (50 FR 4720) which announced import limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during 1985. Paragraph two of the letter to the Commissioner of Customs which followed that notice should be corrected to read as follows:

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 337, 359 pt.[2] and 659 pt.[3], produced or manufactured in Korea and exported to the United States on and after January 1, 1984, shall, to the extent of any unfilled balances, be charged against the limits established for such goods during that twelve-month period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter. Textile products in Categories 337, 359 pt.[2] and 659 pt.[3] which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–5845 Filed 3–11–85; 8:45 am]

BILLING CODE 3510–DR–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket Nos. CRT 80–4, 81–1, 82–1, 83–1]

Further Amendment to Order Granting Further Partial Distributions 1979, 1980, 1981, and 1982 Cable Royalty Distribution

Correction

In Fr Doc. 85–5337 beginning on page 9112 in the issue of Wednesday, March 6, 1985, make the following correction:

On page 9114, in the third chart, first line, fifth column, "43, 765, 854" should read "43, 765, 864".

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command; Direcorate of Personal Property; International Through Government Bill of Lading Household Goods Program

AGENCY: Military Traffic Management Command, DOD.

ACTION: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), is modifying procedures associated with the acquisition of rates for international through Government bill of lading (ITGBL) shipments of household goods and unaccompanied baggage for the cycle starting October 1, 1985 (Volume 51).

SUMMARY: In the past, MTMC has relied upon rate bureau/assocation military basic tenders (MBTs) for governing rules and application of accessorial rates and charges. In effect, these MBTs have been incorporated in and made a part of MTMC's ITGBL competitive rate solicitation. In the future, MTMC intends to develop rules for application of accessorial rates and charges similar to those currently in effect in the MBTs and publish such rules as an appendix to the MTMC rate solicitation for international shipments. Aside from this modification, the standing producers used for the 6-month cycle system remain unchanged along with the filing periods; viz, the initial and me-too filing periods. For the reasons stated below, MTMC intends to discontinue use of MBTs issued by carrier and forwarder rate bureaus and associations.

To assist you in understanding the modification, the following reasons are summarized. DOD expects MTMC to improve control and management of the ITGBL program. As in other Federal procurements, with this modification MTMC is determining basic terms and conditions and dealing directly with individual companies actually furnishing the services. This will reduce the anticompetitive influence on the ITGBL program which results from MTMC dealing through ratemaking bureaus or associations. This is a continuation of MTMC efforts to promote individual carrier ratemaking that began with the establishment of the ITGBL competitive rate program in 1976 and the domestic MTMC solicitation last year. The modification will also comply with the letter and spirit of recent deregulation statutes which restrict the activities of rate bureaus, which promote shipper protection, and which increase pricing competition. It will also promote greater competiton under recently legislated congressional Defense procurement policy.

Comments: Written comments concerning the intended modification will be considered if received not later than April 12, 1985.

Address comments to: Commander, Military Traffic Management Command, Attn: Rate Acquisition Division (MT–PPC–Int'l), Room 408, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman or Mrs. Naomi King, HQ Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041–5050, (202) 756–2385.

SUPPLEMENTARY INFORMATION: To reflect the above DOD 4500.34–R, Personal Property Management Regulation, May 1971 will be amended by adding the following to paragraph 6001h(3).

(d) Solicitations for ITGBL competitive rates will be sent to, and responsive rates will be received from, DOD-approved qualifed individual carriers and forwarders. Solicitations will contain MTMC-developed governing rules, accessorial rates and charges, rather than military basic tenders collectively issued by carrier bureaus and associations. Traffic will be awarded to those low rate responsible carriers and forwarders whose rates are responsive and most advantageous to the government. A responsible carrier is one who:

(1) Is listed on the DOD list of approved carriers and freight forwarders;

(2) Has appropriate operating authority and licenses;

(3) Has adequate financial resources;

(4) Has the ability to comply with required delivery performance schedules;

(5) Has a satisfactory record of performance and integrity and is otherwise qualified under applicable law and regulations.

Tenders, including MBTs governing rules or application of accessorial rates and charges, of rate bureaus and associations engaged in collective ratemaking functions inconsistent with the Government's goal to maximize competition, will not be solicited and will not be received.

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301–2314 and DOD Directives 4500.9 and 4500.34R.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

March 6, 1985.

[FR Doc. 85–5721 Filed 3–11–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Personnel Research and Development Center (NPRDC) Review Team of the Naval Research Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on March 27, 1985, at the Office of the Director of Navy Laboratories, Crystal Plaza 5, Crystal City, Virginia, and at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia. The agenda will include technical briefings from the headquarters sponsors of NPRDC which will assist the team in their efforts to make a thorough evaluation of the scientific, technical and engineering health of the activity. The first session of the meeting to be held at the Office of the Director of Navy Laboratories, Crystal Plaza 5, Crystal City, Virginia, will commence at 9:30 A.M. and terminate at 11:00 A.M. on March 27, 1985. The second and final session, to be held at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia, will commence at 1:00 P.M. and terminate at 4:00 P.M. on March 27, 1985. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NPRDC. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: March 7, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–5843 Filed 3–11–85; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)–130, from the Federal Republic of Germany to Sweden, 8,000 kilograms of uranium, enriched to approximately 3.5% in U–235. This material was originally transferred to the Federal Republic of Germany from Sweden in the form of unirradiated scrap for purification, and is now to be returned for fuel fabrication for power reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 5, 1985.

Harold Jaffe,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 85–5802 Filed 3–11–85; 8:45 am]

BILLING 6450–01–M

Economic Regulatory Administration

Port Petroleum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Port Petroleum, Inc. This Proposed Remedial Order alleges pricing violations in the amount of $12,458,131.51 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period October 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1403 Slocum, Second Floor, Dallas, Texas 75207 or by calling (214) 767–4646. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Room: 6F–078, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 15th day of February 1985.

Ben Lemos,

Director, Office of Field Operations, Economic Regulatory Administration.

[FR Doc. 85–5813 Filed 3–11–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER85–327–000, et al.]

Electric Rate and Corporate Regulation Filings; Gulf Power Company, et al.

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

1. Gulf Power Company

[Docket No. ER85–327–000]

March 6, 1985.

Take notice that on February 26, 1985, Gulf Power Company (Gulf Power) tendered for filing a contract executed

between it and the Administrator of the Southeastern Power Administration (SEPA) acting on behalf of the United States Government, Department of Energy. The contract is filed with the Federal Energy Regulatory Commission because certain of its provisions provide for the payment of a transmission charge by the Government for transmission of capacity and energy to certain preference customers designated by the Government.

Gulf Power requests an effective date of February 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: March 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Upper Peninsula Power Company

[Docket No. ER85-325-000]

March 6, 1985.

Take notice that on February 26, 1985, Upper Peninsula Power Company (UP) tendered for filing an Agreement for Wholesale electric power service between UP and the City of Escanaba. UP requests an effective date of May 1, 1985.

Comment date: March 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Empire District Electric Company

[Docket No. ER85-323-000]

March 6, 1985.

Take notice that on February 25, 1985, Empire District Electric Company (EDE) tendered for filing a proposed Service Schedule PR between EDE and Associated Electric Cooperative, Inc. (Associated).

EDE states that the proposed Service Schedule PR provides for the sale of 150 Mw of capacity and related energy from EDE to Associated for the period beginning January 23, 1985.

EDE requests an effective date of January 23, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission, the Oklahoma Corporation Commission, the Arkansas Public Service Commission and Associated.

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

4. Public Service Company of New Mexico

[Docket No. ER85-319-000]

March 6, 1985.

Take notice that on February 25, 1985, Public Service Company of New Mexico (PNM) tendered for filing Service Schedule I (Agreement for Block Energy Sale) to the Interconnection Agreement (Rate Schedule FERC No. 46) between PNM and Texas-New Mexico Power Company (TNP).

PNM under this Agreement shall make available to TNP block energy in the Amount of up to 370 gigawatt hours at a rate of delivery of up to 50 megawatts solely and exclusively for TNP to serve its copper industry customers. Interruptibility provisions are set forth in section 4 of the Agreement. Service is scheduled to commence on March 1, 1985, and is to continue until December 31, 1985, and from month to month thereafter until terminated by either party in accordance with § 2.3 of this Agreement.

PNM requests waiver of the Commission's notice requirements to allow an effective date of March 1, 1985.

Copies of the filing were served upon TNP and the New Mexico Public Service Commission.

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

5. The Empire District Electric Company

[Docket No. ER85-322-000]

March 6, 1985.

Take notice that on February 25, 1985, the Empire District Electric Company (EDE) tendered for filing a proposed Power Purchase Contract between EDE and Associated Electric Cooperative, Inc. (Associated) to Springfield, Missouri.

EDE states that the proposed contract provides for the sale of 150 Mw of capacity and related energy from Associated to EDE for the period beginning January 23, 1985.

EDE requests an effective date of January 23, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission, the Oklahoma Corporation Commission, the Arkansas Public Service Commission and Associated.

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

6. Indiana & Michigan Electric Company; Ohio Power Company

[Docket No. ER85-324-000]

March 6, 1985.

Take notice that on February 25, 1984, American Electric Power Service Corporation (AEP) on behalf of its affiliate Ohio Power Company (OPCO) and Indiana & Michigan Electric Company (I&ME), which the AEP Affiliated operating subsidiaries, Modification No. 11 dated January 15, 1985 to the Inteconnection Agreement dated December 12, 1949 among I&ME and OPCO (collectively the AEP parties) and the Cincinnati Gas & Electric Company (CG&E). The Commission has previously designated this Agreement as OPCO's Rate Schedule FERC No. 21, I&ME's Rate Schedule FERC No. 16, and CG&E's Rate Schedule FERC No. 13.

AEP states that Sections 1 and 2 of Modification No. 11 provide for an increase in the transmission demand rate for Short Term Power when the AEP parties are the supplying party to $0.46 per kilowatt per week and to $0.092 per kilowatt per day. Section 3 revises the generation demand compensation section of the Short Term Power Service Schedule to provide for a rate of "up to" each parties' present generation demand rates. The proposed rates included in this Modification No. 11 for Short Term Power are similar to the rates for Transmission Service provided by the AEP System which have been filed and accepted for filing by the Commission and are the same as the rates for Short Term Power transmission demand rates have been filed with the Commission on behalf of I&ME.

AEP requests an effective date of April 15, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of Ohio, Public Service Commission of Indiana, and Michigan Public Service Commission.

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

7. Carolina Power & Light Company

[Docket No. ER85-318-000]

March 6, 1985.

Take notice that on February 25, 1985, Carolina Power & Light Company (CP&L) tendered for filing changes outlined below in its agreement with the City of Bennettsville, South Carolina, Brunswick EMC, central EMC, Jones-Onslow EMC, and Pitt & Greene EMC.

1. *City of Bennettsville*—An amendment to incorporate in the Service Agreement the delivery of metering pulse information under the Company's additional facilities plan.

2. Installation of special metering facilities required to provide metering pulse information to the EMCs from the Points of Delivery listed below. The metering pulse information will be provided under the Company's additional facilities plan.

Brunswick EMC—Chadbourn-Peacock 115 kV
Central EMC—Jonesboro 23 kV
Jones-Onslow EMC—Jacksonville East 115 kV, Topsail 115 kV
Pitt & Greene EMC—Farmville 12 kV, Hugo 115 kV

CP&L requests that the Supplement be made effective 60 days after filing.

Comment date: March 20, 1985, in accordance with Standard paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER85-317-000]

March 5, 1985.

Take notice that on February 25, 1985, Florida Power & Light Company (FPL) tendered for filing a document entitled "Amendment Number One to Contract for Interchange Service Between Florida Power & Light Company and Fort Pierce Utilities Authority."

FPL states that under the Amendment FPL and Fort Pierce Utilities Authority (Ft. Pierce) utilize the provisions of the existing Contract for Interchange Service between FPL and Fort Pierce, the parties to establish additional service schedules. FPL states that the additional Service Schedule X provides the parties with the necessary vehicle to better maximize the overall enconomy of power production in the State of Florida.

FPL respectfully requests that the proposed Amendment be made effective no later than 60 days from the date of filing. According to FPL, a copy of this filing was served upon Fort Pierce Utilities Authority.

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

9. Florida Power & Light Company

[Docket No. ER85-316-000]

March 5, 1985.

Take notice that on Fegbruary 22, 1985, Florida Power & Light Company (FPL) tendered for filing a document entitled "Amendment Number One to Contract for Interchange Service Between Florida Power & Light Company and City of Gainesville, Florida" dated October 29, 1984 (FPL Rate Schedule FERC No. 27).

FPL states that under the provisions of the existing Contract for Interchange Service between FPL and the City of Gainesville (Gainesville), the parties may modify or revise any and all Service Schedules. FPL states that this Amendment only revises Service Schedule A to the Contract to the extent that FPL and Gainesville desire to clarify the period of time during which service under Service Schedule A will be available. This amended Service Schedule A shall supersede and replace the existing Service Schedule A in its entirety.

FPL states that the effect on the amount of sales, services, or revenues, if any, brought about by the above revision cannot be projected and respectfully requests a waiver of the Commission's Regulations.

FPL respectfully requests that the proposed Amendment be made effective no later than 60 days from the date of filing. According to FPL, a copy of this filing was served upon the City of Gainesville, Florida.

Comment date: March 19, 1985, in accorance with Standard Paragraph E at the end of this notice.

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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-5785 Filed 3-11-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI85-255-000]

Citizens Energy Corp. and Citizens Resources Corp.; Application for Commission Authorization Relating to Citizens Marketing Program

March 5, 1985

Take notice that on February 21, 1985, Citizens Energy Corporation (Citizens Energy) and Citizens Resources Corporation (Citizen Resources) of 530 Atlantic Avenue, Boston, Massachusetts 02210, filed an application for certain authorizations required in connection with the proposed "Citizens Marketing Program".

Citizens requests the Commission to grant the following authority and take the following action:

(1) Grant blanket temporary abandonment authority, pursuant to 15 U.S.C. 717f(b) and in accordance with the Commission Order of September 26, 1984 to producers for their transactions under the Citizens Marketing Program;

(2) Authorize Citizens to submit monthly reports, pursuant to 18 CFR 284.106, on behalf of interstate pipelines for transactions under the Citizens Marketing Program;

(3) Authorize Citizens to submit monthly reports, pursuant to 18 CFR 284.126 and 284.148, on behalf of intrastate pipelines for transactions under the Citizens Marketing Program;

(4) Authorize Citizens to submit monthly reports, pursuant to 18 CFR 284.222(e)(1), on behalf of intrastate pipelines for transactions under the Citizens Marketing Program;

(5) Authorize Citizens to file in its monthly reports all appropriate information as required by the Commission Order of September 26, 1984 on behalf of CMP particpants;

(6) Authorize Citizens to file all supplemental reports, pursuant to the Commission's Order of September 26, 1984 and 18 CFR Part 284, on behalf of producers, pipelines, and local distribution companies for transactions under the Citizens Marketing Program;

(7) Waive the 48-hour post-transaction reporting requirement contained in 18 CFR 284.4 as it applies to pipelines for transactions under the Citizens Marketing Program; and

(8) Issue an order declaring that participation in the Citizens Marketing Program according to the terms described in Part II.C. of this application herein, will not alter the existing jurisdictional status of participating intrastate and Hinshaw pipelines.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 22, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5767 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-12-000]

City of Manti, UT; Utah Power & Light Co.; Order Setting for Hearing Application for Wheeling and Interconnection and Establishing Procedures

Issued: March 4, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On November 28, 1984, the City of Manti, Utah (Manti) filed an application, pursuant to sections 211 [1] and 212 [2] of the Federal Power Act (FPA), for a Commission order directing Utah Power & Light Company (UP&L) to provide transmission service to the city on a long term basis commencing on February 4, 1986. In the alternative, Manti requests that UP&L be directed to provide transmission service until such time as the city constructs its own transmission facilities or alternative transmission facilities become available. In addition, Manti requests that the Commission direct UP&L to interconnect its transmission facilities with the city pursuant to section 210 of the FPA,[3] if such an interconnection is necessary to implement a wheeling order.

Manti owns and operates facilities for the distribution of electric power and energy at retail. It purchases power at wholesale from UP&L and the Western Area Power Administration's Colorado River Storage Project. In February 1981, UP&L gave Manti notice of its intent to terminate service under its present agreement with the city, effective February 4, 1986. The city has explored alternative power supply arrangements and has purportedly identified at least two prospective power suppliers for the period beginning on February 4, 1986; however, Manti states that it cannot finalize any alternative arrangements until it obtains assurances from UP&L that wheeling of such power is available. The city requested such assurances by letter dated September 13, 1984. UP&L responded by letter dated October 4, 1984, but, according to Manti, gave no assurance as to its willingness to provide transmission service to the city under fair and reasonable terms at compensatory rates.[4] Manti goes on to state that its application would meet the requirements for wheeling and interconnection orders set forth in sections 210, 211, and 212 of the Federal Power Act.

Notice of Manti's application appeared in the **Federal Register**,[5] with comments due on or before January 10, 1985. On December 21, 1984, UP&L filed an answer and motion to dismiss Manti's application. In support, UP&L contends that: It is willing to enter into a new resale or transmission agreement with the city; additional information from Manti as to the specifics of any alternative power supply arrangement is needed in order for UP&L to respond to the city's inquiry regarding transmission; UP&L has advised Manti of its position; and finally, Manti has made no effort to provide UP&L with the needed information. In the circumstances, UP&L contends, Manti's application does not meet the statutory standards for obtaining wheeling orders;[6] accordingly, Manti's application is premature and should be dismissed.

On January 21, 1985, Manti filed an answer in opposition to UP&L's motion to dismiss. Manti contends that it is prepared to demonstrate at a hearing that UP&L's course of conduct amounts to an actual or constructive refusal to wheel, and, therefore, disputed issues of fact exist which can only be determined after an evidentiary hearing.

On February 8, 1985, Manti filed a petition, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure,[7] requesting that the Commission designate the presiding administrative law judge in *Utah Power & Light Co.*, Docket Nos. ER-571-000, *et al.*, to hear its application for wheeling. In support, Manti notes that, before the Commission can issue a wheeling order, it must find that the city is ready, willing, and able to pay UP&L the costs of transmission service and a reasonable rate of return on such costs, as required by section 212(b) of the Federal Power Act; [8] and that UP&L's cost of transmission service and required rate of return are issues pending in Docket Nos. ER84-571-001, *et al.*[9] The appointment of a single administrative law judge to preside over both dockets would, Manti alleges, avoid unncessary duplication of efforts and expenditure of resources. Manti does not request consolidation of the proceedings at this time, however, stating that its application in Docket No. EL85-12-000 raises issues unique to this docket alone.

On February 15, 1985, UP&L filed a protest to Manti's petition for special assignment of an administrative law judge. The company states that the issues pending in Docket Nos. ER84-571-000, *et al.* are unrelated to those present in this docket, and that assigning the same administrative law judge to both proceedings would frustrate, rather than serve, the interests of judicial efficiency.

Discussion

As previously indicated, UP&L requests that Manti's application be dismissed on the ground that the utility has not refused to provide electric service, a finding necessary to the issurance of any order pursuant to section 211(b) of the Federal Power Act.[10] However, Manti has applied pursuant to both section 211(b) and 211(a), which has no such requirement. We shall therefore deny UP&L's motion to dismiss Manti's application on this ground.

While denying UP&L's motion to dismiss, we agree that more specific information from Manti about alternative power supply arrangements would be necessary to enable us to make the findings required by sections 210, 211, and 212 of the Federal Power Act to issue an order providing for interconnection and wheeling. We shall set Manti's application for hearing, as provided by sections 210 and 211 of the

[1] 16 U.S.C. 824j.

[2] 16 U.S.C. 824k.

[3] 16 U.S.C. 824i.

[4] The letters are attached as Exhibits C & D to Manti's application.

[5] 49 FR 46796 (1984).

[6] In particular, UP&L states that Manti's application does not comply with section 211(b)(1), 16 U.S.C. 824j(b)(1), which provides that the Commission may issue an order requiring wheeling by an electric utility if the utility has given actual or constructive notice that it is unwilling or unable to provide electric service to the applicant.

[7] 18 CFR 385.207 (1984).

[8] 16 U.S.C. 824k(b).

[9] By order dated January 11, 1985, the Commission, *inter alia*, accepted for filing UP&L's proposed increase in rates for transmission service to various customers and ordered a hearing as to their justness and reasonableness. *Utah Power & Light Co.*, 30 FERC ¶ 61,015 (1985).

[10] Although not clear from their pleadings, it appears that Manti and UP&L have, with respect to the issue of whether the criteria set forth in section 211(b) have been met, focused upon the company's willingness to provide *transmission* service. Section 211(b), however, refers to an electric utility's unwillingness or inability to provide *electric* service, not transmission service. Although UP&L has used the term "electric service," it has chiefly discussed its willingness to provide transmission service. Because the pleadings reflect a misunderstanding of the statutory criteria on this point, we shall not, at this time, dismiss Manti's application for a hearing under section 211(b).

Federal Power Act. However, in order for such a hearing to go forward, Manti must come forth with specific information regarding alternate power supply and transmission arrangements and the transmission it requires, as described in Attachment A.[11]

Our rules of practice do not specifically provide that utilities which are the target of an application under sections 210, 211, and 212 automatically become parties to a hearing on the application. Since UP&L is clearly a necessary party to this inquiry, we shall designate UP&L as a party-respondent to this proceeding, pursuant to Rule 102 of the Commission's Rules of Practice and Procedure.[12]

Finally, we shall deny without prejudice Manti's request to assign this docket to the presiding administrative law judge currently assigned to hear Docket Nos. ER84–571–001 *et al.* While we share the city's desire to avoid unnecessary duplication of resoruces, we believe that the parties and the presiding judge to be appointed by the Chief Administrative Law Judge are in the best position to determine how such duplication may be minimized, such as through incorpration by reference of portions of the record in Docket Nos. ER84–571–001, *et al.*, or other procedures.

The Commission orders:

(A) UP&L's motion to dismiss Manti's application is denied.

(B) UP&L's is hereby designated a party-respondent to this proceeding.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 210, 211, and 212 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning Manti's application for transmission and interconnection.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates, including the submission of a case-in-chief by Manti, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

For each potential power transfer involving the three power suppliers identified by Manti in its application or any other potential supplier, Manti shall provide the following data:

(1) *Quantity of Power and Energy.*

What quantity of power (MW) and energy (MWh) will be wheeled? Manti should include a description of the expected load pattern. For instance, will the power be baseload power to be transmitted at all times or peaking power to be transmitted only during specified hours? How will Manti's take vary under on-peak and off-peak conditions? Will there be seasonal variations in Manti's deliveries?

(2) *Point of Receipt.*

At what point and at what voltage level will UP&L be expected to take delivery of Manti's entitlements? Will the delivery come directly from Manti's supplier or will there be intervening wheeling parties?

(3) *Point of Delivery.*

Where and at what voltage level will UP&L be expected to deliver Manti's entitlement? Does Manti need or require optional delivery points to enhance reliability?

(4) *Nature of Entitlement.*

Does the entitlement provide for firm or nonfirm energy? Is wheeling service to be firm or nonfirm? What degree of firmness is desired?

(5) *Contract Term.*

What is the term of the requested wheeling service and how does this compare with the term of Manti's entitlement?

(6) *Scheduling.*

How does Manti intend to schedule its entitlements? Will Manti schedule a week in advance, the day before, or hourly? Will the energy be scheduled in fixed increments or in variable amounts?

(7) *Testimony.*

Manti should provide testimony supporting and explaining all data.

(8) *Notice.*

Manti shall provide the names and addresses of each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency so that the statutorily required notice may be given. We note that the Conference Report interprets "affected electric utilities" to include those involved in the sale of power for which wheeling is requested. H. Conf. Rep. No. 95–1750, 95th Cong., 2d Sess. 6, *reprinted in* 1978 U.S. Code Cong. & Ad. News 7797, 7825. In this instance, Manti should provide the names and addresses of each potential power supplier.

[FR Doc. 85–5768 Filed 3–11–85; 8:45 am]

BILLING CODE 6717–01–M

[11] We note that, in the future, failure to provide similar information may result in rejection of an application as deficient.

[12] 18 CFR 385.102 (1984).

[Docket No. RP85–63–000 and RP85–103–000]

Northwest Pipeline Corp. v. Cascade Natural Gas Corp.; Answer to Complaint, Cross-Complaint, and Motion for Consolidation

March 5, 1985.

Take notice that on February 22, 1985, Cascade Natural Gas Corporation (Cascade) tendered for filing an Answer, Cross-Complaint, And Motion for Consolidation against Northwest Pipeline Corporation (Northwest) in response to a complaint against Cascade filed by Northwest on January 4, 1985. Northwest had requested that the Commission (1) find that the terms and conditions of Northwest's tariff, specifically Rate Schedule LS–1, carry the full force and effect of law; (2) find that Cascade has failed to comply with the lawful terms and conditions of that tariff; and (3) take whatever actions the Commission deems appropriate to assist Northwest in enforcing the terms of its tariff. In the alternative, Northwest requested that the Commission issue a declaratory order making findings (1) and (2).

Cascade, in its cross-complaint, alleges that: (1) Northwest unreasonably and unlawfully interpreted and applied the provisions of Rate Schedule LS–1 to require mandatory incurrence of avoidable variable costs; (2) Northwest's delay in seeking any necessary administrative relief to avoid the avoidable variable costs attending the liquefaction, storage, and vaporization of gas for Cascade during 1984 violated Northwest's public interest service obligation under its Section 7(c) certificate of public convenience and necessity authorizing LS–1 service; and (3) Northwest's incurrence of avoidable variable costs for (i) ODL–1 gas purchases related to 1984 liquefaction services for Cascade and (ii) liquefaction, storage, and vaporization under Rate Schedule LS–1 was

imprudent and in violation of sections 4 and 5 of the NGA. Cascade also requests that its cross-complaint be consolidated with Northwest's complaint.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a) (1984), Northwest must file an answer to Cascade's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Northwest shall file its answer with the Commission on or before April 4, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5769 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-206-001]

Sierra Pacific Power Co.; Refund Report

March 5, 1985.

Take notice that on February 25, 1985, Sierra Pacific Power Company (Sierra) submitted for filing a refund compliance report pursuant to the Commission's letter order issued on February 4, 1985.

Sierra's filing contains monthly billing determinants, revenue receipt dates, and revenue under the present and reduced rates.

Sierra's filing contained the following:

(1) Letter to each customer;

(2) Monthly billing determinants, revenue receipt dates, and revenues under the present and reduced rates;

(3) Monthly revenue refund and the monthly interest;

(4) Summary for the total refund period.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 13, 1985. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5770 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2113]

Wisconsin Valley Improvement Company; Complaint

March 6, 1985.

On April 6, 1984, the Lac Vieux Desert Riparian Owners Association (Riparian Owners) filed a complaint against the Wisconsin Valley Improvement Company (WVIC). WVIC was issued a license for Project No. 2113 in 1959. Article 33 of that license was amended on December 2, 1983, to state:

The Licensee shall delay the fall drawdown of Lac Vieux Desert until October 15 of each year in order to provide adequate water levels for late summer recreation, unless an earlier drawdown would merely offset unseasonable wet conditions. The Licensee shall make every effort to drawdown the reservoir to 0.0 gage (1679.53 U.S.C. & G.S. datum) by December 31 of each year, but the Licensee is not required to spill water downstream in order to meet this target date.

The Riparian Owners' complaint alleges that WVIC has violated Article 33 of its Federal license for Project No. 2113 by not reaching 0.0 gage water level in over two years.

Interested parties are invited to file comments on this matter. Comments and any motions to intervene submitted pursuant to 18 CFR § 385.214 (1984), must be filed by 4:30 p.m. on April 8, 1985. Comments must be submitted to the Secretary, Federal Energy Regulatory Commission, Room 3110, 825 North Capitol Street, N.E., Washington, D.C. 20426. For further information contact George C. O'Connor, Office of the General Counsel, Room 4102C, Federal Energy Regulatory Commission, 202-357-5630.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5771 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-239-000 etc.]

Richard R. Gresham et al; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications; etc.

Comment date: Thirty days from the 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. Richard R. Gresham (Hecla Power Project)

[Docket No. QF85-239-000]

March 4, 1985.

On Februry 11, 1985, Richard R. Gresham (Applicant), of P.O. Box 158, Clipper Mills, California 95930, 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 500 kilowatt hydroelectric facility (P. 6965) is located on Canyon Creek in Shoshone County, Idaho.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. Fluid Energy Systems, Inc.

[Docket No. QF85-242-000]

March 4, 1985.

On February 11, 1985, Fluid Energy Systems, Inc. (Applicant), of 2210 Wilshire Blvd. No. 699, Santa Monica, California 90403 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 30,590 kilowatt hydroelectric facility (P. 8257) will be located 24 miles east on State Highway 178, near the town of Bakersfield, California.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate

public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

3. Melvin R. Hall

[Docket No. QF85-245-000]

March 4, 1985.

On February 11, 1985, Melvin R. Hall (Applicant) of 7418 Silver Pine Drive, Springfield, Virginia 22153 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 105 kilowatt hydroelectric facility will be located in Rapidan, Virginia.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

4. MARMAC

[Docket No. QF85-231-000]

March 5, 1985.

On February 7, 1985, MARMAC (Applicant) of 6415 Katella Avenue, Cypress, California 90630 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 San Joaquin County, California, five miles northeast of Tracy. The facility consists of a fluidized bed combustor driven steam/turbine generator having an electric power production capacity of 10 NW. The primary energy source will be waste in the form of rice hulls.

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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5775 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-287-000 etc.]

Transcontinental Gas Pipe Line Corp., et al. Natural Gas Certificate Filings

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

1. Transcontinental Gas Pipe Line Corp.

[Docket No. CP85-287-000]

March 5, 1985.

Take notice that on February 14, 1985, Transcontinental Gas Pipe Line Corportion (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP85-287-000 pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a request for authorization to transport end-user gas on behalf of Carbonaire Company, Inc. (Carbonaire), with flexible authority to add and/or delete sources of gas and/or receipt points, under the certificate issued in Docket No. CP82-426-000 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.

Transco proposes to transport up to 4,500 dt equivalent of gas per day for use in Carbonaire's plant in Palmerton, Pennsylvania (Palmerton plant), for a term expiring June 30, 1985. It is stated that the natural gas to be transported would be purchased from Tenngasco Exchange Corporation and would be used for production of ammonia and carbon dioxide at the Palmerton plant. It is indicated that Transco would receive the gas at existing interconnections with Columbia Gas Transmission Corporation in Renova, Pennsylvania, and would redeliver such gas at existing points of delivery to Union Gas Company, a Division of Penn Fuel and Gas Company (Union Gas), in Pennsylvania. In turn, Union Gas would deliver such gas to the Palmerton plant.

Transco states that it would charge Carbonaire the currently applicable transportation rate in accordance with its Rate Schedule T-11, FERC Gas Tariff, Second Revised Volume No. 1. In addition, Transco states that it would apply its current transportation policy to the subject transportation which, among other things, requires that Carbonaire periodically provide Transco with affidavits which state that the subject transportation is not displacing sales which Transco would otherwise make under any of its firm sales rate schedules.

Transco further requests authorization to provide flexible authority on behalf of Carbonaire to add and/or delete souces of gas and/or receipt points. With respect to such flexible authority, Transco states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and Carbonaire;

(2) A statement as to whether the supply is attributable to gas under contract to and released by pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NPGA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) If the supplier is a producer or other seller in a first sale, a statement that the gas was not committed or dedicated to interstate commerce on November 8, 1978, as such terms are used in § 157.209(e)(1)(i)(A) of the Regulations;

(5) Location of the sources and/or receipt points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(ix) of the Regulations; and

(7) Identity of any other pipeline involved in the transportation.

Transco states that any changes made pursuant to such flexible authority would be on behalf of the same end-user, Carbonaire, for use at the same end-use location and would remain within daily and annual volume levels proposed herein.

Transco 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 applies only to points related to sources of gas

supply, not to delivery points in the market area. Transco 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.

Comment date: April 19, 1985, in accocrdance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corp.

[Docket No. CP85-116-001]

March 5, 1985.

Take notice that on February 14, 1985, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP85-116-001 an amendment to its pending application filed in Docket No. CP85-116-000 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to reflect a change in the proposed amount to be transported and the deletion of a delivery point, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northwest states that on November 16, 1984, in Docket No. CP85-116-000, it filed an application for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for the account of The Washington Water Power Company (Water Power).

Northwest states the proposal was based on a gas purchase contract, dated September 11, 1984, wherein Water Power arranged to purchase up to 15 billion of Canadian natural gas per day from Amoco Canada Petroleum Company Ltd. (Amoco Canada) at the existing interconnection between Westcoast Transmission Company Limited (Westcoast) and Northwest at Sumas, Washington, and a transportation agreement dated November 7, 1984, wherein Northwest proposed to accept up to 10 billion per day for Water Power's account at Sumas and to transport and redeliver thermally equivalent volumes for Water Power's account to three existing delivery points located in Spokane and Whitman Counties, Washington. Northwest proposed a transportation rate for this service of 18.3 cents per million plus the GRI surcharge.

It is stated that Water Power originally intended to utilize its existing distribution facilities to sell and deliver the subject natural gas to three of its customers, Washington State University, Fairchild Air Force Base and Northwest Alloys, Inc.

Northwest states that subsequently, Amoco Canada and Water Power have entered into an amendment, dated January 3, 1985, to the September 11, 1985, gas purchase agreement which substantially restructured the original gas purchase agreement. It is explained that this amendment provides for an increase of the border purchase price from $2.70 per million (U.S.) to approximately $2.96 per million (U.S.) along with a decrease from 10 billion per day to 6 billion in the volumes of gas which Water Power would be purchasing from Amoco Canada at the international border and subsequently tendering to Northwest for transportation. The decrease in the volumes is attributable to the deletion of Washington State University as an ultimate end-user due to the increased gas costs, it is stated.

By the amendment Northwest now proposes to transport and deliver up to 6 billion of those volumes of natural gas which Water Power woud purchase at the international border and tender to Northwest at Sumas, Washington, for delivery to the two remaining customers, Northwest Alloys, Inc., and Fairchild Air Force Base, as set forth in Exhibit A to the November 7, 1984, transportation agreement.

Comment date: March 26, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Columbia Gas Transmission Corp. Columbia Gulf Transmission Co.

[Docket No. CP85-280-000]

March 4, 1985.

Take notice that on February 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. CP85-280-000 a request pursuant to Section 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 Allied Corporation (Allied) under the 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 the request which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 4 billion Btu equivalent of natural gas per day on behalf of Allied for one year or until the applicable transportation authority is terminated under § 157.209 of the Regulations, whichever first occurs. Applicants state that service commenced November 1, 1984, pursuant to the self-implementing provisions of § 157.209. It is explained that Allied purchases the gas from Appalachian Oil & Gas Company, Inc. (Appalachian), and Ramco Oil & Gas Corporation, which companies own and/or operate production wells and pipeline systems in Clay, *et al.*, Counties, Kentucky. The request further reflects that Somerset Gas Service is involved in the delivery of Appalachian's gas to Columbia Gulf. All of the gas is delivered to Columbia Gulf at its measuring station #805 in Casey County, Kentucky. Under the proposal, Columbia Gulf would deliver in exchange therefor like quantities of natural gas to Columbia Transmission at existing points of interconnection, which delivery would be balanced on a monthly basis to the extent practical. Columbia Transmission proposes in turn to deliver equivalent quantities to Commonwealth Gas Pipeline Corporation (Commonwealth, an intrastate pipeline) at Bickers compressor station, Greene County, Virginia. It is explained that Commonwealth would redeliver the gas to Commonwealth Gas Services, Inc. (the distributor), for ultimate delivery to Allied for use in its Chesterfield, Virginia, plant. It is stated that the gas would be used as boiler fuel in the plant.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Allied. 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 Gulf proposes to charge the applicable rate set forth in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and 1.69 percent of the total quantity of gas delivered into its system would be retained for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and 1.50 percent retained; Rayne, Louisiana, to Kentucky—12.76 cents per

dt equivalent of gas and 1.50 percent retained; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of gas and 0.75 percent retained.

Columbia Transmission proposes to charge the applicable rate set forth in its Rate Schedule TS–1 for its transportation service: gas received from Columbia Gulf at Leach, Kentucky—21.16 cents per dt equivalent; gas received from Columbia Gulf at receipt points other than Leach, Kentucky—29.93 cents per dt equivalent; whichever is applicable and provided the volumes are within the total daily entitlements (TDE) of Commonwealth. Columbia Transmission's existing purchaser customer. However, it is indicated that Columbia Transmission would charge 32.50 cents per dt equivalent for gas it receives from Columbia Gulf at Leach, Kentucky, and 41.27 cents per dt equivalent for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of Commonwealth's TDE. Additionally, Columbia Transmission proposes to charge the GRI rate for all the gas transported, as set forth in its Rate Schedule TS–1. Columbia Transmission further states 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 its Rate Schedule TS–1.

Comment date: April 18, 185, in accordance with Standard Paragraph G at the end of this notice.

4. Columbia Gas Transmission Corp.

[Docket No. CP85–281–000]

March 4, 1985.

Take notice that on February 12, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85–281–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide five additional delivery points for existing wholesale custmers in Ohio under the certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate facilities for four delivery points for Columbia Gas of Ohio, Inc. (COH), and for one delivery point for Mountaineer Gas Company (Mountaineer). It is stated that both COH and Mountaineer are existing wholesale customers of Columbia and that COH and Mountaineer would use the delivery points to serve new customers, four residential and one industrial. It is explained that the three residential customers to be served by COH would be located in Fairfield, Medina and Meigs Counties, Ohio, and that each would receive 150 Mcf of gas per year and 1.5 Mcf on a peak day. It is further explained that the one industrial tap would be used to supply a new COH distribution system which would serve Honda of America's proposed plant in Anna, Ohio. Columbia asserts that this plant would receive 100,000 Mcf of gas per year and 880 Mcf on a peak day and that the gas would be used for space heating and as process gas. Columbia asserts further that the industrial tap would require construction by COH of 8.9 miles of 6–inch pipeline at an estimated cost of $77,000. Columbia states that the one residential tap for Mountaineer would be located in Wetzel, West Virginia, and would be utilized to deliver 150 Mcf of gas per year and 1.5 Mcf on a peak day. It is further stated that the gas provided through the additional delivery points would be within Columbia's currently authorized level of sales and would have no adverse impact on Columbia's other existing customers.

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

5. Columbia Gulf Transmission Co.

[Docket No. CP85–285–000]

March 5, 1985.

Take notice that on February 14, 1985, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP85–281–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessary authorizing the transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport a contract-demand volume of 6,000 Mcf per day of Natural's gas produced from West Cameron Block 509 and 510, offshore Louisiana, as well as any excess volumes Natural may request Applicant to transport, such excess volumes to be transported on a best-efforts, interruptible basis.

Applicant states it would transport the gas from a platform in West Cameron Block 531, offshore Lousiana, and would redeliver equivalent volumes to Natural at an interconnection of Applicant's and Stringray Pipeline Company's facilities in West Cameron Block 510, offshore Louisiana.

Applicant further states that Natural would pay Applicant a contract demand charge of 64.0 cents per Mcf of gas, and 2.09 cents per Mcf for excess volumes of gas received for transportation at the point of receipt. Transportation would continue for a period of three years from the the date of initial delivery and yearly thereafter unless terminated by either party.

Comment date: March 26, 1985, in accordance with Standard Pargraph F at the end of this notice.

6. El Paso Natural Gas Co.

[Docket No. CP85–302–000]

March 5, 1985.

Take notice that on February 21, 1985, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP85–302–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing El Paso to exchange nature gas with Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that El Paso and Amoco are parties to two residue gas purchase agreements, each dated October 1, 1949, as amended (Levelland residue agreements), which initially provided, *intner alia*, for the sale by Amoco's Levelland gasoline plant (Levelland plant) located in Hockley County, Texas, of all volumes of surplus residue gas attributable to Amoco's natural gas production in the vicinity of said plant.

Additionally, it is explanined, El Paso and Amoco are parties to three residue gas purchase agreements, each dated February 20, 1949, as amended (Slaughter residue agreements) which provide, *inter alia*, for the sale by Amoco and the purchase by El Paso, at the outlet of Amoco's Slaughter plant located in Hockley County, Texas, of all volume of surplus residue gas attributable to Amoco's natural gas production in the vicinity of said plant.

El Paso has been advised that Amoco has evaluated the available natural gas production in the vicinity of its Levelland and Slaughter plants together with the economic justification of consolidating the operations of both the Levelland and Slaughter plants at one site. It is indicated that based on this evaluation, Amoco has elected to consolidate its processing activities at its Slaughter plant. Amoco has further advised El Paso that, from time to time,

the processing and liquids extraction facilities at its Slaughter plant may be out of service for brief periods due to scheduled and unscheduled maintenance and that a source of emergency fuel gas would be necessary to continue to resume processing and liquids extraction operations at said plant. Therefore, in order that Amoco may have a constant and reliable supply of pipline quality natural gas available for use as plant fuel and, further, in order to ensure the continuity of the surplus gas supply sold from the Slaughter plant by Amoco to El Paso for use by El Paso on its interstate transmission system, El Paso states that it and Amoco have entered into the emergency fuel gas agreement between the parties dated November 27, 1984, wherein El Paso has agreed to make available to Amoco, as an emergency source of fuel gas, up to to 15,000 Mcf of natural gas per day at El Paso's existing meter station located at the outlet of Amoco's Slaughter plant plant located in Hockley County, Texas. It is explained that in exchange therefor, Amoco has agreed to deliver to El Paso quantities therefor, Amoco has agreed to deliver to El Paso quantifies of surplus residue gas, equivalent on a thermal basis, to the quantities of natural gas delivered by El Paso to Amoco. El Paso states that no new facilities would be required in order to effectuate the exchange arrangement as contemplated.

El Paso also states that upon receipt of the requested certificate authorization El Paso and Amoco would each file with the Commission a special rate schedule comprised of the emergency fuel gas agreement dated November 27, 1984.

Comment date: March 26, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northwest Pipeline Corp.

[Docket No. CP85-211-000]

March 4, 1985.

Take notice that on January 8, 1985, Northwest Pipeline Corporation (Applicant), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP85-211-000 an application, as supplemented February 11, 1985, 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 Colorado Interstate Gas Company (CIG), all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

It is stated that the Applicant proposes to exchange up to 25,000 Mcf of natural gas per day with CIG in accordance with a gas exchange agreement (exchange agreement) dated August 2, 1984. It is further stated that pursuant to the exchange agreement, Applicant and CIG have agreed to exchange certain volumes of natural gas which each has acquired in areas remote from its own pipeline system but accessible to the pipeline system of the other. Applicant avers that it has acquired supplies of natural gas located in Oklahoma which it has arranged to have transported by ANR Pipeline Company and delivered to CIG at a point of interconnection in Beaver County, Oklahoma. In exchange for these volumes, CIG would then deliver thermally equivalent volumes to Applicant at existing delivery points located in Sweetwater County, Wyoming, and Uintah County, Utah.

It is stated that during the four-month period from November 1 of each year through February 28 of the succeeding year, the exchange agreement provides CIG the option of temporarily retaining up to 50 percent of the volume of gas tendered by Applicant for exchange. It is further stated that any such temporarily retained exchange volumes would be redelivered to Applicant by CIG during the subsequent months of March through October.

Applicant avers that it would benefit from this proposed exchange service by gaining inexpensive access to supplies of domestic natural gas remotely located from its existing system and that CIG would benefit by receiving the exchange volumes in its central major market area thus reducing the need to transport system supplies to that area and by having the option of deferring the exchange redelivery of up to 50 percent of the exchange volumes received during its period of greatest customer demands. It is proposed that the exchange service would be provided for an initial term of ten years from the date of commencement and year to year thereafter until terminated by either party.

It is avered that since the proposed exchange service is mutually beneficial, both Applicant and CIG have agreed to provide their respective service free of charge.

Comment date: March 25, 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, NE., 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 protestant 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.

Standard Paragaraph:

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5786 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01

[Docket No. TA85-2-31-000 and TA85-2-31-001]

Arkla Energy Resources, a Division of Arkla, Inc., Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

March 7, 1985.

Take notice that on March 1, 1985 Arkla Energy Resources (AER), a division of Arkla, Inc., formerly known as Arkansas Louisiana Gas Company, tendered for filing the following tariff sheets:

Rate Schedule G-2	Rate Schedule X-26
39th Revised Sheet No. 4	38th Revised Sheet No. 185
11th Revised Sheet No. 4A	11th Revised Sheet No. 185A

AER states that the purpose of the above described tariff sheets is to (1) reflect the average projected cost of purchased gas for the six month period commencing April 1, 1985 (2) recover or refund accumulated deferred purchased gas costs as of December 31, 1984 (3) set forth the reduced PGA and estimate incremental pricing surcharges to be billed during the PGA period and, (4) reflect the crediting to Account 191 of the jurisdictional portion of transportation revenue received by AER in excess of one cent per MMBTU plus five cents per MMBTU under its Ecoshare Transportation Program as of December 31, 1984.

AER furnishes with this filing a copy of AER's intracompany operating statement required to be furnished with this filing under § 154.38(d)(4)(v) of the Commission's rules and regulations.

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 March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5863 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2157-000]

Charles S. Sanford, Jr.; Application

March 6, 1985.

Take notice that on February 21, 1985 Charles S. Sanford, Jr. filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

President and Director, Bankers Trust New York Corporation
President and Director, Bankers Trust Company
Director, Baltimore Gas and Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of The Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 20, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5874 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-106-000]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

March 7, 1985.

Take notice that on February 27, 1985, Lawrenceburg Gas Transmission Corporation tendered for filing two (2) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 both of which are dated as issued on February 28, 1985, proposed to become effective February 28, 1985, and identified as follows:

Thirty-sixth Revised Sheet No. 4
Fourth Revised Sheet No. 4A

Lawrenceburg states that its revised tariff sheets and accompanying cost of service study were filed to comply with § 154.38(d)(4)(vi) of the Commission's Regulations. Said filing was made in order to restate Lawrenceburg's base tariff rates as a condition for its continued use of its purchased Gas Adjustment Provision.

Lawrenceburg states that copies of its filing were served upon its jurisdictional customers and interested state commissions.

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 § 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5864 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-4-37-000 and TA85-4-37-001]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

March 7, 1985.

Take notice that on March 1, 1985 Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, and Original Volume No. 2 the following tariff sheets:

First Revised Volume No. 1
Twelfth Revised Sheet No. 10-A
Third Revised Sheet No. 81
First Revised Sheet No. 83
Original Volume No. 2
Eleventh Revised Sheet No. 2
Sixth Sheet No. 2-B

Northwest states the purpose of the filing is to reflect a new Fuel Reimbursement Percentage to be effective April 1, 1985 based on the calendar year ending December 31, 1984 pursuant to the provisions contained in Northwest's FERC Gas Tariff, Volumes 1 and 2.

The proposed effective date of the tendered tariff sheets is April 1, 1985.

A copy of this filing has been served on Pacific Interstate Transmission Company, Northwest's jurisdictional customers, and affected state regulatory commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E. Washington D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5865 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-107-000]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provisions (Base Tariff Rate)

March 7, 1985.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on February 28, 1985 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheet: Twenty-seventh Revised Sheet No. 4.

Pacific Interstate states that this tariff sheet is issued pursuant to the provisions of the Natural Gas Act and § 154.38(d)(4)(vi)(a) and § 154.63 of the Commission's Regulations which require natural gas pipeline companies with PGA clauses in their tariffs to file a tariff sheet(s) restating their rates to establish a new Base Tariff Rate upon the expiration of 36 months after the effective date of the PGA clause.

Pacific Interstate states that the above tendered tariff sheet reflects no change in rates from the tariff sheets filed concurrently on February 28, 1985 for the semi-annual PGA rate adjustment to be effective April 1, 1985. Furthermore, Pacific Interstate requests that the 269.69¢ per decatherm rate filed as the semi-annual April 1, 1985 PGA rate be also accepted as the new Base Tariff Rate effective April 2, 1985.

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, Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission Rules of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5866 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-39-000 and TA85-2-39-001]

Pacific Interstate Transmission Co., Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

March 7, 1985.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on February 28, 1985, tendered for filing as part of its FERC Gas Tariff, original Volume No. 2, the following sheets: Twenty-sixth Revised Sheet No. 4, Tenth Revised Sheet No. 4-A, Twenty-second Revised Sheet No. 5.

Pacific Interstate states that these tariff sheets are issued pursuant to Pacific Interstate's Purchased Gas Cost Adjustment (PGCA) Provision and Incremental Pricing Provision as set forth in Sections 16 and 17, respectively, of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The proposed effective date of these tendered tariff sheets and the rates thereon is April 1, 1985.

Pacific Interstate also states that the above-tendered tariff sheets reflect a proposed April 1, 1985 Pacific Interstate Rate Schedule S-G-1 commodity rate of 271.75¢ per decatherm, an increase of 15.53¢ per decatherm from the 256.22¢ per decatherm rate effective October 1, 1984, the date of the last S-G-1 commodity rate change, and that such increase reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the current Gas Cost Adjustment is based on an annualized gas cost increase of $1,081 and that the Surcharge Adjustment is designed to collect, over a six-month period beginning April 1, 1985 an amount of $4,389.90, which is the amount of Pacific Interstate's Unrecovered Purchased Gas Cost account at December 31, 1984. Furthermore, Pacific Interstate states that there is no incremental pricing surcharge adjustment applicable to this filing, since its only customer has no surcharge absorption capability.

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, Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rule of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5867 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-62-000 and TA85-2-62-001]

Pacific Offshore Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

March 7, 1985.

Take notice that Pacific Offshore Pipeline Company (Pacific Offshore) on February 28, 1985, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheet: Third Revised Sheet No. 4.

Pacific Offshore states that this tariff sheet is issued pursuant to Pacific Offshore's Purchased Gas Cost Adjustment (PGCA) Provision as set forth in sections 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1. The proposed effective date of this tendered tariff sheet and the rates thereon is April 1, 1985.

Pacific Offshore also states that the above-tendered tariff sheets reflect a proposed April 1, 1985 Pacific Offshore Rate Schedule G-1 commodity rate of $2.023 per decatherm, a decrease of $.058 per decatherm from the $2.081 per decatherm rate effective October 1, 1984, the date of the revised commodity rate, and that such decrease reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Offshore states that the current Gas Cost Adjustment is based on an annualized gas cost decrease of $1,234,218 and that the Surcharge Adjustment is designed to collect, over a six-month period beginning April 1, 1985 an amount of $272,492.44, which is the amount of Pacific Offshore's

Unrecovered Purchased Gas Cost account at December 31, 1984.

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, Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rule of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5868 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-515-001]

Resources Extraction and Processing Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 6, 1985.

On February 28, 1985, Resources Extraction and Processing Company (Applicant), 13131 Champions Drive, Suite 203, Houston, Texas 77069, submitted for filing an amendment to its application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. The amended application seeks instead certification as a small power production facility. No determination has been made that the submittal constitutes a complete filing.

The facility currently processes natural gas to remove recoverable hydrocarbons entrained in the gas. This is accomplished by a cryogenic a turbo-expander. It is proposed to capture the energy released from this expansion process and use it to drive an electric generator with a rated capacity of 622f kW. No supplementary filing of natural gas or oil is involved in this process.

Any person desiring to be heard or to protest to the granting of qualifying status should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 20 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5875 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-320-000]

Southern California Edison Co.; Filing

March 6, 1985.

The filing Company submits the following:

Take notice that on February 25, 1985, Southern California Edison Company (Edison) tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 125 between Edison and Portland General Electric Company.

Edison requests waiver of the Commission's notice requirements to allow an effective date of February 14, 1985.

According to Edison copies of the filing were served on Portland General Electric Company.

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, 385.214). All such motions or protests should be filed on or before March 20, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5876 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-108-003]

Texas Eastern Transmission Corp., Proposed Changes in FERC Gas Tariff

March 7, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 28, 1985 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Substitute Eighteenth Revised Sheet No. 235

Substitute Revised Tenth Revised Sheet No. 241

Substitute Nineteenth Revised Sheet No. 322

On February 7, 1985, Texas Eastern moved to place into effect on February 13, 1985, in accordance with the Commission's September 12, 1984 order issued in Docket No. RP84-108, the primary set of revised tariff sheets reflecting the Seaboard method of cost classification and adjusted for changes made in accordance with the Commission's order, changes made pursuant to Texas Eastern's FERC gas tariff and Texas Eastern's most recent PGA filing.

It has since been determined that Texas Eastern, in preparation of its motion filing on February 7, 1985, made an arithmatic error in its determination of the rate under Rate Schedule X-28 and utilized the rate from the alternate tariff sheet filed in the RP84-108 rate case instead of the primary tariff sheet for Rate Schedule X-43.

The sole purpose of this filing is to reflect the appropriate rates for such rate schedules which were misrepresented in the February 7, 1985 motion filing.

A copy of this filing is being served on the parties in these procedings.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5869 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-18-002]

Texas Gas Transmission Corp; Filing or Revised Tariff Sheet

March 7, 1985.

Take notice that on *February 28, 1985* Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute Forty-Eighth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1.

The revised tariff sheet is being filed to reflect rate revisions from United Gas Pipe Line Co. and Tennessee Gas Pipeline Co. pursuant to Ordering Paragraph (D) of the Commission's Order issued January 31, 1985, in Docket Nos. TA85-1-18-000 and TA85-1-18-001.

Copies of the revised tariff sheet are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 2.11 and 2.14 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 March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5870 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-29-002]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 7, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on February 26, 1985, tendered for filing Substitute Thirty-Third Revised Sheet No. 12 and Substitute Thirty-Fourth Revised Sheet No. 12 to its FERC Gas Tariff Second Revised Volume No. 1. The proposed effective dates of these sheets are February 13, 1985 and March 1, 1985, respectively. The revised tariff sheets reflect a revision to the storage "tracking" rate increase filed on January 9, 1985 in accordance with Section 26 of Transco's General Terms and Conditions. Section 26 provides for, among other things, changes in rates for storage service rendered under Transco's Rate Schedule S-2 to reflect changes in charges by Texas Eastern Transmission Corporation (Texas Eastern) under Texas Eastern's Rate Schedule X-28.

As a result of Texas Eastern's Motion filing in Docket No. RP84-108, proposed effective February 13, 1985 Transco will decrease its demand charge and demand charge adjustment in Rate Schedule S-2 in order to flow through to Transco's customers a decrease of approximately $58,000 in Texas Eastern's X-28 demand charge from the amount included in Transco's filing of January 9, 1985.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and Rule 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 March 15, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5871 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7933-001]

Warren Hydro Partners; Surrender of Preliminary Permit

March 7, 1985.

Take notice that Warren Hydro Partners, Permittee for the proposed Caesar Creek Dam Project No. 7933, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 8, 1984, and would have expired on January 31, 1986. The project would have been located on Caesar Creek in Warren County, Ohio. The Permittee states that a preliminary study found that the project would not be economically feasible to develop at this time.

The Permittee filed the request on February 1, 1985, and the preliminary permit for Project No. 7933 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-5872 Filed 3-11-85; 8:45 am]

BILLING CODE 6717-01-M

Blanket Notice of Determination Under the Natural Gas Policy Act for OCS Leases Issued on or After April 20, 1977

Issued March 6, 1985.

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44,508 September 29, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under Section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the new procedures, the U.S. Department of the Interior, Minerals Management Service (MMS), must file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

On January 14, 1985, the Commission received notice from MMS, Alaska OCS Region, that 227 leases were issued as a result of Sale 87, Diapir Field, on August 22, 1984. The leases include lease

numbers OCS–Y–726 through OCS–Y–835, OCS–Y–837 through OCS–Y–950 and OCS–Y–952 through OCS–Y–950. The effective date for these is listed in the following table:

Sale	Lease No. OCS–Y	Effective date
67	726–733	11–1–84.
	734	10–1–84.
	735–744	11–1–84.
	745	10–1–84.
	746–749	11–1–84.
	750	10–1–84.
	751–785	11–1–84.
	786–787	10–1–84.
	788–790	11–1–84.
	791	10–1–84.
	792–799	11–1–84.
	800	10–1–84.
	801	11–1–84.
	802–806	10–1–84.
	807–817	11–1–84.
	818	10–1–84.
	819–835	11–1–84.
	836	Rejected.
	837–841	11–1–84.
	842	10–1–84.
	843	11–1–84.
	844	10–1–84.
	845–848	11–1–84.
	849	10–1–84.
	850–851	11–1–84.
	852–853	10–1–84.
	854–863	11–1–84.
	864	10–1–84.
	865–867	11–1–84.
	868–869	10–1–84.
	870	11–1–84.
	871–872	10–1–84.
	873–878	11–1–84.
	879–881	10–1–84.
	882–886	11–1–84.
	887–888	10–1–84.
	889–898	11–1–84.
	899	10–1–84.
	900–920	11–1–84.
	921	10–1–84.
	922–950	11–1–84.
	952–954	11–1–84.

The list of OCS leases submitted by the MMS for this sale is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within twenty days after this notice is issued by the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–5873 Filed 3–11–85; 8:45 am]

BILLING CODE 6717–01–M

Energy Research Advisory Board; Demand Subpanel of the Energy R&D Strategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Demand Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board.

Date & Time: April 2, 1985—8:30 a.m.–5:00 p.m.

Place: The Westin Hotel, Streeter Room, 6100 River Road, Rosemont, IL 60018.

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Demand Subpanel is a subgroup of the Energy Research Advisory Board. The Board has been charged with overall responsibility for assessing the proper scope and balance of energy R&D programs which are expected to have a payoff around 2020. The Subpanel's specific charge is to assess what will be needed in that timeframe to bring research results to the marketplace.

Tentative Agenda

- Status of Report on Staff Actions.
- Discussion of Draft Report Section.
- Future Meeting Plans.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodward at the address or telephone number listed above. Requests must be received 5 days prior to meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on March 4, 1985.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85–5812 Filed 3–11–85; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Advisory Board; Supply Subpanel of the Energy R&D Strategy Panel, Open Meeting

Notice is hereby given of the following meeting:

Name: Supply Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board (ERAB).

Date & Time: March 29, 1985—10:00 a.m.–5:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A–110, Washington, DC 20585.

Contact: Charles E. Cathey, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252–5444.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel: To examine the future energy needs of the Nation and develop judgments on the essential ingredients of a balanced energy R&D effort. The Panel has established Supply, Demand, Research and Infrastructure Subpanels to assist in carrying out its assignments.

Tentative Agenda

- Discussion of first working draft of Supply Subpanel Report.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on March 4, 1985.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85–5811 Filed 3–11–85; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of January 14 Through January 18, 1985

During the week of January 14 through January 18, 1985, the decisions and

orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

J & M Distributing, 1/14/85; HEE-0101

J & M Distributing filed an Application for Exception from the provisions of the EIA reporting requirements in which the firm sought to be relieved of the obligation to prepare Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the one and one-half hours per month that the firm spent preparing the form did not place an excessive time restraint on the firm. The DOE therefore found that the firm was not more adversely affected by the reporting requirement than other firms of its size. Accordingly, exception relief was denied.

Motion for Discovery

Atlantic Richfield Company, 1/17/85; HRD-0226

The Atlantic Richfield Company (Arco) filed a Motion for Discovery in connection with its Statement of Objections to a Proposed Remedial Order (PRO) which was issued to it by the Economic Regulatory Administration. In part, Arco sought contemporaneous construction discovery with respect to the general allocation rule for general refinery products (GRPs) and the Special Propane Rule. Specifically, Arco requested discovery on the issue of whether the Special Propane Rule permitted a firm to recover costs that had not been incurred at the time of recovery. Arco also sought various documents concerning ERA's decision to issue the PRO.

In considering the Motion, the DOE found that under the plain meaning of the refiner price rule, a firm could not recover costs that had not been incurred as of the relevant month of measurement, i.e., the month preceding the pricing month. In rejecting the firm's contentions with respect to the meaning of the Special Propane Rule, the DOE found that the Rule was merely a limit on the refiner's right, under the general allocation rule for GRPs, to disproportionately apportion increased costs among products in the GRP group. The DOE found that the Special Propane Rule established a yearly limitation on the amount of GRP costs that could be allocated to propane and that the Rule did not affect the monthly flexibility afforded refiners by the general GRP allocation rule, except to the extent that this flexibility was circumscribed by the Rule's annual limitation. Since no ambiguity in the Rule as found, the DOE determined that contemporaneous construction discovery was not warranted. With respect to Arco's request for documents concerning the issuance of the PRO, the DOE found that there was no basis for Arco's contention that it needed further material in order to challenge the PRO. Accordingly, Arco's Motion for Discovery was denied.

Supplemental Order

Jack W. Grigsby, 1/14/85; HCX-0067

The Economic Regulatory Administration filed an Application requesting modification of the restitutionary provisions of a Remedial Order issued to Jack W. Grigsby. The RO found that Grigsby should be required to refund overcharges to four identified purchasers of crude oil. In considering the Application, the DOE pointed out that as a result of the decontrol of crude oil and petroleum products, firms were no longer obligated by regulation to pass through to their purchasers any refunds they received. The DOE found that since it had not been established that the identified purchasers were unable to pass through the Grigsby overcharges to their own customers, these four purchasers were not necessarily entitled to the full refund set forth in the RO. Accordingly, the DOE determined that a modification of the refund provisions of the RO was warranted, and that the implementation of Subpart V proceedings to identify persons entitled to a refund as a result of the Grigsby overcharge was appropriate. The Application for Modification was therefore granted.

Implementation of Special Refund Procedures

Eddy Refining Company/Key Oil Company, 1/18/85; HEF-0206

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund from the settlement funds obtained as the result of a consent order that the DOE entered into with Eddy Refining Company and Key Oil Company. Under the terms of the consent order, the firms agreed to remit $244,000 to the DOE. The funds will be available to customers of the two firms who purchased refined petroleum products from Key or Eddy during the period October 1, 1973 through January 28, 1981. Specific information to be included in refund applications is discussed in the decision.

Union Texas Petroleum Corporation, 1/18/85; HEF-0009, HEF-0224

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of two consent orders which the DOE entered into with Union Texas Petroleum Corporation. The Decision established two separate special refund proceedings, reflecting the scope of the underlying consent orders. One of the consent orders covered sales of certain UTP refined petroleum products during a limited period of time to specified classes of purchasers. The other consent order was global, and covered virtually all other UTP activities related to the federal petroleum price and allocation regulations for the period January 1, 1973 through January 28, 1981. The funds made available by the limited and global consent orders were $1,325,000 and $1,900,000, respectively. The Decision discussed the specific information to be included in refund applications in the two proceedings.

Vickers Energy Corporation, 1/16/85; HQF-0487

The Office of Hearings and Appeals (OHA) established procedures for distributing the $2,638,217 in consent order funds remitted to the DOE by Vickers Energy Corporation in settlement of alleged regulatory violations involving Vickers' motor gasoline sales. These funds remained after the conclusion of the first stage of the refund proceeding. The OHA found that since the persons injured by Vickers' sales of motor gasoline were in a limited regional area, encompassing 16 states, the funds should be channelled to those state governments on a proportionate basis. These state governments could then efficiently develop plans to provide restitution to injured consumers of Vickers motor gasoline. The DOE determined that upon submission of an appropriate plan, an eligible state would receive its share of the Vickers fund.

White Petroleum, Inc., 1/15/85; HEF-0196

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund from the settlement fund of $68,627.45 plus interest, obtained under a consent order with White Petroleum, Inc. The OHA found that the funds should generally be disbursed to claimants who demonstrate that they were injured as a result of their purchases of motor gasoline, No. 2 fuel oil or No. 2 diesel fuel from White during the period November 1973 to April 1974. Specific information to be included in refund applications was discussed in the decision.

Conoco, Inc./Thrift Marts, Inc., RF34-0004; Dynamics Industries, Inc., 1/16/85; RF34-0005

Thrift Marts, Inc. and Dynamics Industries, Inc. filed Motions for Reconsideration requesting that the DOE reevaluate a prior determination involving their requests for refunds based on their purchases of gasoline from Foremost Petroleum Company and M&A Petroleum Company. That determination, which limited the firms' refunds to the threshold purchase level of 50,000 gallons per month after June 15, 1973, was based on the fact that the firms had failed to submit sufficient evidence establishing injury beyond the threshold level. In considering the firms' motions, the DOE found that new information documented the firms' claims that they had paid prices for product which significantly exceeded average prices in their market areas. Accordingly, the DOE found that Thrift Marts was entitled to receive an additional $68,386 and Dynamics an additional $64,803, based on the total volumes of their M&A and Foremost purchases.

Standard Oil Company (Indiana)/J.J. Hewell & Son, Inc., 1/16/85; RF21-12237, RF21-12238

The DOE issued a Decision and Order

concerning two Applications for Refund filed by J.J. Hewell & Son, Inc., a wholesaler of Amoco motor gasoline and a reseller of Amoco middle distillates. The firm elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that Hewell should receive refunds based on the total volumes of its Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $13,829.

Dismissals

The following submissions were dismissed:

Name	Case No.
Action Gas, Inc.	RF67-2
Independent Gas Co.	RF67-4
Action Supply Company	RF47-13
Saxon Oil Company	HRO-0214
	HRD-0224
State of Texas	HRD-0187
Do.	HRD-0194
Do.	HRD-0197

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 6, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-5791 Filed 3-11-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66118; FRL-2784-6]

Certain Pesticide Products; Intent To Cancel Regulations

Corrections

In FR Doc. 85-4630 beginning on page 7958 in the issue of Wednesday, February 27, 1985, make the following corrections:

1. On page 7959, in the table, in the last column, entitled "Date registered", in the twenty-third line "Sept. 5, 1954" should read "Sept. 4, 1974".

2. On page 7960, in the first column, in the fourth paragraph, in the fourth line "[OPP-666118" should read "[OPP-66118]".

BILLING CODE 1505-01-M

[OPP-30093; PH-FRL 2782-8]

Compound 1080; Availability and Request for Comments on Data in Support of Application for Pesticide Product Registration

Correction

In FR Doc. 85-4357 beginning on page 7219 in the issue of Thursday, February 21, 1985, the docket line should have appeared as it does in the heading of this document.

BILLING CODE 1505-01

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Jerry Cowden, Federal Communication Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB Number: 3060-0316
Title: Section 76.305, Records to be maintained locally by cable television system operators for public inspection
Action: Revision
Respondents: Cable television system operators
Estimated Annual Burden: 3,200 Recordkeepers; 41,600 Hours

OMB Number: None
Title: State certification of detariffing procedures (Third Report and Order in CC Docket No. 81-893)
Action: New collection
Respondents: State governments
Estimated Annual Burden: 50 Responses; 350 Hours
Description: States must certify to the Commission that they have established mechanisms to deregulate customer premises equipment owned by independent telephone companies and tariffed at the state level.

William J. Tricarico,

Secretary, Federal Communications Commission.

March 6, 1985.

[FR Doc. 85-5787 Filed 3-11-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 85-5]

Failure of Non-Vessel-Operating Common Carriers in the Foreign Commerce of the United States To Comply with the Anti-Rebate Certification Filing Requirement; Order to Show Cause

Section 15(b) of the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. § 1714) requires the certification of company policies and efforts to combat rebating in the foreign commerce of the United States.[1] The 1984 Act extended the anti-rebate certification provisions of existing law to non-vessel-operating common carriers (NVOCC's).

On September 20, 1984, the Commission published in the Federal Register (49 FR 36856) a Final Rule in Docket No. 84-25, *Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States*, implementing section 15(b) (46 CFR Part 582). The Final Rule, *inter alia*, required NVOCC's to file initial certifications of company policies and efforts to combat rebating in the foreign commerce of the United States, by December 15, 1984.

Extensive efforts have been made to publicize the application of the anti-rebate certification requirements to NVOCC's On November 1, 1984, the Commission issued News Release 84-55, entitled "NVO Deadline for FMC Certificates." The News Release reminded all NVOCC's that December 15, 1984 was the deadline for their chief executive officers to certify to the Commission their company policies against illegal rebates in the U.S. foreign commerce and noted that failure to make the certification on time carried a penalty up to $5,000.00 per day.

[1] Section 15(b) provides:

(b) Certification.—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, shippers' association, marine terminal operator, ocean freight forwarder, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than $5,000 for each day the violation continues.

In addition, the Commission's Director, Bureau of Tariffs issued a Notice, dated November 16, 1984, addressing the filing of anti-rebate certifications by NVOCC's. The Notice was mailed to every NVOCC with a tariff on file who had not already filed the required anti-rebate certification. The November 16, 1984 Notice transmitted a copy of 46 CFR Part 582.

The NVOCC's named in the Appendix to this Order have failed to file on or before December 15, 1984 the certification of company policies and efforts to combat rebating in the foreign commerce of the United States required by section 15(b) of the Shipping Act of 1984 and the regulations of the Commission promulgated pursuant thereto, 46 CFR Part 582.

Therefore, it is ordered, That the NVOCC's named in the Appendix are named respondents in this proceeding and ordered to show cause why they should not be found in violation of section 15(b) of the Shipping Act of 1984 (46 U.S.C. app. § 1714), for failure to file by December 15, 1984, the certification of company policies and efforts to combat rebating in the foreign commerce of the United States, pursuant to 46 CFR Part 582;

It is further ordered, That this proceeding, unless otherwise determined by the Commission, shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto pursuant to the following schedule:

By close of business April 8, 1985, affidavits of fact and memoranda of law shall be filed by Respondents;

By close of business May 23, 1985, reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel;

By close of business June 12, 1985, all parties must file requests for evidentiary hearing, if desired, which requests must be accompanied by a statement setting forth in detail the facts to be proven or developed, their relevance to the issues in this proceeding and why such proof cannot be submitted through further affidavits;

It is further ordered, That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies, and that a copy also be served on the Commission's Bureau of Hearing Counsel; and

It is further ordered, That notice of this Order be published in the **Federal Register**, and that a copy of this Order be served upon each NVOCC named in the Appendix at the carrier's last known address.

By the Commission.

Bruce A. Dombrowski,

Assistant Secretary.

Appendix

Bureau of Tariffs—Non-Vessel Operating Common Carriers Who Failed To File Timely Anti-Rebate Certifications [1]

ABC International Freight, Inc., N. Blomquist, 7130 NW. 36th Avenue, Miami, FL 33147

A. Hardrodt (Pacific) Inc., 1300 Beacon Street, Suite 105, San Pedro, CA 90731

A.I.F. Services, 3979 NW. 24th Street, Miami, FL 33124

A.O.T. (Europe), P.O. Box 146, Wood Dale, IL 60191

Aegis Logistics Systems Inc., 8107 Stayton Drive, Jessup, MD 20794

Aeropac, Gonzalo A. Concha, P.O. Box 522751, Miami, FL 33152

Africa Box Line, Inc., 550 Division Street, Elizabeth, NJ 07201

Agency International Forwarding, Inc., 3979 NW. 24th Street, Miami, FL 33124

Air & Sea Pak Company, 6170 Middlebelt Road, Romulus, MI 48174

AirNaut Express Inc., 225 Broadway, New York, NY 10017

Albury's and Bethel's Freight Service, 158 East Port Road, Riviera Beach, FL 33404

Alliance Tradeships Ltd., P.O. Box 558754, Miami, FL 33155

Allround Forwarding Co., Inc., 30 East 23rd Street, New York, NY 10010

Altamirano Shipping, Inc., 110 Wilson Avenue, Newark, NJ 07105

Ambassador Overseas Shipping Corporation, P.O. Box 2097, Westfield, NJ 07090

Amercon Ocean Freight Lines, Inc., 65 Springfield Avenue, Springfield, NJ 07081

American Intermodal Services, Inc., Joseph Guarnera, Tariff Issuing Officer, 17 Battery Place—Suite 1717, New York, NY 10004

American International Consolidators, Inc., Mr. Henry Decuba, President, 5400 NW. 32nd Court, Miami, FL 33142

American International Shipping Lines, 65 Springfield Ave., Springfield, NJ 07081

American Ocean Freight Carriers Corp., 65 Springfield Ave., Springfield, NJ 07081

American Overseas Air Freight, Inc., Ronald S. Barker, Issuing Officer, 11034 South La Cienega Boulevard, Inglewood, CA 90304

American Relief Abroad, Inc., Alex Wegiel, Vice President, 250 West 57th Street, New York, NY 10107

American Kings, Inc., 1412 NW. 82nd Ave., Miami, FL 33126

Americas Caribbean, Michael A. Malarski, President, 1300 Mark Street, Elk Grove Village, IL 60007

Ancora Shipping N.V., John B. Gorsirаweg 6, Willemstad, Netherlands Antilles

Anderson Shipping Company, Inc., Owen Anderson, Issuing Officer, P.O. Box 1554, Tustin, CA 92680

Aqua Bermuda Connection, P.O. Box 272, Flatts 3, Bermuda

Astrans USA, Inc., 1180 Pratt Blvd., Elk Grove Village, IL 60067

Australia-Far East Shipping, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041

B Line Shipping Company, c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041

B.B. Glynn International Inc., 167–37 Porter Road, Jamaica, NY 11434

Backgammon Container Line, 110 West Ocean Blvd., Suite 320, Long Beach, CA 90802

Bermuda Forwarders (U.S.A.) Incorporated, 40 Sellers Street, Kearny, NJ 07032

Bermuda Transporters, Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302

BIC Tran International, c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041

Bow Patmar Container Line, Inc., 1105 Caspian Avenue, Long beach, CA 90813

Bruzzone Consolidation Inc., 2 Broadway, New York, NY 10004

Buccaneer Lines, 90 West Street—Suite #1100, New York, NY 10006

Budget International Transport, 530 East 8th Street, Los Angeles, CA 90014

Bushfinch International Enterprises, P.O. Box 19861, Raleigh, NC 27619

C Line Marine Inc., 1218 Union Street, Brooklyn, NY 11225

C.A.T. Line, d.b.a. Consolidated Atlantic Transportation Lines, Inc., Wyatt I. Hendricks, President, 6716 White Stone Road, Baltimore, MD 21207

C.C. Group Line, 10920 La Cienega Boulevard, Lennox, CA 90304

[1] Anti-Rebate Certifications were due from Non-Vessel Operating Common Carriers on December 15, 1984.

C.F.M. International Shipping Corporation, Charles McCormack, President, 400 Jericho Turnpike, Jericho, NY 11753
C.S. Greene and Company, Inc., Robert E. Gecielewski, Vice President, 2803 Butterfield Road, Oak Brook, IL 60521
C.T.C. Shipping SA, Panama City, Republic of Panama
Cargo Forwarding Incorporated, L. Brazier, President, 168-01 Rockaway Blvd., Jamaica, NY 11434
Cargo Procurement Agency, Inc., 2165 Morris Ave., Union, NJ 07083
Cargo System, 5 Canton Road, Tsimshatsui, Kowloon, Hong Kong
Cargo Ven, Inc., P.O. Box 60352 AMF, Houston, TX 77205
Cari-Cargo International, Inc., 8341 NW. 66th Street, Miami, FL 33166
Caribbean Antillean Freight, Inc., 6501 NW. 36th Street, Suite 180, Miami, FL 33166
Caribbean Container Services, Inc., 605 Park Avenue, New York, NY 10021
Caribbean Freightways, Inc., 3 St. R-45 La Milagrosa, Bayamon, Puerto Rico 00619
Caribbean Shipping Services, Inc., 5119 Church Avenue, Brooklyn, NY 11203
Caribe Transport Consolidators, Inc., 7856 NW. 72nd Avenue, Miami, FL 33166
Carrier Systems Inc., Sellers and O'Brien Street, Kearny, NY 07032
Caribbean Best Services, Inc., Jose L. Vazquez, Publishing Officer, G.P.O. Box 4811, San Juan, Puerto Rico 00936
Central Freight Forwarding Inc., 3095 B. NW. 77th Avenue, Miami, FL 33122
Century Marine, Inc., James Cirami, President, 142-82 Rockaway Boulevard, Jamaica, NY 11434
CFCE, Inc., 1000 Blair road, Carteret, NJ 07008
Charter Shipping Company, Inc., 85 Orient Way, 2nd Floor, Rutherford, NJ 07070
CHT Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Cleveland Freight Services International, Inc., P.O. Box A 66496, Chicago, IL 60666
CML Container Line, Inc., 2311 Lee Avenue—Unit B, South El Monte, CA 91733
Colombian Maritime Transport, Inc., P.O. Box 623, Linden, NJ 07036
Com-Tran, Inc.—Intermodal Services Division, 2124 Atlantic Avenue, North Kansas, MO 64116
Compagnie D'Affretement Et De Transport U.S.A., Inc., 74 Trinity Place, New York, New York 10006
Consolidadora Venezolana Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Consolidated Ocean Services, Inc., 8247 N.W. 66th Street, Miami, FL 33166
Container Overseas Agency, Inc., R. Meyers, President, 340 South Stiles Street, Linden, NJ 07036
Conyma Lines, Inc., 42 Broadway—Room 1915, New York, NY 10004
D&L Latin America, Inc., 16 Provincial Place, Colts Neck, NJ 07722
DAMCO Transportation (Phila) Inc., 4425 Rising Sun Ave., Philadelphia, PA 19140
Danco International, G. Larsen—Manager, 1443 W. Collins Avenue, Orange, CA 92667
Danielle International, 145 Hook Creek Blvd., Valley Stream, NY 11581
Darrell J. Sekin & Co., Inc., 1205 Royal Ln., D/FW Airport, TX 75261
Date Line Shipping Inc., 30 Vesey Street, New York, NY 10007
DATRA Container Services, 15 Park Row, Suite 1700, New York, NY 10038
Delf Shipping (Pty.) Limited, 117 Sandown Centre, Maud Street-Sandown-Sandton—Transvaal, South Africa
Denizana Shipping Unlimited, Inc., P.O. Box 016183, Miami, FL 33101
Diamond M. International Inc., Calle 151 CM No. 37, Jardines de Country Club, Carolina, Puerto Rico 00630
DLS International, Sumner Tariff Service, Inc., 1341 G Street NW., Suite 915, Washington, D.C. 20005
Dynasty Shipping International, Inc., Global Traffic Service, Inc., 201 Massachusetts Avenue NE., Suite 207, Washington, D.C. 20002
E-C International Group, 3169 Norbrook Drive, Suite 110, Memphis, TN 38116
E.D.S. International Shipping Corp., 506-528 Cozine Avenue, Brooklyn, NY 11208
Eastern Forwarding International, Inc., Jay Goldberg, President, P.O. Box 161, Avenel, NJ 07001
Eastern Freight Forwarders, Inc., 1750 Australian Avenue, Rivera Beach, FL 33404
EKB Kieserling America, Corporation, One Executive Drive, Executive Park, Fort Lee, NJ 07024
Emery Distribution Systems, Inc., d/b/a Emery Ocean Freight, Michael A. Tarczali, Manager-Pricing, Wilton, CT 06897
Eur-A-Med Shipping, Ltd., P.O. Box 2325, Savannah, GA 31498
Euramer Consolidators Corp., Marron A. Pelota, Piso 2, OFIC No. 21 Apartado 3121, Caracas, Venezuela
Euro-Con, 1585 Holcomb Bridge Road, Suite 335, Roswell, GA 30076
European Connection Inc., Orlando Gatell, Vice-President, 3161 State Road, Bensalem, PA 19020
Euorpean Express Shipping Lines Co., 17 Battery Place, Suite 1930, New York NY 10004,
European Ocean Freight, Inc., 17 Battery Place, Suite 236, New York, NY 10004
Everest Freight Shipping Inc., 15 Park Row, New York, NY 10048
Excel International Freight, 19700 Susana Road, Compton, CA 90221
Exim Line Inc., 3580 Wilshire Blvd., Suite #2050, Los Angeles, CA 90010
Export Marine Lines, 3158 Des Plaines Ave., Des Plaines, IL 60018
Express Cargo Systems, Inc., 1601 W. Edgar Road, Bldg. A, Linden, NY 07036
Express Container Line, 270 Colfax Avenue, Clifton, NJ 07015
F. X. Coughlin Co., 27050 Wick Road, Taylor, MI 48180
Fast Container Line, 355 West Carob Street, Compton, CA 90220
FEMTCO, Far Eastern Marine Transportation Co., P.O. Box 691, San Francisco, CA 94105
First International Shipping Co., 4211 Maine Trail, Crystal Lake, IL 60014
Florida Cargo, Inc., Dori Hanna-Burnham, President, 4 East Port Road, Suite 109, Riviera Beach, FL 33404
Frances Marketing Co., Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Fred Pelsinger, P.O. Box 21414, Houston, TX 77218
Freightmasters, Inc., P.O. Box 264, Mount Prospect, IL 60056
Frontier Express, Inc., Patrick J. Hughs, President, 2111 W. 169th Place, Torrance, CA 90504
Fuji Express, 328 Swift Avenue, South San Francisco, CA 94080
G.F.C. Intermodal Container Line, George F. Collina, Tariff Issuing Officer, Building 15, Hook Creek Industrial Park, Valley Stream, NY 11581
G.M.S. International Corp., 328 Washington Street, Jersey City, NJ 07302
Galaxie Cargo Services Ltd., 401 Broadway, New York, NY 10013
Gas and Equipment Transport, Inc., 333 North Belt East, Suite 250, Houston, TX 77060
Gaydem Marine Systems Ltd., 191 Route De Delmas, Coindelmas 25, Port-Au-Prince, Haiti
Gedenk Shipping, Inc., 17 Battery Place, New York, NY 10004
Glacier Marine Agencies, Ltd., 5401 W. Kennedy Boulevard, Suite 999, Tampa, FL 33609
Greene Express, Ltd., Robert E. Gecielewski, Vice President, 2803 Butterfield Road, Oak Brook, IL 60521
Hap Dong Express, Inc., 1265 Broadway, New York, NY 10001
Harbour International, P.O. Box 1194, Jacksonville, FL 32201
Harbour-Link International Inc., c/o International Tariff Services, Inc., 5

Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Hemot Ocean Transport, Inc., 114 Liberty Street, New York, NY 10006
Hipage Company, Inc., The, 227 E. Plume Street, Norfolk, VA 23510
Ideal Union Express, c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Imporex, Inc., Angelo Ferreira, General Manager, 33 Broad Street, Suite 330, Boston, MA 02109
Indo Atlantic Freight U.S.A. Inc., 134 Hook Creek Boulevard, Valley Stream, NY 11581
Intercontinent Express, Inc., Tom Adyagi, President, 714 So. Isis Avenue, Inglewood, CA 90301
Interline Container Services, Ltd., 1642 International Trade Mart, New Orleans, LA 70130
Intermodal Transportation Services, P.O. Box 430, Linden, NJ 07036
International Cargo Handlers, Inc., 8401 N.W. 70th Street, Miami, FL 33178
International Customs Service Inc., Robert L. Waggoner, President, 3447 Atlantic Avenue, Suite 300, Long Beach, CA 90807
International Express Co., Ltd., Keith L. Wallace, Divisional Manager, 78–84 Ongar Road, Brentwood, Essex, C.M. 15 9BG England
International Freight Consultants, Inc., 39 Broadway, Suite 3008–3010, New York, NY 10006
International Freight Services, John J. Solano, President, Public Ledger Building, Suite 902, Philadelphia, PA 19106
International Household Export, Inc., 1195 Folsome Street, San Francisco, CA 94103
International Parcel Service, Ltd., 160 Broadway, New York, NY 10038
International Shipping Associates, Inc., 90 Western Avenue, Allston, MA 02134
International Trade Assistance Corp, 14 West Main Street, Oyster Bay, NY 11771
IPD Cargo Services, Inc., P.O. Box 192, Piermont, NY 10969
Island Consolidation, Inc., 1025 17th St. W., Riviera Beach, FL 33404
Island Shipping Co., 228 E. 93rd Street, Brooklyn, NY 11212
JIF America, Inc., 1717 19 Elmhurst Road, Elk Grove Village, IL 60007
Jacky Maeder Container Line, Inc., 39 Broadway, New York, NY 10006
Jagro Customs Brokers & Intl. Frt. Fwdrs. Inc., 170 Broadway, New York, NY 10038
Jaguar Intermodal Transport, Inc., Richard J. Eber, President, 1100 Army Street, San Francisco, CA 94124
Joint Transport (USA) Inc., 8 Hook Road, Bayonne, NJ 07002
Kelso Shipping, Inc., 1 Main Place, Suite 1090, 101 S.W. Main, Portland, OR 97204
Kenney Transport, Inc., 153–04 Rokaway Boulevard, Jamaica, NY 11434
L T L International, Ltd., c/o Studley Associates, Inc., 1101 17th Street NW., Suite 201, Washington, D.C. 20036
L.C.L., Incorporated, c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Labay/Summers Seacon Express, Inc., 1314 Texas Avenue, Houston, TX 77220
Lanna International Corp., 33–59 Vernon Blvd., Long Island City, NY 11106
Latillean Freight Consolidators, Inc., 10920 N.W. South River Drive, Miami, FL 33178
LCL Cargo, Ltd., One World Trade Center, Suite 4531, New York, NY 10048
Leschaco, Inc., 8522 Katy Freeway, Suite 223, Houston, TX 77024
Linabol, Edif. Hansa Piso 16, Casilla 8695 La PAZ—Bolivia
Lloyd International Shipping, Inc., 17 Battery Place, New York, NY 10004
Lomar Transport, Inc., Keith & New Kirk Street, Building 2H, Baltimore, MD 21224,
Lt Marine Managment, Inc., 5D Sandalwood Count, Old Bridge, NJ 08857
Lu-Med Caribbean Conf., 818 Stealing Place, Brooklyn, NY 11216
Lynden International, 5615 West Marginal Way SW., Seattle, WA 98106
Lyon Tamer System, 12 Rue De L Industrie, 69633—Venissieux, France
M—Line, P.O. Box 218159, Houston, TX 77218
MAC Loyd Lines, Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Marbrac International, 27 Avenue S., Brooklyn, NY 11223
Marine Consolidators, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Marine Pacifica Container Line 1010 Knox Street, Torrance, CA 90502
Marina Container Line Ltd., c/o James C. Olsson, Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Maritima Aquatran, Inc., 68–23 Fulton, Houston, TX 77022
Maritime Company of the Pacific, 1441 Kapiolani Blvd., Suite 905–A, Honolulu, HI 96814
Marlog International, Inc., 4417 South Mingo Road, Tulsa, OK 74145
Marni Marine Transport Company, 155 Hempstead Turnpike, West Hempstead, NY 11552
Marine Air Transport Express, 53 Park Place, Suite 1101, New York, NY 10007
McLean Ocean Shipping, P.O. Box 60469 AMF, Houston, TX 77205
Medas International Moving & Shipping Corp., 803 Sterling Place, Brooklyn, NY 11216
Meiko Freight Service, Inc., 2220 East Carson Street, Long Beach, CA 90810
Mercury International Forwarders, Inc., 820 East "D" Street, Wilmington, CA 90744
Mes Container Service, Inc., Mr. John F. Hughes, President, 4000 West Jefferson, Detroit, MI 48209
Meteoro Express Corp., c/o Olympo Transport Co. of Puerto Rico, Inc., P.O. Box 5512, Puerto e Tierra, PR 00906,
Metrick Maritime Service, Inc., 401 Broadway—Room 1910, New York, NY 10013
Michael Davis (Shipping), Incorporated, 29 East 61st Street, New York, NY 10021
Mobel International, Inc., Vern Duke, General Manager, 2165—5th Avenue South, St. Petersburg, FL 33733
Modal; Transport, Inc., 1724 Sacramento St., Suite 102, San Francisco, CA 94109
Moulton Shipping Line, Limited, The, c/o Moulton Managment Company N.V. 15 Pietermaai, Curacao, Netherlands Antilles
Moyles Intermodal Systems, Inc., 2200 East Devon, Elk Grove Village, IL 60007
MPCL., Inc., c/o James C. Olsson, Tariff Publishing Officer, Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
MTS Agencies, Inc., 63–69 Hook Road, Bayonne, NJ 07002
Multi-Sea Maritime Inc., 26 Broadway, New York, NY 10004
Multimodal, Incorporated, 19 Pine Avenue, Long Beach, CA 90802
Mundial Enterprises, Ltd., 540 Militia Hill Road, Southampton, PA 18966
N.V.O. Shipping, Inc., c/o Global Traffic Service, Inc., 201 Massachusetts Avenue, N.E., Suite 20, Washington, D.C. 20002
Nautical Services Corporation, c/o Oceans International Corp., 1314 Texas Avenue, 15th Floor, Houston, TX 77002
Navimar Shipping Corp., Five World Trade Center—Suite 9273, New York, NY 10048
Ned-Con Service, Inc., 10920 N.W. South River Drive, Miami, FL 33178
New World Carriers, Inc., 1150 N.W., 72nd Avenue, #510, Miami, FL 33126
North Coast Overseas N.A., Ltd., Mark Rosenfeld, President, 10 Columbus Circle, Suite 2250, New York, NY 10019

Nuasa (Florida) Express, Inc., 16201 S.W. 95th Avenue, Miami, FL 33157
NVO Carriers, Inc., 1 World Trade Center, Suite 1149, New York, NY 10048
Nyco-American, Inc., 217 N.W. 1st Avenue, Hillandale, FL 33009
Ocean Freight Consolidators, Inc., P.O. Box 527, Mataway, NJ 07747
Ocean Freight Lines, Inc., 1 World Trade Center, Suite 1149, New York, NY 10048
Ocean Freight Transport Corp., Hector S. Malaret, President, 2970 N.W. 75th Ave., Miami, FL 33122
Ocean-Air Container Service, 547 West 26th Street, New York, NY 10001
Oceanaire International Services, Inc., P.O. Box 593349, Miami, FL 33159
Oceanaire International, Inc., P.O. Box 557937, Miami, FL 33155
OCS/Myers International, Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Odelco Marine Corporation, Jose F. Gonzales, President, 9815 W. Leland Avenue, Schiller Park, IL 60176
Omega Ocean Lines, Inc., 1700 S. Highland Avenue, Baltimore, MD 21224
Overseas Cargo Lines, Inc., 44 Montgomery Street, San Francisco, CA 94104
Overseas Carriers, Inc., P.O. Box 194, Panama 9A, Republic of Panama
Overseas Consolidators Company, 5730 Arbor Vitae, Los Angeles, CA 90045
Overseas Container System, Inc., Timothy Busch, Vice President, 2701 Lakeside Avenue, Cleveland, OH 44114
Overseas Express, Inc., Mr. David A. Pirigyi—President, 9635 Northwest 80th Avenue, Miami, FL 33014
Overseas Shipping & Transportation, Inc., 5730 Arbor Vitae, Los Angeles, CA 90045
P&M Line, 165515 Hedgecroft, Suite 306, Houston, TX 77060
P&O Strath Services, The, c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, Va. 22041
P.T. Gesuri Lloyd, 45 Jim Tiang Bendera, Jakarta, Indonesia
Pacheco International Corp., 11207 So. La Cienega Blvd., Los Angeles, CA 90045
Pacific-Austral, 19 Pine Avenue, Suite 608, Long Beach, CA 90802
Pacific Marine Transport, Inc., 100 California Street, Suite 1060, San Francisco, CA 94111
Pan Altantic Shipping, Ltd., 290 Nye Avenue, Irvington, NJ 07111
Pan Caribbean Freightliners, Inc., c/o Trans-World Tariff & Research Service, Inc., 1341 "G" Street, N.W., Suite 915, Washington, D.C. 20005
Pan World Shipping, Inc., 1331 Royal Lane, P.O. Box 61352, D/FW Airport, TX 75261
Panatlantic CCS, Inc., 74 Broad Street, New York, NY 10004
Pelican Cargo Services, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Pilade Giani, S.A.S., Via E. Sansoni, 7/11, 57100 Leghorn, Italy
PMA, Inc., James and Fraley Streets, Philadelphia, PA 19137
Polamer Parcel Service Company, Walter K. Kotaba, President, 3094 North Milwaukee Avenue, Chicago, IL 60618
Polonez Parcel Service, 63 ½ Cabot Street, Chicopee, MA 01013
Presto Shipping, Inc., c/o Mr. Rafael A. Cardoso, 14021 S.W. 56th Terrace, Miami, FL 33183
Prime Carriers Inc., 6450 Collins Avenue, Suite 604, Miami Beach, FL 33141
Progressive Pier Delivery, 700 First Street, Harrison, NJ 07029
Randy Express, Inc., 550 Division Street, Elizabeth, NJ 07201
Rathmor International Inc., 11 Broadway, Suit 830, New York, NY 10004
Reardon Export (Ocean) Inc., P.O. Box 107, East Boston, MA 02128
Red Oak Industries Ltd., Inc., Gerald Backus, President, Box J, Blairstown, NJ 07825
Refrigerated Container Service, Inc., 601 New Jersey Railroad Avenue, Newark, NJ 07114
Reliance Shipping Inc., 473 Putnam Avenue, Brooklyn, NY 12111
Republic Shipping Line, 330 Biscayne Blvd., Suite 1002, Miami, FL 33132
Rhode & Liesenfeld, Inc., 1 World Trade Center, Suite 8345, New York, NY 10048
Rolland International (U.K.), Ltd., 1 World Trade Center, Suite 8859, New York, NY 10048
Royal Star Shipping Corp., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Rush International Electric & Shipping Co., Inc., 1520 West 7th Street, Los Angeles, CA 90017
Sail Shipping Systems, Inc., 17 Battery Place, Suite 1930, New York, NY 10004
SAM, Sino-Am Marine Co., Inc., One World Trade Center, Suite 3127, New York, NY 10048
Sam Jung Shipping USA, Inc., 17 Battery Place, Room 1443, New York, NY 10004
Samad Shipping Services, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
San Yang Yuan, 403 McGuigan Place, Harrison, NJ 07029
Saturn Shipping Company Incorporated, P.O. Box 1809, Manhattanville Station, New York, NY 10027
Scanfreight Continental N.V., Italielie 17, Antwerp, Belgium
Sea Express Lines, c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Sea Link Corporation, c/o Strachan Shipping, 8700 West Flagler Street, Miami, FL 33174
Seair Transport Services, Inc., 2 Main Street, Wilton, NH 03036
Seaworld Shipping, Ltd., 90 West Street, Suite 719, New York, NY 10006
Selax Transport Corp., DBA Selax Container Lines, 147–32 Farmers Blvd., Jamaica, NY 11434
Serra Shipping, Inc., 21 West Street, New York, NY 10006
Sesko International, Inc., Juan A. Abbadie, President, 4715 N.W. 72nd Avenue, Miami, FL 33166
Sesko Marine Trailers, Inc., 4715 N.W. 72nd Avenue, Miami, FL 33166
Seven Seas Containerline, Ltd., Port of Sacramento World Trade Center, West Sacramento, CA 95691.
Seven Star Container Line, c/o Summer Tariff Service, Inc., 1341 G Street, N.W., Suite 915, Washington, D.C. 20005
Ship Corporation of Hawaii, Ltd., c/o Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Shipco Ocean Services, 9460 Clinton Drive Building 52, Houston, TX 77029
Shippers Management International, Inc., 4647 Long Beach Blvd., Long Beach, CA 90805
Shipping Time Gateways Overseas, Ltd., 115A Oxford Street, Port of Spain, Trinidad and Tabago
Smitty's Export/Import, Inc., 4236 Gunther Avenue, Bronx, NY 10466
Snyder Moving & Shipping Co., Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Solma Intermodal, 71 Broadway, Suite 1306, New York, NY 10006
South African Navigation, Inc., 140 Cedar Street, Suite 815, New York, NY 10006
South Pacific Consolidators, Inc., 111 San Leandro Blvd., San Leandro, CA 94577
Southern International Shipping, Inc., 9066 N.W. 25th Street, Suite 2A, Miami, FL 33172
Southern Pacific International, Inc., P.J. Conners, Executive Vice Pres. & GM, One California Street, San Francisco, CA 94111
Southern Pacific Marine Transport, Inc., c/o Pacific Coast Tariff Bureau, 88

First Street, Suite 610, San Francisco, CA 94105
Southern Pacific Transportation Company, K.R. Wyma, Senior Asst. Vice President, One Market Plaza, San Francisco, CA 94105
Southern Unitrans, Inc., P.O. Box 3127, Bellflower, CA 90707
Southland Pacific Shipping Inc., 20218 Doogan Ave., Compton, CA 90221
Space Lines, Inc., 4th & Vine Building, Seattle, WA 98121
Spade Ace-Allisped Forwarders Int'L., Ltd., 1870 El Camino Real, Burlingame, CA 94010
Special Shipping, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Speedway Containere Line, Inc., Suite 421, 3605 Long Beach Blvd., Long Beach, CA 90807
Square Deal Shippers, 925 Utica Avenue, Brooklyn, NY 11203
Stalker Enterprises, Inc., c/o Trans-World Tariff & Research Service, Inc., 1341 "G" Street, NW., Suite 915, Washington, D.C. 20005
Stavers Corporation, Mr. Peter De Fasbiis, President, 84 Congress Rd., Emerson, NJ 07630
Streamline Shippers Association, Inc., 56 Pebble Drive, Baltimore, MD 21225
STT Services, Ltd., 1922 Eastern Parkway, Brooklyn NY 11233
Sunjin Shipping Company, Ltd., 217 Broadway, Suite 412, New York, NY 10007
Sunshine International Cargo Corp., 913 Richards Rd., Antioch, TN 37013
Surlington International, Inc., DBA Surlington Express, c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Taiwan Overseas Forwarding Company, Ltd., Mr. Willie Woo, Managing Director, No. 62, Sec. 2 Nanking E. Rd., Taipei, Taiwan
Tank Traffic America, Inc., P.O. Box 60741 AMF, Houston, TX 77205
TDY Freight Systems, Ltd., 1950 Troutman Street, Maspeth, NY 11385
Tiger Container Express, Ltd., c/o Trans-World Tariff & Research Service, Inc., 1341 "G" Street, N.W., Suite 915, Washington, DC 20005
Todd International, Inc., Frederick W. Kemph, Vice President, P.O. Box 26426, Minneapolis, MN 55426
Total Transportation Corporation, 429 Moon Clinton Road, Coraopolis, PA 15108
Tradeways International, Inc., 1538 Harmon Cove Tower, Secaucus, NJ 07094
Trans Container Line, Inc., 8600 West 67th Street, Hodgins, IL 60525
Trans Oscean Consolidators, c/o Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Trans Ocean Line, Jack Lelinho, Tariff Officer, 3804 South Ocean Drive, Hollywood, FL 33019
Trans System Line, 8055 13th Street, Suite 310, Silver Spring, MD 20910
Trans Viking International, Inc., 2412 South Voss, #F312, Houston, TX 77057
Trans World Container Service, Inc., 1 World Trade Center, Suite 4541, New York, NY 10048
Trans World Export Boxing Corp., c/o Trans-World Tariff & Research Services, Inc., 1341 "G" Street, NW., Suite 915, Washington, DC 20005
Trans-Modal, Inc., Frank Hollesen, President, 1121 North Tower Lane, Bensenville, IL 60106
Trans-Orient Express, Inc., 149–10, 183 Street, Jamaica, NY 11413
Trans-World Atlantic Co., Inc., c/o Z&G Company, Inc., 232 Madision Avenue, Suite 602, New York, NY 10016
Transaction Lines Corp., 3000 N.W. 74th Avenue, Miami, FL 33122
Transcar of North America, 274 County Road, Tenafly, NJ 07670
Transcaribbean Consolidated Transport, Inc., Vincent Perez, President, 2500–83rd St.-Bldg. 10B, North Bergen, NJ 07047
Transcontainer Atlantic Pacific Canada Corp., 230–470 Granville St., Vancouver, BC V6C1V5, Canada
Transcontainer Transport Inc., Peter U. Jordi, President, 39 Broadway, New York, NY 10006
Transcontinental Transportation Systems, c/o International Tariff Services, Inc., 5111 Leesburg Pike, Falls Church, VA 22041
Trans Hansa Projects, Inc., 21 West Street, Suite 2306, New York, NY 10006
Transinternational System, Jack Stewart, President, P.O. Box 109, Worthington, OH 43085
Transmodal Cargo Carriers International, Ltd., Guenter Perl, 39 Broadway, New York, NY 10006
Transmodal Cargo Carriers, Inc., Guenter Perl, 39 Broadway, New York, NY 10006
Transmodal Express, C. Roberts, Issuing Officer, 801 West Artesia Blvd., Compton, CA 90220
Transocean Shipping, Inc., One World Trade Center–Suite 3171, New York, NY 10048
Transpacific Express, Inc., c/o Global Traffic Service, Inc., 201 Massachusetts Avenue, NE., Suite 207, Washington, DC 20002
Transportation Systems International, Inc., Larry L. Leaman, Manager/Pricing & Tariffs, 2500 Kennedy Street, NE., Minneapolis, MN 55413
Transship, Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Transtainer Lines, Ltd., 107 West Side Avenue, Jersey City, NJ 07305
Transtech, Inc., William Kavanaugh, Traffic Manager, 32 Bryden Place, Ridgewood, NJ 07450
Transworld Associates, Inc., 1911 No. Fort Myer Drive, Arlington, VA 22209
Traveler's Overseas, Inc., Robert DeMorro, President, 25 James Street, New Haven, CT 06513
TSI Intermodal, Clarence J. Herr, Issuing Officer, 21055 West Road, Tranton, MI 48183
TSI Shipping (U.S.A.), Inc., One World Trade Center, Suite 3171, New York, NY 10048
Turbo Line, 290 Nye Avenue, Irvington, NJ 07111
Tuya International Corp., Jorge R. de Tuya, President, 1351 N.W. 78th Avenue, Miami, FL 33126
U.S. Express, Inc., P.O. Box 1000—J.F.K. Airport, New York, NY 11430
U.S. International Management and Marketing, Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Ultramar Shipping, Inc., 170 Broadway, New York, NY 10038
Uniport Express Corp., 55 Amity Street, Jersey City, NJ 07304
United Cargo Corporation, c/o Trans-World Tariff & Research Services, Inc., 1341 "G" Street, NW., Suite 915, Washington, D.C. 20005
United Freight Systems, Inc., 145 Hook Creek Boulevard, Valley Stream, NY 11581
United Kingdom Express, c/o J.F. Mullins, Jr., 1700 "K" Street, NW., Washington, D.C. 20006
United States Container Corporation, Mike Moss, President, 50 Hilton Street, Easton, PA 18042
United Van Lines International, Inc., Mr. Larry R. Dawson, Manager Special Services, One United Drive, Fenton, MO 63026
Universal Container Bridge, 57 Avenue Theophile Gautier, 75016 Paris, France
Universal Container Lines, Division of Universal Shipping Corp., John Chai, Issuing Officer, 1441 West 132nd Street, Gardena, CA 90249
Universal Shipping Service, 61 Cabot Street, Chicopee, MA 01013
Universal Transcontinental Corporation, H.E. Schuster, Mgr., 325 Spring Street, New York, NY 10013
Valley Express, Inc., Gerald De Laurntis, President, 925 Market Street, Paterson, NJ 07513
Van Ommeren, Altenwall 205, D 2800 Bremen 1, German Federal Republic (West)
Van Ommeren (USA), Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302

Vekr's Incorporated, 10016 Pioneer Blvd.—Suite 212, Santa Fe Springs, CA 90670
Via Sea Carrier Corp. International, 9, Les Chardonnerts II, 77 Mormant, France
Victory International Transport, P.O. Box 13049, Fort Lauderdale, FL 33316
Virginia International Air Freight, Inc., Ms. Virginis Voiles—President, Post Office Box 6564, Lake Worth, FL 33463
Votainer Consolidation Service Pty., Ltd., 50 Clarence Street, P.O. Box 3410 GPO Sydney NSW, Australia 2001
Votainer Consolidation Services (South Atlantic) 9 Cordes Street, Charleston, SC 29402
Votainer Consolidation Services (UK), Inc., Sea Reach House—New Road, Rainham, Essex—RM13 8EJ England
W.T.C. Holding Co., Inc., 1436 Bay Street, Staten Island, NY 10305
West Coast Shipping Lines, 1525 West Wardlow Road, Long Beach, CA 90810
West Indies Freight, Inc., P.O. Box 522455, Miami, FL 33152
Wilson & Co. AB, Box 7091 S 402 32 Gothenburg, Sweden
Wilson Container Co., 113 Sierra Street, El Segundo, CA 90245
Winchester Lines, Inc., First National Bank Building Suite 2109, Mobile, AL 36652
World Consolidators (Japan), Ltd., P.O. Box 534, Palos Park, IL 60464
World Express, Inc., 26 Railroad Street, Revere, MA 02151
World Parcel Service, 425 Mission Street, P.O. Box 3372, San Francisco, CA 94119
World Ports Overseas, Ltd., 62 Claradon Road, Staten Island, NY 10305
World Wide Air Marine Freight Forwarders, Inc., c/o International Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Worldwide Consolidators, Inc., c/o Trans-World Tariff & Research Service, Inc., 1341 "G" Street, NW., Suite 915, Washington, D.C. 20005
Worldwide Express Carriers, 76 Beaver Street, 24th Floor, New York, NY 10005
Worldwide Transport, Inc., 63–69 Hook Road, Bayonne, NJ 07002
WSSA Intermodal Services, Inc., 11800 Sunrise Valley Dr., Suite 412 Reston, VA 22091

[FR Doc. 85–5796 Filed 3–11–85; 8:45 am]
BILLING CODE 6730–01–M

Tariff Rules on Free Time and Detention Applicable To Carrier Equipment Provided To Shippers, Consignees, or Their Draymen; Filing of Petition for Rulemaking

March 7, 1985.

Notice is given that a petition has been filed by American President Lines, Ltd. (APL), for institution of a rulemaking proceeding to prescribe tariff rules requiring common carrier tariffs, and when applicable, service contract essential terms publications, to include the terms and conditions on which carrier-provided containers and related equipment are made available to shippers, consignees, or persons tendering or receiving ocean cargo on their behalf. APL proposes that either the applicable terms and conditions, or a standard form equipment interchange agreement setting forth the terms and conditions, be filed in the involved publications.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101.

Interested persons may submit replies to the petition to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 10, 1985. An original and fifteen copies of such replies shall be submitted. A copy of such replies shall also be served on filing counsel: David B. Cook, Esq., Shea & Gardner, 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 85–5797 Filed 3–11–85; 8:45 am]
BILLING CODE 6730–01–M

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, N.W., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 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. 221-03785A-001.
Title: San Juan Terminal Agreement.
Parties:
Puerto Rico Ports Authority
International Shipping Agency

Synopsis: Agreement No. 221-03785A-001 amends the basic agreement between the parties by renewing the lease on the premises located at Pier 12, San Juan for an additional term of three years.

Agreement No. 202-008900-026.
Title: The "8900" Lines Agreement.
Parties:
A.P. Moller-Maersk Line
Barber Blue Sea Line
National Shipping Company of Saudi Arabia
Nedlloyd Lijnen, B.V. (S.A.G.)
Sea-Land Service, Inc.
Waterman Steamship Corporation
United Arab Shipping Company (S.A.G.)

Synopsis: The proposed amendment would modify the agreement to permit the parties to discuss, negotiate and agree with shippers, shipper's associations or other shipper groups and would authorize the establishment or employment of a cargo inspection system. It would also restate the agreement to conform with the format requirements of the Commission's regulations and incorporate mandatory provisions required by the Shipping Act of 1984.

Agreement No. 202-010637-006.
Title: North Europe-U.S. Atlantic Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Intercontinental Transport (ICT)
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.
Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment would modify the agreement to authorize allowances to shippers performing direct overland transport to European Continental loading ports in lieu of the member providing overland transportation from the bill of lading port to the loading port. The parties have requested a shortened review period.

Agreement No. 202-010676-004.
Title: Mediterranean/U.S.A. Freight Conference.
Parties:
Atlanttrafik Express Services, Ltd.
Achille Lauro
C.I.A. Venezolana de Navegacion
Compania Transatlantica Espanola, S.A.

Constellation Lines, S.A.
Costa Line
d'Amico Societa di Navigazione per Azioni
Farrell Lines, Inc.
Flota Mercante Grancolumbiana S.A.
"Italia" Societa' per Azioni de Navigazione
Jugolinija
Jugooceanija
Lykes Lines
Nedlloyd Lines
Nordana Line/Dannebrog Lines AS
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would modify the agreement to allow the Chairman to appoint a substitute to preside at Executive Committee meetings in his absence, provided that the individual so appointed is employed by the same member line that employs the Chairman. It would also add a Special Northern Spain Section to permit those member lines serving ports in Northern Spain to have exclusive jurisdiction over certain commodities transported from such ports.

Agreement No. 202-010689-003.

Title: Transpacific Westbound Rate Agreement.

Parties:
American President Lines, Ltd.
Barber Blue Sea
The East Asiatic Company
Evergreen Marine Corp. (Taiwan), Ltd.
Hanjin Container Lines, Ltd.
Hapag-Lloyd Trans-Pacific Service
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
Lykes Brothers Steamship Co., Inc.
A. P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Orient Overseas Container Line, Inc.
Zim Israel Navigation Co. Ltd.

Synopsis: The proposed amendment would delete Barber Blue Sea as a party to the agreement. The parties have requested a shortened review period.

Dated: March 7, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 85-5862 Filed 3-11-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Dominion Bankshares Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulations 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 outweight 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 April 2, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia; to engage to *de novo* through its subsidiary, Dominion Trust Company, Roanoke, Virginia, in acting as investment or financial advisor to the extent of providing portfolio investment advice.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Jesup Banchshares, Inc.*, Jesup, Iowa; to engage directly in the *de novo* nonbanking activities of making, acquiring, or servicing loans or other extensions of credit and leasing personal or real property. These activities would be conducted in the state of Iowa.

Board of Governors of the Federal Reserve System, March 7, 1985.

James McAffee,

Associate Secretary of the Board.

[FR Doc. 85-5815 Filed 3-11-85; 8:45 am]

BILLING CODE 6210-01-M

First National Cincinnati Corporation, 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 April 4, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First National Cincinnati Corporation*, Cincinnati, Ohio; to acquire 100 percent of the voting shares or assets of The Ohio State Bank, Columbus, Ohio.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bancorp of Taylorville, Inc.*, Taylorville, Illinois; to become a bank holding company by acquiring 100

percent of the voting shares of First National Bank in Taylorville, Taylorville, Illinois.

2. *Second National Corporation,* Richmond, Indiana; to acquire 24.9 percent of the voting shares or assets of Citizens Banking Company, Lynn, Indiana.

3. *Suburban Bancorp, Inc.,* Palatine, Illinois; to acquire 50 percent or more of the voting shares or assets of The Bartlett Bank and Trust Company, Bartlett, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Norton Corporation,* Norton, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First Security Bank and Trust Company, Norton, Kansas.

Board of Governors of the Federal Reserve System, March 7, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-5816 Filed 3-11-85; 8:45 am]

BILLING CODE 6210-01-M

West Brook Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) 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 acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *West Brook Bancshares, Inc.,* Westchester, Illinois; to acquire West Brook Insurance Agency, Inc., Westchester, Illinois, thereby engaging in general insurance activities in all lines of insurance except life insurance, pursuant to section 4(c)(8)(F) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, March 7, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-5818 Filed 3-11-85; 8:45 am]

BILLING CODE 6210-01-M

Marshall & Ilsley Corporation, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 U.S.C. 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are 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 each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 1985.

A. **Federal Reserve Bank of Chicago,** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares or assets of Heritage Wisconsin Corporation, Milwaukee, Wisconsin, thereby indirectly acquiring Heritage Bank, Wauwatosa, Wisconsin, Heritage Bank Beloit, Beloit Wisconsin, and Heritage Bank of West Bend, West Bend, Wisconsin.

Applicant has also applied to acquire Heritage Investment Advisors, Inc., thereby engaging in professional investment advisory services for the trust departments of affiliated banks, other banks, endowment funds, employee benefit plans, mutual funds, foundations and other substantial portfolios; Heritage Leasing Corporation, thereby providing lease financing for personal property; and Heritage Trust Company, thereby providing trust services to individuals, corporations, charitable institution and other organizations. Its activities as an investment/financial advisor are of a fiduciary, agency and custodian nature.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bancshares of Knob Noster, Inc.,* Knob Noster, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Knob Noster Bancshares, Inc., Knob Noster, Missouri, thereby indirectly acquiring The Bank of Knob Noster, Knob Noster,

Missouri. Applicant has also applied to engage in the sale of general insurance in a town with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, March 7, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-5817 Filed 3-11-85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Reckitt & Colman et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

(1) 85-0079—Reckitt & Colman plc's proposed acquisition of voting securities of Airwick Group, (CIBA-GEIGY Limited, UPE), February 12, 1985.

(2) 85-0093—The Dexter Corporation's proposed acquisition of voting securities of Permag Corp., February 12, 1985.

(3) 85-0100—Equity Holdings', a partnership, proposed acquisition of voting securities of The Commodore Corporation, February 12, 1985.

(4) 85-0105—Perdue Farms Incorporated's (Franklin P. Perdue, UPE) proposed acquisition of voting securities of White Poultry Farms Incorporated (J. R. McFayden, Sr., Dorothy McFayden, Elizabeth M. Bryant, J. R. McFayden, Jr., and Anna C. McFayden, UPE's), February 12, 1985.

(5) 85-0111—The North American Coal Corporation's proposed acquisition of voting securities of Yale Materials Handling Corporation (Eaton Corporation, UPE), February 12, 1985.

(6) 85-0045—Humana, Inc.'s proposed acquisition of assets of Doctors Officenters Corporation (The Doctors Emergency Officenters Management Associates, UPE), February 13, 1985.

(7) 85-0060—La Telemecanique Electrique's proposed acquisition of assets of Gould Inc., February 13, 1985.

(8) 85-0081—G. Heileman Brewing CO., Inc.'s proposed acquisition of voting securities of New Process Baking Company, (Edmund Kutchins, UPE), February 13, 1985.

(9) 85-0088—The Coca-Cola Company's proposed acquisition of voting securities of Belwin-Mills Publishing Corporation, (Gulf & Western Industries, UPE), February 13, 1985.

(10) 85-0090—Marriott Corporation's proposed acquisition of voting securities of Service Systems Corporation, (R. J. Reynolds Industries, Inc. UPE), February 13, 1985.

(11) 85-0103—Rapid American Corporation's, (Meshulam Riklis, UPE) proposed acquisition of voting securities of BTK Industries, Inc., February 13, 1985.

(12) 85-0110—Masco Industries, Inc.'s proposed acquisition of assets of electrical equipment business formerly known as Hi-Ram, Inc., (Robert J. Tomsich, UPE), February 13, 1985.

(13) 85-0112—Planning Research Corporation's proposed acquisition of voting securities of Kentron International, Inc., February 13, 1985.

(14) 85-0114—Planning Research Corporation's proposed acquisition of voting securities of Kentron International, Inc., February 13, 1985.

(15) 85-0097—Loral Corporation's proposed acquisition of voting securities of Hycor Incorporated, February 15, 1985.

(16) 85-0106—Rite Aid Corporation's proposed acquisition of voting securities of Hook Drugs Inc., February 15, 1985.

(17) 85-0115—Conagra, Inc.'s proposed acquisition of voting securities of Agribasics Fertilizer Company, a newly formed Joint Venture Company, February 15, 1985.

(18) 85-0116—Scoular Investment Company's Proposed acquisition of voting securities of Agribasics Fertilizer Company, a newly formed Joint Venture Company, February 15, 1985.

(19) 85-0119—Dollar General Corporation's proposed acquisition of voting securities of Eagle Family Discount Stores, Inc., (Interco Incorporated, UPE), February 15, 1985.

(20) 85-0089—Owens-Illinois, Inc.'s proposed acquisition of voting securities of Alliance Mortgage Company, (Florida National Banks of Florida, Inc., UPE), February 19, 1985.

(21) 85-0071—Metromedia Inc.'s, (John W. Kluge, UPE) proposed acquisition of voting securities of Network I, Inc., February 20, 1985.

(22) 85-0129—National Computer Systems, Incorporated's proposed acquisition of voting securities of Commonwealth Leasing Corporation, February 20, 1985.

(23) 85-0092—Inspiration Resources Corporation's proposed acquisition of assets of the agricultural products division of Sohio (The British Petroleum Company, p.l.c., UPE), February 21, 1985.

(24) 85-0102—Maus Freres International N.V.'s proposed acquisition of assets of The Boston Store Division of Federated Department Stores, Inc., February 21, 1985.

(25) 85-0113—BTR plc's proposed acquisition of voting securities of Dunlop Holdings p.l.c., February 21, 1985.

(26) 85-0121—Merrill Lynch & Co., Inc.'s proposed acquisition of voting securities of Minnesota Valley Engineering, Inc. (Beatrice Companies, Inc., UPE), February 21, 1985.

(27) 85-0128—General Electric Company, p.l.c.'s proposed acquisition of assets of Houston Instrument Division and Inter Active Graphics Division (Bausch & Lomb Incorporated, UPE), February 21, 1985.

(28) 85-0131—Rowntree Mackintosh p.l.c.'s proposed acquisition of voting securities of The Original Cookie Company, Incorporated (CNC Associates, UPE), February 21, 1985.

(29) 85-0134—Apache Petroleum Company's proposed acquisition of assets of Houston Natural Gas Corporation, February 21, 1985.

(30) 85-0138—Canadian Pacific Limited's proposed acquisition of assets of certain oil, gas and mineral lease assets (Tom Brown, Inc., UPE), February 21, 1985.

(31) 85-0091—The British Petroleum Company p.l.c.'s proposed acquisition of assets of the coal properties of E. J. Lavino & Company, and voting securities of Bledsoe Coal Leasing Company, February 22, 1985.

(32) 85-0133—American Healthcare Management, Inc.'s proposed acquisition of assets of Greatwest Hospitals Inc., February 22, 1985.

(33) 85-0151—S & W Berisfold P.L.C.'s proposed acquisition of voting securities of Weisz Precious Metals, Inc., February 25, 1985.

(34) 85-0135—Graziadio Family Trust's proposed acquisition of voting securities of Central Soya Company, Inc., February 26, 1985.

(35) 85-0136—Houstonian, Inc.'s proposed acquisition of voting securities of Elaine Powers Figure Salons, Inc., Zilber Ltd. (Joseph J. Zilber, UPE), February 26, 1985.

(36) 85-0094—Insilco Corporation's proposed acquisition of voting securities of Kisco Company, Inc., February 27, 1985.

(37) 85-0139—InterNorth, Inc.'s proposed acquisition of assets Valero Energy Corporation, February 27, 1985.

(38) 85-0147—The Travelers Corporation's proposed acquisition of voting securities of Brokers Mortgage Service Inc., February 27, 1985.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC. 20580. (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85-5799 Filed 3-11-85; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator Advisory Board; Meeting

Notice is hereby given that the General Services Administration (GSA) Advisory Board's Subcommittee on Organization and General Management will meet on March 20, 1985 from 9:30 a.m. to 3:30 p.m. in Room 6120, 18th & F Streets, NW., Washington, D.C. This meeting shall be open to the public.

The meeting will be devoted to a review of GSA's telecommunications program, including a discussion of the agency's Aggregated Switch Procurement (ASP) effort; progress in implementing the agency's long-range telecommunications strategic plan; and, telecommunications developments in the public and private sectors.

Less than fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

Questions regarding this notice may be directed to Mr. James Dean on (202) 566-0382.

Dated: March 7, 1985.

Thomas J. Simon,

Director of Programs Initiatives.

[FR Doc. 85-5814 Filed 3-11-85; 8:45 am]

BILLING CODE 6820-26-M

Agency Information Collection Under Review by the Office of Management and Budget; Unused Ticket Refund Procedures

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to review an existing information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Regulations, Procedures and Claims Branch (202-786-3014).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This information collection requires carriers (primarily airlines) to make refunds to the Government for unused tickets after they have expired (normally 1 year), even if the Government has neither returned ticket nor requested the refund.

b. *Annual reporting burden.* This is estimated as follows: Respondents and record keepers, 60 each.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405, telephone (202-566-0666).

Dated: March 5, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-5840 Filed 3-11-85; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent parts at 49 FR 10175, March 19, 1984) is amended to reflect the merger of organizations and functional statements.

The changes include the following: 1. Abolishing the Office of Voluntary Compliance and Operations, Center for Veterinary Medicine (CVM) and transferring the functions of the Office of Surveillance and Compliance, CVM; 2. Abolishing the Office of Human Food Safety, CVM and transferring the functions to the current Office of Scientific Evaluation, CVM, and renaming the Office of Scientific Evaluation, CVM as the Office of New Animal Drug Evaluation, CVM; 4. Renaming the Office of Research, CVM as the Office of Science, CVM. There are also some minor changes to clarify functional statements.

Section HF-B, *Organization and Functions* is amended as follows:

1. Delete paragraph (m-2), *Office of Voluntary Compliance and Operations (HFVY)* and paragraph (m-4, *Office of Surveillance and Compliance (HFVU)* and insert new paragraph (m-2), *Office of Surveillance and Compliance (HFVU).*

(m-2) *Office of Surveillance and Compliance (HFVU).* Advises the Center Director on surveillance and compliance policy concerning FDA regulatory responsibility with respect to animal drugs, feeds, feed additives, veterinary medical devices, and other veterinary medical products.

Plans, develops, monitors, and evaluates Center surveillance and compliance programs and coordinates their field implementation to ensure the safety and effectiveness of marketed animal drugs, feeds, feed additives, veterinary medical devices, and other veterinary medical products.

Directs and coordinates the development of scientific evidence supporting Formal Evidentiary Hearings requested by the Center.

Recommends to the Center Director the amendment or withdrawal of approved new animal drugs applications.

Develops, coordinates, and directs the Center's Voluntary Compliance Program and the Bioresearch Monitoring Program.

Prepares regulations and other **Federal Register** notices, and reviews and acts on regulatory action recommendations.

2. Delete paragraph (m-3), *Office of Scientific Evaluation (HFVT)* and paragraph (m-6), *Office of Human Food Safety (HFVW) and insert new paragraph (m-3), Office of New Animal Drug Evaluation (HFVT).*

(m-3), *Office of New Animal Drug Evaluation (HFVT).* Evaluates for

animal safety and effectiveness new animal drugs in pharmaceutical dosage forms of feed delivered products.

Evaluate the safety aspects of drug and food additive residues remaining in food produced for human consumption from animals given drugs or food additives.

Evaluates the effect of animal drugs on the environment.

Reviews and determines the adequacy of information submitted for proposed use of investigational and new animal drugs.

Evaluates manufacturing methods and procedures for new animal drug products.

Recommends to the Center Director procedures to establish the safety and effectiveness of new drugs for animal use and for the dissemination of this information to investigators, drug sponsors, and manufacturers.

Recommends to the Center Director appropriate action on new animal drug applications and acts on investigational new animal drug notices of exemption and authorization requests.

Coordinates the development and implementation of regulations and policies pertaining to new drugs intended for animal use.

Recommends, and may participate in, intramural and extramural research projects to be conducted and coordinated by the Center's Office of Science to gain further information on drugs for animals.

Establishes and plans framework for satisfying requirements of the National Environmental Policy Act (NEPA), relating to new animal drugs.

3. Delete paragraph (m-5), *Office of Research (HFVV)* and insert new paragraph (m-4), *Office of Science (HFVV).*

(m-4) *Office of Science (HFVV).* Advises and assists the Center Director and other key officials on research matters which affect Center policy direction and long-range program goals.

Provides the focal point for all research activities in the Center; serves as the liaison for intramural and extramural research.

Provides scientific review, guidance, and support for research activities (extramural research, training, and fellowship activities); serves as the Center focal point for pre-award coordination.

Evaluates and reviews the adequacy of research resources; appraises the technical aspects and contributions of Center science programs.

Reviews Center contracts and grants, interagency agreements, and international statutes with regard to enhancing the Center science program activities.

Evaluates and interprets results of scientific research; initiates and recommends action as appropriate to implement policy changes.

Effective Date: February 28, 1985.

Dated: February 28, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

[FR Doc. 85-5798 Filed 3-11-85; 8:45 am]

BILLING CODE 4160-01-M

Centers for Disease Control

Public Health Service; Program Announcement; Alternate Testing Sites to Perform Human T-Lymphotropic Virus-Type III (HTLV-III) Antibody Testing; Availability of Funds for Fiscal Year 1985

Background

On March 2, 1985, an ELISA test to detect antibodies to HTLV-III was licensed by the Food and Drug Administration. This test is intended for screening units of blood for antibody to HTLV-III. CDC does not encourage the use of this test for general screening of high risk populations or as a diagnostic test for Acquired Immunodeficiency Syndrome (AIDS). However, to protect the Nation's blood supply, alternate testing sites should be available so that individuals in recognized AIDS risk groups will not donate blood simply to receive free HTLV-III antibody testing. These alternate sites will also ensure that individuals receive appropriate pretest counseling, posttest counseling, and referral for medical evaluation. Up to $12 million will be made available to assist States to establish alternate sites.

Purpose

The Centers for Disease Control (CDC) is announcing the availability of one-time, start-up resources of up to $12 million of Fiscal Year 1985 funds to assist, during the 90-day period from date of award, in helping assure that high-risk individuals are not turned away from alternate sites because they cannot afford to pay for services.

Special Assurances

Applicants will provide written assurance that: (1) Resources required are only to defray costs for services to those who could not otherwise afford them; (2) they have reduced their requests by taking into consideration funds expected from donations where such donations are permissible under local ordinance; (3) the resources requested are limited to those required for a 90-day period from the date of the award; and (4) local resources are insufficient to provide for HTLV-III testing without charge at alternate sites.

Program Authorization

This program is authorized by section 311 of the Public Health Service Act (42 U.S.C. 243), as amended. The Catalog of Federal Domestic Assistance Number is 13.118.

Eligibility

Eligible applicants for this program are the official public health agencies of State governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

In addition, awards may *also* be made to *local health agencies* serving a high priority urban area which reported at least 650 AIDS cases that meet the CDC surveillance case definition:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immune deficiency (e.g., Kaposi's sarcoma in patients who are less than 60 years of age or patients with *Pneumocystis carinii* pneumonia or other opportunistic infections); and

2. Absence of known causes of underlying immune deficiency and of any other reduced resistance reported to be associated with the disease.

Although local health agencies meeting the above requirements are eligible, they are strongly encouraged to coordinate their request for assistance with the State agency, ideally in a single application, to ensure the most efficient use of State, local, and Federal resources.

In the event an eligible State or local health agency cannot implement this program in a timely manner, they may wish to designate a nonprofit organization to apply and accept the award on their behalf. Prior approval of the Chief, Grants Management Branch, CDC, is required.

Use of Funds

Applicants will be expected to assess their individual needs and submit applications for Federal funds which would be used for the following items only insofar as is necessary to provide tests without charge for those who cannot pay: (1) Supplies, including reagents and test kits; (2) travel for laboratory personnel and counselors to attend training courses; (3) additional personnel for pretest and posttest counseling, laboratory processing of the tests, and blood collection; and (4)

courier and mail services to get specimens to laboratories.

Reporting Requirements

Final financial status and progress reports are required 90 days after the end of the project period. The final progress report should include the following: (1) Number of alternate sites established; (2) number of tests performed per site; (3) number of tests provided without charge; (4) number of positives per site; and (5) number of counseling sessions (pre/post) per site.

Application Content

Applications must include a brief narrative (no more than 25 double-spaced pages) which describes: (1) The background and need for support, including information that relates to factors by which the application will be evaluated; (2) objectives of the proposed project which are consistent with the purpose of the program outlined above; (3) the activities and methods which will be employed to accomplish the objectives; (4) the procedures which will be employed to evaluate program activities; and (5) any other information which will support the request for assistance.

Review and Award Criteria

Applications will be evaluated, and funding decisions will be made, based upon the following factors:

1. The total number of AIDS cases reported since June 1981 that meet the CDC surveillance case definition.
2. The estimated number of persons who will seek testing during the 90-day period at alternate sites who are unable to pay for the test.
3. Special written assurances requested above have been provided.
4. The capability of the applicant to effectively provide sensitive pre- and post-test counseling.
5. The probable soundness and potential operational impact of proposed collaborative efforts between the health department and organizations in the community which provide services to members of groups at high risk for AIDS to carry out the alternate site testing program.
6. Whether the stated objectives are consistent with the purpose of the program.
7. Whether the plan of operation communicates a sound approach to conducting and overseeing activities designed to meet project objectives.
8. Whether the plan for evaluation is sound.
9. The demonstrated capability or plan of the applicant to maintain maximum confidentially of all records related to counseling and clinical laboratory test results.
10. The capability of the applicant to maintain a clinic for the general public whose services to homosexual males are appropriate and nonjudgmental and whose services are sought out by an appreciable number of such individuals from the community.
11. The capability of the applicant to carry out activities to support alternate site HTLV-III testing activities including laboratory, education, and training.

Application Submission

The original and two copies of the application must be submitted to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, on or before 4:30 p.m. (e.s.t.) on March 18, 1985.

Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received at the above address on or before the deadline date; or
2. Sent on or before 4:30 p.m. (e.s.t.) on March 18, 1985, and received in time for submission to the independent review groups.

Note: CDC plans to submit applications to the independent review groups on March 20, 1985. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in 1. or 2. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

This program is not subject to the regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resources Development Act of 1974. This program will be subject to Executive Order 12372, Intergovernmental Review of Federal Programs, in the future. It is recommended that applicants notify their State single point of contact for Executive Order 12372 of the submission of the application for informational purposes.

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575. Technical assistance may be obtained from Jack Kirby, Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia, 30333, telephone (404) 329-2550 or FTS 236-2550.

William E. Muldoon,

Director, Office of Program Support.

[FR Doc. 85-5953 Filed 3-11-85; 8:45 am]

BILLING CODE 4160-18M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Craig District Advisory Council; Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on March 27, 1985.

The meeting will begin at 10 a.m. at the little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado.

Agenda items will include:

1. FS/BLM Land Exchange
2. Discussion on Diamond Breaks Wilderness Study Area
3. Discussion of Preferred Alternative on Little Snake Resource Management Plan

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10:30 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Any one wishing to address the Council or file a written statement, should notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by March 20, 1985.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: March 4, 1985.

Terry L. Plummer,

Associate District Manager.

[FR Doc. 85-5766 Filed 3-11-85; 8:45 am]

BILLING CODE 4310-JB-M

Navajo Relocation Exchange NM-58259; in Sierra County, New Mexico

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of Realty Action Designating Public Land for Transfer out of Federal Ownership in Exchange for Private Lands Selected by the Navajo Tribe for Relocation Purposes.

SUMMARY: Under the provision of sections 4 and 28 of the Navajo and Hopi Indian Relocation Amendment Act, 1980, 25 U.S.C., 640d–10 and 25 U.S.C. 640d–26, the Navajo Tribe filed a selection application on June 30, 1983, for private land in Apache County, Arizona, to be obtained by exchange for public land. Interest has been expressed by the private landowner to select the following public land for part of the compensation for the land selected by the Navajo Tribe:

NEW MEXICO PRINCIPAL MERIDIAN

	Acres
T. 15 S., R. 8 W.,	
Section 21: Lots 1, 2, 3, 6, 7, 8	235.81
Section 22: N½, N½SW¼, NW¼SE¼	440.00
Section 23: W½SW¼, SE¼SE¼	120.00
Section 25: SW¼NW¼	40.00
Section 26: NE¼	160.00
Section 35: S½, SW¼NW¼, S½NE¼	440.00

Comprising 1,435.81 acres, more or less, in Sierra County.

In accordance with the regulations in 43 CFR 2201.1(b), publication of this Notice will segregate the public land, as described in this Notice, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Stream Act.

The segregation of the above-described land shall terminate upon issuance of a document of conveyance to such land to the private landowners or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of 2 years from the date of publication, whichever occurs first.

Land use planning has already been completed on these particular parcels of land, and the Southern Rio Grande Land Use Plan has recommended them for disposal.

All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the materials.

DATE: Comments and protests should be sent to the BLM Las Cruces District Office no later than 45 days after publication of this Notice.

ADDRESS: Inquiries, comments, and protests to this Notice should be addressed to: District Manager, Bureau of Land Management, Las Cruces District, P.O. Box 1420, Las Cruces, New Mexico 88004.

FOR FURTHER INFORMATION CONTACT: Marvin James, Chief, Planning & Environmental Assistance Staff, BLM Las Cruces District, P.O. Box 1420, Las Cruces, NM 88004.

Daniel C.B. Rathbun,

District Manager.

[FR Doc. 85–5842 Filed 3–11–85; 8:45 am]

BILLING CODE 4310–32–M

[W–80707]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 31–245 and Title 43 Code of Federal Regulations, § 3108.2–1(c), and Pub. L. 97–451, a petition for reinstatement of oil and gas lease W–80707 for lands in Natrona County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 162/3 percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–80707 effective October 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85–5839 Filed 3–11–85; 8:45 am]

BILLING CODE 4310–22–M

[W–86096]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 31–245 and Title 43 Code of Federal Regulations, § 3108.2–1(c), and Pub. L. 97–451, a petition for reinstatement of oil and gas lease W–86906 for lands in Big Horn County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16–⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–86096 effective September 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85–5838 Filed 3–11–85; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

National Register of Historic Places; Indiana, et al.; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 2, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 27, 1985.

Carol D. Shull,

Chief of Registration, National Register.

INDIANA

Cass County

Logansport, *Jerolaman-Long House*, 1004 E. Market St.

MARYLAND

Baltimore (Independent City)

Brewers Exchange, 20 Park Ave.

Montgomery County

Poolesville vicinity, *Mt. Nebo*, 14510 Mt. Nebo Rd.

Queen Anne's County

Wye Mills, *Wye Mill*, MD 662

Somerset County

Wellington vicinity, *Costen, William, House*, Courthouse Hill Rd.

St. Mary's County

Lexington Park vicinity, *St. Richard's Manor*, Millstone Landing Rd.

MICHIGAN

Barry County

Shelbyville, *Dwight, Austin H. and Frankie A., Summer House*, 11456 Marsh Rd.

MISSOURI

Boone County

Columbia, *Niedermeyer Apartments*, 920 Cherry St.

MONTANA

Gallatin County

Bozeman, *Fisher, Burr, House*, 712 S. Wilson Ave.

Missoula County

Missoula, *Northern Pacific Railroad Depot*, Railroad and Higgins Ave.
Missoula, *University Apartments*, 400–422 Roosevelt Ave.

Pondera County

Valier, *Valier Public School*, 820 3rd St.

NEW MEXICO

Rio Arriba County

Los Ojos vicinity, *Manzanares, Tony, House*, (La Tierra Amarilla MRA) E. of Los Ojos Rd. and N. of La Puente Church

NEW YORK

Greene County

Greenville, *Greenville Presbyterian Church Complex*, North St., NY 32

Kings County

Brooklyn, *Clinton Hill Historic District*, Roughly bounded by Willoughby and Grand Aves., Fulton St. and Vanderbilt Ave.

New York County

New York, *United Charities Building Complex*, 105 E. 22nd St., 289 Park Ave. S. and 111–113 E. 22nd St.

Rockland County

New City, *Blauvelt House*, Zukor Rd.
Piermont, *Sparkill Creek Drowbridge*, Bridge St. over Sparkill Creek

OKLAHOMA

Caddo County

Anadarko, *Anadarko Central Business Historic District*, Roughly bounded by Main St., Rhode Island and Pacific Railway-Right-of-Way, US 281 and W. 3rd St.

Marshall County

Madill, *Worth Hotel*, 203 E. Main St.

PENNSYLVANIA

Berks County

Tulpehocken Creek Historic District, Tulpehocken and Mill Creeks from Berks-Lebanon line to Blue March Dam between Millardsville and Bernville

Lancaster County

Lancaster, *Park Site 36La96*, Lancaster County Park, 1050 Rockford Rd.

TENNESSEE

Bedford County

Palmetto vicinity, *Palmetto Farm*, TN 64

Davidson County

Goodlettsville vicinity, *Shaw, Abner T., House*, 4866 Brick Church Pike Nashville, *Waverly Place Historic District*, Roughly bounded by Beech, Douglas and Bradford Aves., 10th Ave. S. and Acklen Ave.

Knox County

Knoxville, *Fourth and Gill Historic District*, Roughly bounded by I–40, Broadway, Central and 5th Ave.

Lewis County

Gordonsburg vicinity, *Blackburn, Ambrose, Farmstead*, Gordonsburg Rd.

Marshall County

Mooresville vicinity, *Bear Creek Cumberland Presbyterian Church*, Bear Creek Rd.

Perry County

Linden vicinity, *Dickson, James, House*, Lower Lick Creek Rd.

Sullivan County

Piney Flats, *DeVault-Masengill House*, Andrew Johnson Hwy. US 11E

Washington County

Washington vicinity, *Broylesville Historic District*, Roughly bounded by TN 34, Taylor Mill and Gravel Hill Rds. along Little Lick Creek

WEST VIRGINIA

Jefferson County

Harper's Ferry vicinity, *Allstadt House and Ordinary*, Off US 340

[FR Doc. 85–5846 Filed 3–11–85; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30582]

Norfolk and Western Railway Co. and Interstate Railroad Co.; Construction Exemption In Wise County, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10901, the construction by Norfolk and Western Railway Company and Interstate Railway Company of connecting tracks in Wise County, VA.

DATE: This exemption is effective on April 11, 1985. Petitions for reconsideration must be filed by April 1, 1985. Petitions for stay must be filed by March 22, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30582 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: Nancy S. Fleischman, 1050 Connecticut Avenue, NW., Suite 740, Washington, DC 20036.

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: March 4, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 85–5784 Filed 03–11–85; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Solicitation for Grant Application; Job Training Partnership Act, Title IV, Part C, Program Year 1985

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training; Labor.

ACTION: Notice.

SUMMARY: This notice sets forth the procedures and schedule for the Solicitation for Grant Application (SGA) for the operation of employment and training programs in accordance with Title IV, Part C of the Job Training Partnership Act (JTPA). The regulations at 20 CFR Part 635 provide guidance for the development and administration of programs authorized under this part.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Juarez, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Ave., N.W., Rm. S1316, Washington, D.C. 20210, Telephone (202) 523–9110, or the appropriate State Director for Veterans' Employment and Training Service.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor, announces the availability of $7,734,000 and the schedule for Solicitation for Grant

Application and award of funds to implement programs authorized under Title IV, Part C of JTPA.

This part provides for programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who recently separated from military service.

On March 1, 1985, the Assistant Secretary for Veterans' Employment and Training mailed to all eligible applicants a Solicitation for Grant Application Package which consists of:

Part A—General Program Information and Requirements for Application for Funds under Title IV, Part C, JTPA

Part B—Instructions and Forms for Preparation and Submission of Applications

Eligible applicants are limited to (1) State Governors utilizing the JTPA administrative entity in each State and (2) service delivery area Administrative entities as described in Section 101 and 103 of JTPA including single statewide service delivery areas.

The Solicitation for Grant Application contains proposed funding levels for each State which range from $55,000 to $783,000. Award of funds will be made through a competitive discretionary grant process utilizing the criteria for award specified in the Solicitation.

Applications for funds must be received by the appropriate State Director for Veterans' Employment and Training (SDVETS) not later than 4:30 p.m., at the SDVETS address cited below on May 1, 1985.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Robert B. Inman, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Folly Brook Boulevard, Wethersfield, CT 06115, (203) 566–3326

SDVETS William J. Rogers, Veterans' Employment and Training Service, U.S. Department of Labor, 522 Lisbon Street, Lewiston, Maine 04240, (207) 783–9171

SDVETS Richard A. Brenan, Veterans' Employment and Training Service, U.S. Department of Labor, John F. Kennedy Federal Building, Room 506B, Government Center, Boston, Massachusetts 02203, (617) 223–2759

SDVETS Emile Simard, Veterans' Employment and Training Service, U.S. Department of Labor, 55 Pleasant Street, Room 325, Concord, New Hampshire 03011, (603) 224–2589

SDVETS Arthur L. Dawson, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 507 Federal Building and Courthouse, Providence, Rhode Island 02903, (401) 528–5134

SDVETS Charles E. Healy, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 603, Montpelier, Vermont 05602, (802) 229–0311, Ext. 311

Region II (New Jersey, New York, Puerto Rico)

SDVETS Leon G. Scull, Veterans' Employment and Training Service, U.S. Department of Labor, John Fitch Plaza, Room 1106, Trenton, New Jersey 08625, (609) 292–2930

SDVETS Clifford M. Johnson, Veterans' Employment and Training Service, U.S. Department of Labor, Building 12, Room 503, Albany, New York 12240, (518) 457–7465

SDVETS Rafael Pujals, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 14337, Santurce, Puerto Rico 00916, (809) 754–5391

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

SDVETS Horace H. Best, Veterans' Employment and Training Service, U.S. Department of Labor, Stockton Building, University Plaza, Newark, Delaware 19702, (302) 368–6898

SDVETS George H. Joiner, Veterans' Employment and Training Service, 500 C Street, N.W., Room 322, Washington, D.C. 20001, (202) 639–1076

SDVETS Gary Lobdell, Veterans' Employment and Training Service, U.S. Department of Labor, 100 North Eutaw Street, Rm. 209, Baltimore, Maryland 21201, (301) 383–5193

SDVETS Joseph F. Welsh, Veterans' Employment and Training Service, U.S. Department of Labor, Labor & Industry Building, Rm. 1114, Harrisburg, Pennsylvania 17121, (717) 787–5834

SDVETS Benjamin I. Trotter, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 701 East Franklin St., Suite 1409, Richmond, Virginia 23219, (804) 786–7269

SDVETS David L. Bush, Veterans' Employment and Training Service, U.S. Department of Labor, 112 California Ave., Rm. 212, Charleston, West Virginia 25305, (304) 348–5290

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

SDVETS James C. Gates, Veterans' Employment and Training, 519 Industrial Relations Building, Montgomery, Alabama 36130, (205) 261–5430

SDVETS Robert I. Clark, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1314, Tallahassee, Florida 32302, (904) 222–1036

SDVETS Eugene R. Wagner, Veterans' Employment and Training Service, U.S. Department of Labor, IBEW Building, Suite 419, 501 Pulliam Street, S.W., Atlanta, Georgia 30312, (404) 656–3138

SDVETS Robert M. Barnes, Veterans' Employment and Training Service, U.S. Department of Labor, c/o Bureau for Manpower Services, 275 East Main Street, Frankfort, Kentucky, 40621, (502) 564–7062

SDVETS Willie H. Cooper, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1699, Jackson, Mississippi 39205, (601) 961–7588

SDVETS S. Marvin Burton, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 27625, Raleigh, North Carolina 27611, (919) 733–7402

SDVETS William C. Plowden, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1755, Columbia, South Carolina 29202, (803) 758–3239

SDVETS Clayton Lamberth, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 301 James Robertson Parkway, Room 317, Nashville, Tennessee 37201, (615) 741–2135

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

SDVETS Samuel L. Parks, Veterans' Employment and Training Service, U.S. Department of Labor, 910 South Michigan Ave., Rm. 445, Chicago, Illinois 60605, (312) 793–3440

SDVETS David Bruce Redmon, Veterans' Employment and Training Service, U.S. Department of Labor, 10 North Senate Ave., Rm. 330, Indianapolis, Indiana 46204, (317) 232–6804

SDVETS William F. Wickstrom, Veterans' Employment and Training Service, U.S. Department of Labor, 7310 Woodward Avenue, Suite 407, Detroit, Michigan 48202, (313) 876–5613

SDVETS Michael Graham, Veterans' Employment and Training Service, U.S. Department of Labor, 390 North Robert Street, Rm. 537, St. Paul, Minnesota 55101, (612) 296–3665

SDVETS Joseph Andry, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box

1618, Columbus, Ohio 43215, (614) 466–2768
SDVETS James R. Gutowski, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2539, Madison, Wisconsin 53701, (608) 266–3110

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

SDVETS Billy R. Threlkeld, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 128, Little Rock, Arkansas 72203, (501) 371–1559
SDVETS Robert Martin, Veterans' Employment and Training Service, U.S. Department of Labor, 701 Loyola Avenue, New Orleans, Louisiana 70113, (504) 589–2195
SDVETS Jacob Castillo, Veterans' Employment and Training Service, U.S. Department of Labor, 5301 Central N.E., Suite 1214, Albuquerque, New Mexico 87108, (505) 841–4592
SDVETS Donald A. Davis, Veterans' Employment and Training Service, U.S. Department of Labor, Will Rogers Memorial Office Bldg., Room 301, Oklahoma City, Oklahoma 73105, (405) 521–3758
SDVETS James H. Cornett, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1468, Austin, Texas 78767, (512) 397–4964

Region VII (Iowa, Kansas, Missouri, Nebraska)

SDVETS Howard J. Cloe, Veterans' Employment and Training Service, U.S. Department of Labor, 1000 East Grand Avenue, Des Moines, Iowa 50319, (515) 281–5106
SDVETS John A. Hill, Veterans' Employment and Training Service, U.S. Department of Labor, 401 Topeka Boulevard, Topeka, Kansas 66603, (913) 296–5032
SDVETS Jonas N. Matthews, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 59, Jefferson City, Missouri 65104, (314) 751–3215, Ext. 186
SDVETS Robert T. Manifold, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 94600, Lincoln, Nebraska 68509, (402) 471–5289

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

SDVETS E. William Belz II, Veterans' Employment and Training Service, U.S. Department of Labor, 251 East 12th Avenue, Room 364, Denver, Colorado 80203, (303) 837–3836
SDVETS Daniel P. Antonietti, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1728, Helena, Montana 59624, (406) 444–2062
SDVETS Willard M. Williamson, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1632, Bismarck, North Dakota 58501, (701) 224–2865
SDVETS Earl R. Scultz, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1730, Aberdeen, South Dakota 57401, (605) 225–0250, Ext. 289
SDVETS J. Dale Madsen, Veterans' Employment and Training Service, U.S. Department of Labor, 178 Social Hall Avenue, Salt Lake City, Utah 84111, (801) 524–5703
SDVETS Ernest E. Fender, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2760, Casper, Wyoming 82602, (307) 235–3281

Region IX (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington)

SDVETS Burton Finley, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3–7000, Juneau, Alaska 99802, (907) 465–2723
SDVETS Marco A. Valenzuela, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 6123–SC760E, Phoenix, Arizona 85005, (602) 261–4961
SDVETS Ronald Miller, Veterans' Employment and Training Service, U.S. Department of Labor, 800 Capitol Mall, Room W2054, Sacramento, California 95814, (916) 440–2426
SDVETS Raymond S. Sumikawa, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3680, Honolulu, Hawaii 96811, (808) 548–3834
SDVETS William A. Hulet, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2697, Boise, Idaho 83701, (208) 334–2634
SDVETS Claude U. Shipley, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3331, Reno, Nevada 89505, (702) 885–4632
SDVETS Rex A. Newell, Veterans' Employment and Training Service, U.S. Department of Labor, 304 Employment Division Bldg., 875 Union Street, N.E., Salem, Oregon 97311, (503) 378–3338
SDVETS Robert G. Hall, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 165, Olympia, Washington 98507

It is anticipated that grant awards will be made by October 1, 1985.

Consultation and technical assistance relative to the development of an application under the SGA is available upon request from the appropriate State Director for Veterans' Employment and Training.

Signed at Washington, D.C., this 6th day of March, 1985.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 85–5865 Filed 3–11–85; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administration

Revised Schedule of Remuneration for the UCA Program

Under section 8521(a)(2) of title 5 of the United States Code the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The Schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-Servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1985. The revised schedule was issued on February 7, 1985, in Unemployment Insurance Program Letter No. 8–85, and is effective with respect to UCX first claims filed on or after April 7, 1985.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 5 U.S.C. 8521(a)(2) and 20 CFR 614.12, applies to "First Claims" for UCX which are effective on and after April 7, 1985:

Pay grade	Monthly rate
(1) Commissioned Officers:	
O–10	$7,046
O–9	7,046
O–8	6,989
O–7	6,207
O–6	5,224
O–5	4,297
O–4	3,606
O–3	2,958
O–2	2,275
O–1	1,774
(2) Warrant Officers:	
W–4	3,306
W–3	2,747
W–2	2,316
W–1	1,943
(3) Enlisted Personnel:	
E–9	3,034
E–8	2,547
E–7	2,172
E–6	1,846
E–5	1,552
E–4	1,317
E–3	1,164
E–2	1,071

Pay grade	Monthly rate
E-1	938

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, D.C., on March 4, 1985.

Frank C. Casillas,

Assistant Secretary for Employment and Training.

[FR Doc. 85-5886 Filed 3-11-85; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Arizona State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator-OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 29, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona plan and the adoption of Subpart CC to Part 1952 containing the decision.

The Arizona plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 provides that where "* * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State Program, a program change supplement to a State plan shall be required." In response to Federal Standards changes, the State has submitted its changes by letter, with attachments, dated September 6, 1984, from Larry Etchechury, Director to Russell B. Swanson, Regional Administrator, and incorporated as part of the plan. The state standards reflect Federal standard changes to 29 CFR Part 1910, Revocation of Advisory and Repetitive Standards (February 10, 1984, 49 FR 5318); 29 CFR 1910.177 Servicing of Single Piece and Multi-Piece Rim Wheels (February 3, 1984, 49 FR 4338); 29 CFR 1910.411 Commercial Diving Operations (January 6, 1984, 49 FR 881); and 29 CFR 1919.1200 Hazard Communications (November 25, 1983, 48 FR 53280). These standards are contained in the Arizona Occupational Safety and Health Standards, which were adopted after public hearings and the resolution adopted by the Industrial Commission of Arizona, Division of Occupational Safety and Health Act of 1972.

2. *Decision.* Having reviewed the state submission in comparison with Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and accordingly should be approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and Director, Division of Occupational Safety and Health, 1624 W. Adams, Phoenix AZ 85007; and Directorate of Federal/State Operations, Room N-3476, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Arizona plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons:

The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

The decision is effective March 12, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (U.S.C. 667))

Signed at San Francisco, California this 5th Day of November, 1984

Russell B. Swanson,

Regional Administrator.

[FR Doc. 85-5887 Filed 3-11-85; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-17]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Task Force on the Commercial Use of Space.

DATE AND TIME: April 3, 1985, 2 p.m. to 5 p.m. and April 4, 1985, 8:30 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Johnson Space Center, Room 945, Building 1, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Task Force on the Commercial Use of Space was established under the NASA Advisory Council to counsel NASA on the development of the appropriate policies, programs, and research priorities to foster the commercial use of space and on the conduct of those programs. The Task Force, chaired by Thomas A. Vanderslice, has a total of 9 members.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 25 persons, including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Agenda

April 3, 1985

2 p.m.—Processing of Experiments.
5 p.m.—Adjourn.

April 4, 1985

8:30 a.m.—Processing of Experiments.
10:30 a.m.—Status Reports and Work Planning.
5 p.m.—Adjourn.

Dated: March 6, 1985.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division Office of Management.

[FR Doc. 85-5738 Filed 3-11-85; 8:45 am]

BILLIND CODE 7510-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Safety Recommendations and Responses; Availability of

Responses From

Railroad—*Seaboard System Railroad: Feb. 6: R–84–20:* Has no alloy rail in sections less than 122 lbs. If an emergency requires that 122 lb. or greater rail must be torch cut, a ten mph slow order is placed on the affected track section. Until gangs can be equipped to make saw cuts, (projected date, October, 1985), gangs will be allowed to torch cut rail ends provided the weld is made within thirty minutes of the torch cut.

Illinois Central Gulf: Jan. 28: R–83–93, –94, –95: In 1983, the main line rail in Fort Knox and six main line turnouts were relaid with continuously welded rail. In 1984, continuously welded rail was installed from Milepost J–33.36 to J–37, and on curves at Milepost J–104 and J–117. Maintenance levels of Louisville District track have been upgraded to meet fully the Federal Railroad Administration's Track Safety Standards for Class 3 track.

Florida East Coast Railway Company: Jan. 24: R–83–60 and –61: Semiannual Safety and Operating Rules Classes are held with operating employees. Safety films are shown and written exams are administered. Employees who fail to attend a class must attend a make-up class, and should they fail to attend the make-up class, they are held out of service pending their rewriting the complete operating rules examination.

Kansas City Southern Railway Company: Jan. 28: R–84–20: Current rules allow rails to be torch-cut; however, they must be re-cut with a rail saw or the burned metal ground off. Intend to revise this rule to read, "Rails for use in tracks must be cut with a rail saw. Rails that have burrs or swelling, caused by cutting, shall be ground or filed off, so they will not affect the fit of joint bars."

Association of American Railroads: Feb. 1: R–84–11 and –12: Is awaiting instructions from the Chief Operating Officers of the AAR member roads relating to the inspecting, maintaining and handling maintenance of way cars being operated in revenue freight trains. *Feb. 4: R–83–7 and –9:* Does not believe the study of rail fatigue defects should be expedited; this could deprive researchers of the opportunity to find additional information. Transportation inspectors audited the documentation of 71,524 trailers and containers at 159 railroad loading ramps. Performance was rated by internal supervisors as "good to excellent".

Pipeline—*Columbia Gas: Jan. 25: P–84–46 through –48:* Removed 1,200 feet of the 12-inch steel distribution pipeline installed in 1954 in York, Pennsylvania. Causes of previously repaired leaks in the vicinity of West King and South Beaver Streets, York, Pennsylvania were determined to have been due to corrosion of the steel pipe and loss of packing compression in the cast iron piping joints. The primary source of previous leakage was determined to be on a 75-foot by 4-inch bare steel bypass line, which was permanently removed from service. Metallurgical examination is employed to assist in determining the cause of pipeline failures.

American Gas Association: Feb. 4: P–84–42: Migration characteristics of gas during high pressure leaks should be emphasized during training of appropriate personnel.

Aviation—*Federal Aviation Administration: Jan. 29: A–84–17:* Revised Eastern Air Lines' Lockheed L–1011 Flight Manual to provide flightcrew procedures consistent with those in the flight attendants' manual regarding the cockpit crew informing flight attendants of the nature of the emergency and the approximate time available for cabin preparation. Additionally, the revision provides for a prearranged, standardized signal to flight attendants and/or passengers to advise them of when to assume the brace position. *Jan. 29: A–84–103:* Issued an Air Carrier Operations Bulletin recommending that FAA Principal Operations Inspectors take corrective action concerned with accidents and incidents resulting from serious errors made by flightcrews who have not properly assured that fuel on board the aircraft is adequate for completing flight safely. *Feb. 7: A–83–27:* Effective July 19, 1984, a Standard Instrument Approach Procedure was published to provide vertical guidance by a standard glidescope transmitter with an angle of 3.10 degrees and a 720-foot minimum descent altitude. The final approach course to Runway 18 at Washington National Airport was realigned to 155 degrees magnetic to prevent the possibility of an airplane striking one of several buildings located at 1000 Wilson Boulevard in Rosslyn, Virginia. *A–83–28:* A visual descent point was incorporated into the VOR/DME runway 18 approach 2.2 DME miles from the COR facility. *Feb. 11: A–82–88 and –89:* As a part of a Notice of Proposed Rulemaking under preparation, are considering a requirement for airport operators to arrange for water rescue operations with the appropriate agency having jurisdictional responsibility. NPRM should be issued in early 1985. *Feb. 11: A–84–111:* Will move ahead with refinements and continuation of the Hazardous Inflight Weather Advisory Service Program at Air Traffic Control Centers. *A–84–112:* The establishment of a HIWAS advisory service for en route facilities could significantly increase the cost of the HIWAS program; more consideration will be given this recommendation. *A–84–113:* The use of a Remote Communication Outlet or Automatic Terminal Information Service could escalate the cost of the program. More consideration of the feasibility of this program is required.

A–84–114: Broadcast procedures presently allow pilots to receive Hazardous Inflight Weather Advisory Service (HIWAS) prior to transitioning into other sectors of ARTCC airspace, but not though verbal communication. A requirement that Air Traffic Controllers advise flightcrews when safety information is being made through HIWAS would have a negative effect on the HIWAS program. *A–84–115:* Consider their present means of disseminating aviation weather information and changes to Air Traffic Control operations sufficient.

The Secretary of Defense: Feb. 4: A–84–134: Current Air Force policy calls for FDRs on all newly acquired aircraft unless specifically waived. 89th Military Airlift Wing aircraft will be retrofitted with flight data recorders.

Highway—*State of New York: Feb. 8: H–84–5 through –7:* The suggestion to place a second fire extinguisher near the rear emergency exit of all school buses has been temporarily rejected, since negative comments indicate this alternative could lead to vandalism, creating an additional hazard, and could interfere with the basic philosophy in school transportation that teaches students to abandon the bus immediately if a fire is detected.

Department of Transportation: Feb. 8: H–80–16: Has initiated a research study entitled "Correlation Between a Driver's Driving Record While Operating a Commercial Vehicle in an On-Duty Status"; completion date is targeted for April 1986. Will consider revisions to the Federal Motor Carrier Safety Regulations based on this study. *Feb. 7: H–72–60 through –62:* Conducted braking performance tests in 1974 and 1983–84. Issued a report entitled "Brake Performance Levels of Trucks," documenting analysis and comparison of these tests.

State of Alaska: Jan. 23: H–84–77 through –86: Alaska Department of

Public Safety is developing procedures for establishing sobriety checkpoints. A study was requested to determine locations in Anchorage for checkpoints and to determine if the drinking driver felt an increased risk as a result of new laws promising harsher sentencing. Anchorage's special patrols, or the mandatory and administrative license suspension actions.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transprotation Safety Board, Washington, D.C., 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Catherine T. Kaputa,

Alternative Federal Register Liaison Officer.

March 7, 1985.

[FR Doc. 85-5893 Filed 3-11-85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-424 and 50-425]

Georgia Power Co. et al.; Issuance of Amendments to Construction Permits

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Construction Permit No. CPPR-108 and Amendment No. 5 to Construction Permit No. CPPR-109. The amendments modify construction permits to reflect issuance, by the Commission, of an Exemption dated February 5, 1985. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to the action, see (1) the application for amendments dated January 11, 1985, (2) Amendments No. 5 to Construction Permit Nos. CPPR-108 and CPPR-109, (3) the Commission's related Safety Evaluation, (4) the Exemption dated February 5, 1985, and (5) the Notice of Environmental Assessment and Finding of No Significant Impact dated January 25, 1985. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Burke County Public library, Fourth Street, Waynesboro, Georgia 30830. In addition, a copy of items (2), (3), and (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 6th day of March 1985.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 85-5880 Filed 3-11-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382]

Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering granting of relief from a portion of the requirements of 10 CFR Part 50, Appendix E to Louisiana Power and Light Company (the licensee) for the Waterford Steam Electric Station, Unit 3, located at the licensee's site in St. Charles Parish, Louisiana approximately 24 miles west of the City of New Orleans.

Environmental Assessment

Identification of Proposed Action: The exemption from Section IV.F of Appendix E to 10 CFR Part 50 would allow the licensee to proceed above 5% of rated power without conducting another offsite emergency preparedness exercise before February 8, 1985. Section IV.F of Appendix E requires that an offsite exercise be conducted within one year before issuance of the rated power. The first and most recent full participation emergency preparedness exercise for Waterford 3 will be ready for full power operation by mid-March 1985.

Need for Proposed Action: The proposed exemption is required because Section IV.F of Appendix E would require that an offsite emergency preparedness exercise be conducted within one year prior to exceeding 5% power. In its letter dated January 25, 1985 the licensee provided justification for permitting operation beyond 5% power without conducting another offsite emergency preparedness exercise until the next scheduled exercise is held in September 1985. The NRC staff has reviewed the licensee's technical justification and agrees that an exemption from Appendix E is appropriate.

Environmental Impact of Proposed Action: The proposed exemption would not affect the environmental impact of the facility because the level of emergency preparedness is not being degraded. The February 8, 1984 exercise demonstrated that offsite emergency preparedness at Waterford 3 is adequate. The state of offsite emergency preparedness is not expected to decrease because the State of Louisiana participates in exercises with two other nuclear plants during the year and Waterford 3 holds communications drills with State and local agencies monthly. The probability of an accident will not be increased and the post-accident radiological releases will not be greater than previously determined due to the proposed exemption, nor does the proposed exemption otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise the proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with this proposed exemption.

Alternative to the Proposed Action: The staff has concluded that there is not measurable environmental impact associated with the proposed exemption. Thus, any alternative to the relief will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. Such action would not reduce environmental impacts of Waterford 3 operations and would result in an unwarranted burden to the licensee and the State and local governments.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Waterford Steam Electric Station, Unit 3," dated September 1981.

Agencies and Persons Consulted: The NRC staff has contacted FEMA and, after review of the licensee's technical justification, both agencies are in agreement that it is appropriate to grant the requested exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a

significant effect on the quality of the human environment. Acccordingly, the Commission has determined not to prepare an environmental impact statement for the proposed relief.

For further details with respect to the actions, see the licensee's request for the exemption dated January 25, 1985 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana.

Dated at Bethesda, Maryland, this 5th day of March 1985.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Assistance Director for Licensing, Division of Licensing.

[FR Doc. 85-5883 Filed 3-11-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296; License Nos. DPR-33, DPR-52 and DPR-68; EA 84-106]

Tennessee Valley Authority (Browns Ferry Nuclear Plant); Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (licensee) is holder of Operating License Nos. DPR-33, DPR-52 and DPR-68 issued by the Nuclear Regulatory Commission (Commission) which authorized the licensee to operate the Browns Ferry Nuclear Plant in accordance with the conditions specified therein. The licenses were issued on June 6, 1973, June 28, 1973 and July 2, 1976, respectively.

II

A routine safeguards inspection of the licensee's activities was conducted on August 20-24, 1984. As a result of this inspection, it appeared that the licensee had not conducted its activities in full compliance with the conditions of its licenses. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated December 5, 1984. The Notice stated the nature of the violation, requirements of the Commission that the licensee had violated, and the amount of the civil penalty proposed for the violation in the Notice. A response to the Notice of Violation and Proposed Imposition of Civil Penalty dated December 27, 1984 was received from the licensee.

III

Upon consideration of the licensee's response and the statements of fact, explanation, and arguments for mitigation contained therein, the Director, Office of Inspection and Enforcement has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty ($50,000) proposed for the violation in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing, and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 92-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay the civil penalty in the amount of Fifty Thousand Dollars ($50,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; and if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland this 6th day of March 1985.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 85-5882 Filed 3-11-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-17020, License No. 31-00636-07, EA 84-98]

Veterans Administration Medical Center, Bronx, New York; Order Modifying License

I

Veterans Administration Medical Center, Bronx, New York (the "licensee"), is the holder of specific byproduct Material License No. 31-00636-07 issued by the Nuclear Regulatory Commission (the "NRC") pursuant to 10 CFR Part 30.

II

On August 9-10, 1984, an NRC safety inspection of the licensee's program was conducted to review the circumstances associated with a radiation exposure of a licensee employee to iodine-125 in excess of the regulatory limit. The exposure was reported to NRC Region I by the licensee's Radiation Safety Officer on August 8, 1984.

The exposure involved a researcher at the Medical Center having a thyroid burden of 524 microcuries of iodine-125, which was identified by the Medical Center during a routine thyroid bioassay on August 3, 1984. The exposure that the individual received was the equivalent of 554 times the maximum permissible airborne concentration for a calendar quarter, resulting in an exposure to the individual's thyroid of approximately 2000 rads. The most likely cause of the uptake is through oral ingestion of the material.

Neither the licensee nor the NRC inspectors were able to conclusively determine how the researcher received the thyroid uptake. The research indicated that he had not been administered any iodine-125 for purposes of medical diagnosis or therapy. Although the individual routinely worked with millicurie quantities of iodine-125, the individual denied having mouth pipetted or using poor handling techniques, other than failing to wear a glove on his right hand while handling a stock vial containing seven millicuries of iodine-125 on July 28, 1984.

The seven millicuries of iodine-125, contained in 0.1 milliliters of solution, are no longer in the vial and cannnot be accounted for by other uses. Although

contamination as high as 3,000,000 disintegrations per minute per 100 square centimeters were found in a few areas of the individual's residence, the amount of iodine-125 in the individual's thyroid (524 microcuries) and the limited and relatively low amounts of surface contamination found in most areas of the laboratory and in his personal residence indicate that skin absorption is not likely to be the route of uptake. Much higher levels of external radioactive contamination on his person and on objects handled by him would be expected if this were the mode of entry. However, the only other credible mode of entry is by swallowing and, as noted above, the individual denied mouth pipetting.

Although no specific programmatic weaknesses in the licensee's program were identified during the inspection, the magnitude and seriousness of this exposure warrant additional actions to verify adherence by users of license material to NRC procedural requirements.

III

In view of the foregoing, and pursuant to Sections 81, 161(b), 161(o), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 30, it is hereby ordered that:

(A) Within 30 days of the effective date of this Order, the licensee shall (1) retain the services of an independent third party organization to perform unannounced audits of the licensed activities during each of the four calendar quarters in 1985, to verify that users of licensed material are adhering to NRC and procedural requirements of the licensee's radiation protection program, and (2) submit to the Regional Administrator, NRC Region I, a description of the organization retained, including the name(s) and resume(s) of the individual(s) who will perform the audits. This submittal shall also include statements from the individual(s) indicating that they presently are not and previously have not been employed by the licensee.

(B) Within 30 days of the date of completion of each of the four audits, the independent third party shall provide a report of the audit findings and recommendations for corrective action, as appropriate, to the licensee's Hospital Administrator. A copy of each report, and any drafts provided to the licensee, shall be sent to the Regional Administrator, NRC Region I at the same time they are provided to the licensee.

(C) Within 30 days of the date of issuance of each report of the four audits by the independent organization, the licensee shall submit its own report to the NRC Regional Administrator describing the actions taken to correct identified deficiencies and implement each recommendation made by the independent organization during each of the four audits, or provide justification if any specific recommendation is not adopted.

The Regional Administrator, NRC Region I, may relax or terminate any of the preceding conditions for good cause.

IV

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

This Order shall become effective upon consent or, upon expiration of the time during which the licensee may demand a hearing or, in the event that the licensee demands a hearing, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 5th day of March 1985.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 85-5881 Filed 3-11-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-31 and DPR-41, issued to Florida Power and Light Company (the Licensee), for operation of the Turkey Point Plant Unit Nos. 3 and 4 located in Dade County, Florida.

The amendments would revise the Technical Specifications to provide consistency in identification of the surveillance specimen capsules in the technical specifications and the actual surveillance capsules. The surveillance specimen examination schedule is also modified to provide better information in accordance with the current regulations. The proposed changes would combine the existing Reactor Materials Surveillance Program into a single integrated program which conforms to the requirements of 10 CFR Part 50, Appendices G and H. These amendments were requested in the licensee's application dated February 8, 1985 and March 6, 1985.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92(c), this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a signficant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples not likely to involve a signficant hazards consideration is example (i), a purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature.

A portion of the proposed changes meet example (i) in that the current Technical Specifications do not contain nomenclature consistent with that used regarding the Turkey Point surveillance specimens. The existing Technical Specifications identify the surveillance specimen capsules by number while the actual capsules are alphatetically marked. The proposed changes to the

capsule references will correct this inconsistency.

The proposed changes relating to the surveillance specimen schedule affect only the materials surveillance program and do not involve any change to the facilities, their components, or their operation. The requirements of 10 CFR Part 50, Appendices G and H, include criteria for integrated surveillance programs in Appendix H, paragraph II.C. The Safety Evaluation provided by the licensee in support of the proposed change to the surveillance specimen schedule on Table 4.2–1, Page 4.20–1 and the revised Bases addresses each of the criteria identified in Appendix H, paragraph II.C. The Pressurized Thermal Shock issue has resulted in the licensee performing more extensive evaulations of reactor vessel material properties and core reconfigurations resulting in reduction of flux, to the beltline region. The reduction in flux, in combination with increased understanding of vessel materials, has resulted in the licensee's re-evaluation of the existing programs. In addition, the modified schedule of the integrated program will result in less personnel exposure to radiation. The proposed change to the program brings the specimen examination schedule to a position which yields better information and lower radiation exposure to personnel in accordance with the current regulations. Therefore, since the modified schedule of the integrated surveillance program involves no changes to the facilities, their components or operational limits, or the accidents evaluated, and is in accordance with the criteria in Appendix H, paragraph II.C., the proposed amendments meet the three criteria specified in 10 CFR 50.92(c) for amendments which do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By April 11, 1985, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involve no significant hazards consideration, the commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union operator at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Branch Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition

should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. reis, Esquire, Newman and Holtzinger, P.C., 1650 L Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i) through (v) and 2.714(d).

For further details with respect to this action, see the application for the amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 8th day of March 1985.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 85-6012 Filed 3-11-85; 11:59 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Services Policy Advisory Committee and the Intergovernmental Policy Advisory Committee; Notice of Meetings and Determination of Closing of Meetings

The meetings of the Services Policy Advisory Committee and the Intergovernmental Policy Advisory Committee (the Advisory Committees) to be held respectively, Wednesday, February 20 and 27, 1985, from 2:00 p.m. to 5:00 p.m. in Washington, D.C., will involve a review and discussion of current trade issues relating to state and local governments of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 85-5795 Filed 3-11-85; 8:45 am]

BILLING CODE 3190-01-M

[U.S. International Trade Commission Investigation No. 337-TA-184]

Request for Public Comments; Certain Foam Earplugs

On March 4, 1985, the United States International Trade Commission referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, and in the sale, of certain foam earplugs that infringe the claims of a U.S. patent. The Commission found that the importations in question have the tendency to injure substantially an efficiently and economically operated United States industry. The Commission directed the U.S. Customs Service to exclude infringing foam earplugs from entry into the United States.

Under section 337(g), the President, for policy reasons, may disapprove the Commission's determination within sixty days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The determination and related orders become final automatically following the sixty-day review period, if the President has not disapproved. The President also may approve the determination, making it, and any order issued under its authority, final on the date the Commission receives notice.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this case. Parties commenting on domestic policy issues should refer to the portion of the Commission's record in which that issue is discussed. Parties should provide a rationale if the domestic policy issue was not raised before the Commission.

Comments of more than 15 letter-sized pages, including attachments, will not be accepted. Twenty copies of the submission must be provided. Comments must be delivered by the close of business, Friday, March 29, 1985, to the Secretary, Trade Policy Staff Committee, 600 17th Street, N.W., Washington, D.C. 20506. For further information, call Alice Zalik (202) 395-3432.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85-5888 Filed 3-11-85; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14400; File No. 812-5992]

Elder's Finance & Investment Co. Limited; Application and Opportunity for Hearing

March 5, 1985.

Notice is hereby given that Elder's Finance & Investment Co. Limited ("Applicant"), c/o David O. Brownwood, Cravath, Swaine & Moore, One Chase Mahattan Plaza, New York, New York 10005, filed an application on November 26, 1984, and an amendment thereto on December 19, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

According to the application, Applicant is organized under the laws of South Australia, Australia, and has a total consolidated equity of A$30 million (Australian Dollars) at June 30, 1984, which has been increased since that date by A$10 million. Applicant states that all of its outstanding capital stock is beneficially owned by Elder's IXL Limited ("Elder's IXL"), an Australian international mercantile concern with four operating groups (pastoral international trading, brewing and finance). Applicant states that Elder's IXL is one of Australia's leading companies with total assets of over A$2.4 billion as of June 30, 1984, and that Applicant is one of the largest Australian owned merchant banks and operates primarily in Australia and the Asia Pacific region. Applicant further states that it deals and makes a market in foreign currencies, trades money market securities, makes commercial loans and arranges currency and interest rate swaps, trade in futures and commodities for the account of its customers, package leases, provides corporate services and investment banking advice to customers,

underwrites offerings of securities and deals generally in securities. In addition, Applicant has acquired a 40 per cent interest in an Australian stockbroking firm. A proposed finance holding company ("Finance Holding Company"), all the capital of which will be held by Elder's IXL and which will be composed of Applicant and other finance subsidiaries of Elder's IXL, plans to apply for an Australian banking license which would entitle it to conduct a full range of retail banking activities.

Applicant claims that certain important aspects of its business are subject to regulation by Australian regulatory authorities. The application states that Applicant has been granted a general authority by the Reserve Bank of Austrialia under Australian Banking (Foreign Exchange) Regulations to buy and sell foreign currency. Applicant and its subsidiaries also are said to have licenses granted by the relevant Australian State Corporate Affairs Commission to deal in securities and, in addition, hold additional licenses related to their securities businesses. Furthermore, in the course of doing business under the foregoing authority and licenses it is asserted that the Applicant and its subsidiaries are subject to regulation by the relevant requirements imposed by such authorities.

Applicant and Elder's IXL propose to issue commercial paper ("Commercial Paper") in the United States and other debt securities in the Euromarket. Applicant states that a wholly-owned subsidiary of Elder's IXL, Elder's Capital Corporation Limited ("Agent"), will sign the Commercial Paper and other debt securities as agent for Applicant and Elder's IXL. Applicant states that the terms of such funding are outlined in a Facility Agreement among Applicant, Elder's IXL, the Agent and other parties and that the proposed size of the transaction contemplated by the Facility Agreement is $500 million, up to $200 million of which may be utilized by Applicant through the issuance of commercial paper. Elder's IXL will utilize the balance. Applicant further states that it will be directly liable as principal for all Commercial Paper signed by the Agent on Applicant's behalf and that the Agent will have no liability to pay the Commercial Paper. Applicant represents that the proceeds of the sale of Commercial Paper are expected to be used in the ordinary course of conducting Applicant's and its subsidiaries' businesses.

Applicant states that both Elder's IXL's and Applicant's Commercial Paper will be issued under the Facility Agreement, a depositary agreement and an issuing and paying agency agreement among the Applicant, Elder's IXL, the Agent, the Letter of Credit Banks (as defined below), a major commercial bank, acting as issuing agent and paying agent, and a major commercial bank, acting as depositary thereunder ("Depositary"), and will be supported by a "direct pay" irrevocable letter of credit ("Letter of Credit") issued by one of two banks ("Letter of Credit Banks") to the Depositary for the benefit of the holders of Commercial Paper. Applicant states that the Letter of Credit Banks will be The Chase Manhattan Bank (National Association) and The Bank of Tokyo, Ltd., acting through its New York Agency, and in the event of any change will be either major United States banks or United States branches or agencies of major foreign banks.

According to the application, the Depositary will make drawings under the applicable Letter of Credit to obtain funds to pay both Elder's IXL's and Applicant's Commercial Paper as it matures. Applicant represents that each Letter of Credit Bank will in turn be reimbursed by a group of participating banks ("Participating Banks") for any drawings under its Letter of Credit, and they will be reimbursed by Elder's IXL or Applicant, as the case may be, for their payments to the Letter of Credit Bank. Applicant further represents that, until certain conditions specified in the Facility Agreement are met, Elder's IXL will guarantee to each Letter of Credit Bank and each Participating Bank payment by Applicant of its obligations to such Letter of Credit Bank or such Participating Bank. After the Finance Holding Company is established, the Finance Holding Company and certain of its subsidiaries will provide similar guarantees in substitution for the Elder's IXL guarantee.

Applicant undertakes, in connection with the issuance and sale of its Commercial Paper, to appoint a corporate entity which acts in such capacity to accept service of process in any action commenced in any State or Federal court in the United States of America by any holder of Applicant's Commercial Paper based on such Commercial Paper. Applicant expressly accepts the jurisdiction of any State or Federal court in the Borough of Manhattan and the City and State of New York in respect of any such action. Applicant represents that such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Commercial Paper shall have been paid. Applicant states that it will also be subject to suit in any other jurisdiction because of the manner of the offering of the Commercial Paper or otherwise.

In connection with any public offering of the Commercial Paper, Applicant undertakes to ensure that the Commercial Paper will not be offered for sale to the general public, but instead will be sold through one or more commercial paper dealers to institutional investors and other sophisticated entities and investors of the type which ordinarily purchase commercial paper notes. Applicant represents that the offering for sale of the Commercial Paper will not be advertised to the general public. Applicant undertakes to ensure that each dealer in the Commercial Paper will, at or prior to any sale to an oferee of the Commercial Paper, provide to the offeree a memordum describing the respective businesses of Applicant and the applicable Letter of Credit Bank and including financial information regarding Applicant and the applicable Letter of Credit Bank. The memorandum will include a description of any material differences between the accounting principles applied in the preparation of the financial statements of the applicable Letter of Credit Bank and generally accepted accounting principles applicable to similar companies in the United States. Applicant represents that such memorandum will be at least as comprehensive as those customarily used in offering commercial paper notes in the United States and will be updated from time to time to reflect material changes in the respective business and financial status of Applicant and the applicable Letter of Credit Bank. Applicant consents to having any order granting the relief requested under section 6(c) of the Act expressly conditioned upon its compliance with the undertakings regarding disclosure memoranda.

Applicant asserts that it is uncertain as to whether it would be deemed to be an investment company because of the nature of its merchant banking business and the assets generated in the ordinary course of conducting that business. Its foreign exchange and money market trading and market-making activities are said to be similar to those conducted by many United States investment and commercial banks. Those activities may come within the exemption provided by section 3(c)(2) of the Act, but there is some uncertainty on that point. Even if section 3(c)(2) were applicable to that portion of the business, however, there

may be a further question as to the availability of the exemption because of the substantial portion of Applicant's gross income from commercial lending and, to a lesser extent, from other investment banking activities.

Applicant asserts that the issuance of an order pursuant to section 6(c) of the Act would be consistent with the policy of the Act and the protection of investors. The Commercial Paper will be supported by a "direct pay", irrevocable Letter of Credit issued by one of the Letter of Credit Banks for the benefit of the holders of the Commercial Paper and those holders would be entitled to timely and complete payment at maturity under the Letters of Credit. Applicant states that investors in the Commercial Paper would rely on the credit strength of the Letter of Credit Banks rather than on that of Applicant.

Applicant further consents to having any order subject to the following conditions: (a) That the Applicant not sell any equity securities other than to Elder's IXL or the Finance Holding Company or sell any debt securities other than (i) commercial paper of the same general type as the Commercial Paper described in the application which (A) is not advertised for sale to the general public, (B) is sold in the commercial paper market only to institutional investors or other entities which normally purchase commercial paper in large denominations, (C) has maturities not exceeding 270 days, (D) is issued in denominations of not less than $100,000 (United States Dollars) unless the purchaser of such commercial paper is a natural person, in which case the minimum denomination shall be $500,000, (E) is rated by a national United States rating agency in one of the two highest rating grades for commercial paper, (F) has the benefit of letters of credit furnished by the Letter of Credit Banks or other major United States banks or United States branches or agencies of major foreign banks whose short-term credit is rated, or whose bank holding company's short-term credit is rated (if such bank's short-term credit is not rated), by a national rating agency in one of the two highest short-term debt rating grades, (ii) debt securities offered and sold, in transactions not involving any public offering, to institutions located in the United States of America and elsewhere which are not "underwriters" of the securities within the meaning of the Securities Act of 1933, and (iii) debt securities which are not issued in the United States of America or issued or sold to United States of America nationals or residents (except to foreign branches of United States banks which take for their own account and without a view to distribution), and (b) that any such commercial paper or other debt securities will be either (A) sold outside the United States of America pursuant to agreements and procedures reasonably designed to prevent such debt securities from coming into the hands of a United States of America national or resident (except for foreign branches of United States banks which take for their own account and without a view of distribution) or (B) exempt from the provisions of the Securities Act of 1933 by virtue of section 3(a)(2), section 3(a)(3) or section 4(2) thereof, unless the Applicant shall have first given written notice to the Commission describing the proposed issuance of such additional debt securities (including notice of proposed filing of a registration statement under the Securities Act of 1933, pursuant to Commission Rule 415 or otherwise) not less than 60 days prior to the date of such proposed issuance, subject, however, to the right of the Commission upon request of the Applicant, to decrease such number of days. The Applicant further agrees that if the Commission shall, after receipt by the Commission of such written notice, determine that a substantial question exists as to whether or not the exemption granted by the order hereby requested should continue and the Commission shall, within 30 days after receipt by the Commission of such written notice from the Applicant, mail or otherwise give notice to that effect to the Applicant, the Applicant will not issue such additional debt securities unless, after receipt by the Applicant of such notice from the Commission and not less than 30 days prior to the issuance of such additional debt securities, the Applicant shall mail or otherwise give written notice to the Commission stating its intention to issue such additional debt securities, and upon the giving of such notice by the Applicant the order hereby requested shall be deemed to have terminated as of the date the Applicant shall have mailed or otherwise given such notice to the Commission.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 28, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5809 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21746; File No. SR-MSRB-85-4]

Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board

March 5, 1985.

The Municipal Securities Rulemaking Board ("MSRB") on February 5, 1985, submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder. This rule change is intended to indicate clearly that good delivery of a municipal security for which a notice of call applicable to the entire issue of securities has been published on or prior to the trade date has not been effected unless the security was identified as called at the time of trade.

At present, MSRB rules G-12 and G-15 provide that a delivery of a municipal security that has been called under an "in part" call published on or before the delivery date does not constitute good delivery if the certificate was not identified as called at the time of trade. The MSRB is of the view that a seller should not be allowed to deliver "called" securities in satisfaction of a contract if the bond's called status is not specified at the time of the trade. MSRB rules G-12 and G-15 at present provide that delivery of a municipal security subject to an "in whole" call notice (applicable to the entire issue) published on or prior to the delivery date is a good delivery. The MSRB believes that the risk of ownership passes to the purchaser at the time of trade, and thus the risk of an "in whole" call announced after the trade date but prior to delivery should be borne by the purchaser. the proposed rule change is designed to make clear, however, that where an "in whole" call for an issue of municipal securities has taken place on or before the trade date, the security must be

identified as "called" at the time of the trade for their to be good delivery. A similar clarification is made in the parallel reclamation provisions of rule G–12(g).

The proposed rules were adopted pursuant to section 15B(b)(2)(c) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting written comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments should refer to File No. SR–MSRB–85–4.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

John Wheeler,

Secretary.

[FR Doc. 85–5808 Filed 3–11–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23622; 70–7080]

General Public Utilities Corp., et al.; Supplemental Notice Amending Terms of Issuance and Pledge of First Mortgage Bonds

March 5, 1985.

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its electric utility subsidiaries, Jersey Central Power & Light Company ("JCP&L"), Madison Avenue at Punchbowl Road, Morristown, New Jersey 07960, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenburg Township, Berks County, Pennsylvania 19605, and Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, (collectively the "GPU Companies"), have filed an amendment to their declaration subject to sections 6(a), and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(2) thereunder.

On March 1, 1985 (HCAR No. 23618) this Commission issued a notice of the proposed issuance, sale and renewal by JCP&L, Met-Ed, and Penelec of their short-term promissory notes ("New Notes") from time to time through March 31, 1987 pursuant to a revolving credit agreement ("Agreement"). Met-Ed also proposed to secure its obligations under the Agreement by, among other things, security interests in $40 million of its first mortgage bonds, due March 31, 1987 with an interest rate of 1% above the rate applicable to the New Notes.

It is now proposed that the first mortgage bonds bear an interest rate of 1½% above Citibank's Alternate Base Rate rather than 1% above the rate applicable to the New Notes.

The amended declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested person wishing to comment or request a hearing should submit their views in writing by March 26, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–5857 Filed 3–11–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23624; 31–791]

MGTC, Inc.; Application for Order Pursuant to Section 2(a)(4)

March 6, 1985.

MGTC, Inc. ("MGTC"), 10880 Wilshire Boulevard, Los Angeles, California 90024, a Wyoming corporation and a wholly-owned subsidiary of MCO Holdings, Inc. ("MCO"), has filed with this Commission an application for an order declaring that it is not a "gas utility company" under section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act").

MCO is a diversified corporation that, in addition to MGTC, owns a number of subsidiaries, all of which are involved in non-utility businesses. Among MCO's other subsidiaries are MIGC, Inc. ("MIGC"), an interstate natural gas pipeline located in Wyoming, and MGPC, Inc. ("MGPC"), a natural gas gatherer and processor which is, also, located in Wyoming.

MGTC owns and operates an intrastate natural gas pipeline located within Wyoming. MGTC's primary function is to transport and sell natural gas at wholesale for resale. MGTC's wholesale sales are made to another intrastate pipeline and to a distribution company that provides retail gas service to a number of communities in Wyoming. In 1983, MGTC had the following natural gas sales:

	Mcf	Amount	Number of customers
Wholesale	3,827,943	$16,648,351	2
Industrial	280,074	1,365,586	26
Rural	32,155	160,172	93
Total	4,140,172	18,174,109	121

Rural customers in 1983 accounted for approximately 0.78 percent of Mcf sales and 0.88 percent in sales revenue. The rural customers are near either MGTC's pipeline, the interstate pipeline owned by MGTC's affiliate, MIGC, or the gas gathering lines owned by MGTC's gathering and processing affiliate, MGPC. Each of these rural customers has requested permission to "tap" the line lying nearest to it. In those cases in which MIGC or MGPC lines are tapped, the gas consumed by the rural customer is sold by MIGC or MGPC to MGTC at the point of the tap. The gas is immediately resold by MGTC to the rural customer. It is the rural customer's responsibility to install facilities for transporting the gas from the tap to the point at which the customer intends to use the gas. The cost of the tap and other delivery facilities is borne by the customer, with the exception that MGTC bears the cost of meters. The gas consumed by the rural customers is used, largely, for heating buildings involved in ranching.

MGTC asserts that it is and has been primarily engaged in businesses other than that of a "gas utility company" and that by reason of the small amount of its non-industrial retail sales, regulation under the Act is not necessary in the public interest or for the protection of investors or consumers.

The application, and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 1, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and/or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5801 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14402; File No. 812-6040]

National Housing Partnership Realty Fund Two; Application and Opportunity for Hearing

March 5, 1985.

Notice is hereby given that National Housing Partnership Realty Fund Two (the "Partnership"), a Maryland limited partnership, its general partner, The National Housing Partnership ("NHP"), and National Corporation for Housing Partnerships ("NCHP"), the sole general partner of NHP (collectively, "Applicants"), 1133 Fifteenth Street, NW., Washington, D.C. 20005, filed an application on February 1, 1985, and an amendment thereto on March 5, 1985, pursuant to section 3(b)(2) of the Investment Company Act of 1940 (the "Act") for an order declaring that the Partnership is not an investment company or, in the alternative, pursuant to section 6(c) of the Act for an order exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the application provisions thereof.

Applicants state that the Partnership was formed under the Maryland Revised Uniform Limited Partnership Act as of January 30, 1985, as a vehicle for equity investment in multifamily rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants state that the Partnership will operate as a "two-tier" entity; that is, the Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships"), which in turn will own and operate multifamily rental housing properties.

Applicants state that on January 31, 1985, the Partnership filed a registration statement under the Securities Act of 1933, pursuant to which the Partnership intends to offer publicly up to 18,300 limited partnership interests ("Interests") at $1,000 per Interest. It is asserted that Dean Witter Reynolds Inc. ("Dean Witter") will act as Dealer Manager for the offering of Interests. Applicants represent that the Partnership will have between a minimum of $1,500,000 and a maximum of $18,300,000 available for investment from the proceeds of this offering. It is asserted that from the amount available for investment, the Partnership will pay certain acquisition expenses and fees to NHP and NCHP.

Applicants state that subscriptions for Interests must be approved by NHP and Dean Witter, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. The application states that each subscriber will represent, among other things, that (1) he has taxable income for federal income tax purposes (without regard to the investment) for the current year (and which is expected to continue) of at least $47,670 (for married individuals filing joint federal income tax returns and surviving spouses) or $35,490 (for unmarried individuals other than surviving spouses and heads of households, and (2) he has either (a) a net worth (exclusive of homes, furnishings and automobiles) of at least $60,000 and estimates that he will have an annual gross income of at least $50,000, or (b) a net worth (as computed above) of at least $150,000 or is purchasing in a fiduciary capacity for a person or entity having the net worth and annual gross income as set forth in clause (a) of such net worth as set forth in clause (b).

The application states that all compensation to be paid to NHP and its affiliates is believed to be within applicable guidelines necessary to permit Interests to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. with respect to real programs ("NASAA Guidelines"). It is asserted that the NASAA Guidelines have been designed to assure fair dealing by general partners with limited partners.

In support of their request, Applicants assert that such relief is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act. Applicants asserts that investment in multifamily rental housing is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. In addition, Applicants maintain that application of the Act would discourage two-tiered limited partnership arrangements and thus eliminate the best available means of attracting private equity capital into multifamily rental housing and frustrate national policy.

The application states that the contemplated arrangement of the Partnership is not susceptible to abuses of the sort that the Act was designed to remedy. Applicants represent that the Partnership Agreement and Prospectus contain numerous provisions designed to insure fair dealing by NHP with the limited partners. Applicants state that the suitability standards, requirements for fair dealing provided by the Partnership's governing instruments and pertinent governmental regulations imposed on the Partnership and each Local Limited Partnership by various federal, state and local agencies provide protection to investors in the Interests comparable to and in some respect greater than that provided by the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5860 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23623; 70-7064]

New England Energy, Inc., et al.; Proposal To Amend Revolving Credit and Term Loan Agreement

March 5, 1985

New England Electric System ("NEES"), a registered holding company, and its oil and gas exploration and development subsidiary New England Energy, Inc. ("NEEI"), both at 25 Research Drive, Westborough, Massachusetts 01581, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated August 24, 1981 (HCAR No. 22175), NEEI was authorized to enter into a revolving credit and term loan agreement with Bank of Montreal and Citibank ("Credit Agreement") which provides for borrowings by NEEI up to a total outstanding of $400 million through two tranches, Tranche A and Tranche B.

NEEI now proposed to amend the Credit Agreement to, among other things, extend the revolving credit period during which these funds are available through December 31, 1989 and to extend the term loan period to December 31, 1994; increase the total amount available from $400 million to $500 million; add an additional, as yet undetermined, bank; and, amend its terms to provide financing for the modified program contemplated by a proposed amendment to NEEI's pricing policy with new England Power Company ("NEP"), the system's electric generating subsidiary, ("Pricing Policy Amendment") currently pending in File No. 70-6958. (Notice issued June 27, 1984, HCAR No. 23346).

The total limit on borrowings under Tranche A would be increased from $300 million to $400 million, subject to the overall facility limit of $500 million. The availability under Tranche A would also be limited to 500% of the availability (based upon the value of mortgaged properties) under Tranche B. The security for Tranche A borrowings would continue to be an assignment of a Fuel Purchase Contract with NEP and a Capital Funds Agreement and Loan Agreement with NEES. Applicants-declarants proposed to enter into amendments to these agreements so that they will remain in effect throughout the term of the amended Credit Agreement.

Interest rate options for Tranche A borrowings during both the revolving credit and term loan period would be substantially the same as under the current Credit Agreement (see HCAR No. 22175) with the addition of a rate option based upon the average cost to the banks of certificates of deposit ("CD Rate"). NEEI would have the option to borrow at a rate ½% over the CD Rate during the revolving credit period and ⅞% over the CD Rate during the term loan period.

The total limit on borrowings under Tranche B would continue to be $400 million (subject to the overall facility limit of $500 million). Subject to that limit, NEEI would be able to borrow during the revolving credit period based upon the value of selected oil and gas properties which are mortgaged to the banks from time to time. At the termination of the revolving credit period on December 31, 1989, the Tranche B borrowings would convert to a five-year term loan to be repaid from the production from the mortgage properties.

Interest rate options for Tranche B borrowings during both the revolving credit and term loan periods would be substantially the same as those currently available under the Credit Agreement, with the addition of the option to borrow at a rate of ⅞% over the CD Rate during the revolving credit period, and 1% over the CD Rate during the first 33 months of the term loan period and 1⅛% over the CD Rate during the remaining 27 months of the terms loan period.

Unless and until the Commission approves the proposed Pricing Policy Amendment, all of NEEI's oil and gas expenditures will continue to be financed through the amended Tranche's A and B. When and if the Pricing Policy Amendment is approved, new credit support will be required for borrowings related to prospects not subject to (and the finacing of which is no longer secured by) the Fuel Purchase Contract. Applicants-declarants therefore propose the addition to the Credit Agreement of two Tranches, C and D, to be activated only upon approval by the Commission of the Pricing Policy Amendment in some form. Tranche C and D borrowings would be used for exploration and development and other costs on prospects not subject to the Fuel Purchase Contract. (Under the proposed Pricing Policy Amendment, this would initially be prospects recorded by NEEI on or after January 1, 1984, and, upon complete termination of the Fuel Purchase Contract, would become all prospects.)

Tranche C would provide up to $400 million (subject to the overall $500 million facility limit) under a revolving credit facility through December 31, 1989. In the same manner as under Tranche A, NEEI would be able to borrow up to (and would pay a commitment fee on) a commitment level selected semi-annually during the revolving credit period. At the expiration of the revolving credit period, NEEI's borrowings under Tranche C would convert to a five-year term loan with repayment in equal quarterly installments. NEEI would have the same interest rate options as will be available for Tranche A borrowings during the revolving credit period, and ⅛% lower than the Tranche A rates during the term loan period.

The security for Tranche C borrowings would be a proposed Capital Maintainence Agreement ("CMA") among NEES, NEEI and the Banks. Under the terms of the CMA, NEES would be required to make capital contributions or non-interest bearing subordinated loans to NEEI equal to any net loss from oil and gas operations which NEEI may incur during each calendar quarter. In addition, NEES would guarantee any scheduled repayments of Tranche C borrowings.

NEES' obligations to make payments under the CMA would be limited to the amount of Tranche C borrowings plus accrued and unpaid interest. In addition, NEES would have the option to (a) make (subject to future Commission approval) capital contributions or subordinated loans outside of the CMA in lieu of payments required by the CMA (which payments would be made directly to NEEI and would not need to be used to repay Tranche C principal) or (b) make capital contributions or loans to NEEI under the CMA at any time.

Tranche D would be a production loan secured by a mortgage with a revolving credit period through December 31, 1989. Subject to a $400 million limit (and the overall $500 million facility limit), NEEI would select a commitment level in an amount not to exceed the value of selected oil and gas properties not subject to the Fuel Purchase Contract which are mortgaged to the banks from time to time. At the termination of the revolving credit period, NEEI's borrowings under Tranche D would convert to a five-year term loan repayable from the production from the mortgaged properties. The other terms of Tranche D, including rate options, would be identical to Tranche B.

If and when the Pricing Policy Amendment goes into effect, Tranches C and D would be activated. Borrowings would immediately be made under Tranche C to repay borrowings under Tranches A and B related to prospects which are then no longer subject to the Fuel Purchase Contract. Prior to complete termination of the Fuel Purchase Contract pursuant to the Pricing Policy Amendment, the proceeds of borrowings under Tranches C and D would be used exclusively for exploration, development and other costs related to prospects not subject to the Fuel Purchase Contract. Tranches A and B would continue in effect, with their proceeds used only for costs related to prospects still under the Fuel Purchase Contract. When the Fuel Purchase Contract terminates completely, all remaining Tranche A borrowings would be immediately repaid with Tranche C borrowings. The Tranche A would then no longer be available. Tranches B and D would continue in existence. Following such termination, the availablity under Tranche C would be limited to 500% of the total availability (based upon the value of mortgaged properties) under the Tranches B and D.

The amended Credit Agreement may also provide for the banks to issue letters of credit ("LOC") to back NEEI borrowings from other sources. The face amount of any LOC would be designated as part of the commitment under one of the tranches. Any drawings on the LOC would be treated as borrowings under that tranche and would be secured in the same way. NEEI proposes to use this LOC facility when the overall cost of money is lower than for borrowings of similar maturity under the Credit Agreement.

The amendment will also include (1) restrictions on NEES's ability to participate in new oil and gas prospects with Samedan or any other partner prior to the effectiveness of the Pricing Policy Amendment, and (2) changes to permit the banks to sell participations in individual borrowings to third parties.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 28, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5858 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC 14403; File No. 812-5633]

Temporary Investment Fund, Inc., et al.; Application for Exemptive Order Permitting Separate Classes of Shares Representing Interests in the Same Portfolio

March 6, 1985.

Notice is hereby given that Temporary Investment Fund, Inc., Municipal Fund for Temporary Investment, Trust for Short-Term Federal Securities, Municipal Fund for California Investors, Inc., and Portfolios for Diversified Investment, Inc. (collectively, the "Applicants"), all at Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware, 19810, filed an application on August 17, 1983, and an amendment thereto on January 28, 1985, requesting an order of the Commission pursuant to section 6(c) of the Act exempting Applicants from the provisions of sections 18(f)(1), 18(g) and 18(i) of the Act to the extent necessary to permit Applicants' proposed issuance and sale of separate classes of securities representing interests in their existing and future investment portfolios (and the allocation of voting rights thereto and the payment of dividends thereon) in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of their relevant provisions.

The applications states that each of the Applicants is registered under the Act as an open-end, diversified management investment company, and has a currently effective registration statement under the Securities Act of 1933. At present, four of the Applicants each offer a single class of shares representing interests in a single investment portfolio; the other three Applicants are "series" investment companies each offering two or more classes of shares representing interests in a number of investment portfolios. (Applicants' existing and future investment portfolios are sometimes referred to hereinafter as "Portfolios", and the existing classes of shares representing interests in Applicants' existing Portfolios, together with each initial class of shares that is created by Applicants in connection with any future Portfolios, are sometimes referred to hereinafter as "Existing Shares".)

The application states that Applicants' shares are sold solely to or through institutions, such as banks, insurance companies, investment counselors and brokers. Although individuals may not purchase shares directly from Applicants, institutions may purchase shares for accounts maintained by individuals, and the application states that historically most of Applicants; institutional investors have been banks acting in a fiduciary, advisory, agency, custodial or other similar capacity on behalf of their customer accounts. According to the application, all expenses of each Portfolio are currently borne pro-rata by the shareholders of the Portfolio. Portfolio expenses consist of advisory, administration, custodial and transfer agency fees, as well as the other types of operating expenses set forth in Applicants' financial statements. With respect to some Portfolios, operating expenses include payments to certain institutional shareholders of Applicants pursuant to non-12b-1 Shareholder Service Plans (as described below) for support services provided to their customers who are the beneficial owners of Shares in those Portfolios. None of the Applicants has adopted a distribution plan pursuant to Rule 12b-1 under the Act ("12b-1 Plan"), and none currently pays its distributor for distribution services.

The application states that as a result of increased competition for the short-term investments of institutional investors, Applicants believe that it is imperative that they be able to offer services which area adopted, to the extent possible, to the investment needs of the particular investor. In order to broaden their range of services, and also to expand their marketing alternatives, Applicants are contemplating the creation of new classes of shares ("New Shares") with the following characteristics. Like the Existing Shares, the New Shares would be offered only to or through institutions and could not be purchased by individuals directly from Applicants. Further, except for its

class designation and allocation of certain expenses and voting rights as described below, each class of New Shares would be identical in all respects to one of the classes of Existing Shares. Among other things, the "matched" sets of New Shares and Existing Shares would be subject to the same investment objective, policies and limitations, the same dividend policies and the same purchase and redemption policies. They would differ, however, in that certain classes of Shares would be offered in connection with (1) a 12b–1 Plan adopted by the Applicant involved pursuant to Rule 12b–1 under the Act; or (2) a non-12b–1 Shareholder Services Plan adopted by the Applicant involved pursuant to all the requirements of Rule 12b–1 except those relating to shareholder voting rights and automatic termination of the plan upon its assignment; or (3) no plan at all. (Those 12b–1 Plans and non-12b–1 Shareholder Services Plans are sometimes referred to hereinafter as "Plans.") The application states that the adoption and implementation of a Plan by one Applicant would be made independently of, and would not be conditioned upon, the adoption or implementation of a Plan by any other Applicant. In addition, each Plan would relate only to the shares of a particular Applicant.

As described in the application, under each type of Plan, an Applicant would enter into Servicing Agreements with institutions concerning the provision of support services to the customers of the institutions who from time to time beneficially own shares which are offered in connection with the Plan ("Customers"). In addition, Servicing Agreements under a 12b–1 Plan would contemplate the provision of distribution assistance by an institution in connection with the Plan. Applicants state that the provision of support services and distribution assistance under the Plans would augment (and not duplicate) the services that are currently provided to Applicants by their service contractors (e.g. investment adviser, administrator, distributor, custodian and transfer agent).

According to the application, under each type of Plan an Applicant would pay participating institutions for their rendering of support services and/or distribution assistance in accordance with the terms of the Plan and the relevant Servicing Agreement (such payments are referred to hereinafter as "Service Payments"). Service Payments paid to an institution would not exceed 0.75% (on an annualized basis) under a 12b–1 Servicing Agreement, or 0.50% (on an annualized basis) under a non-12b–1 Shareholder Servicing Agreement, of the average daily net asset value of those Shares beneficially owned by customers of the institution with respect to which the institution provides services and assistance under the Servicing Agreement. Further, because a Servicing Agreement necessarily contemplates the provision of services and assistance by an institution to its customers, the Applicants would not knowingly enter into a Servicing Agreement with an institution in those situations where the institution invests as principal. Applicants note that under state law and under recent letters of the Comptroller of the Currency, the ability of a bank to accept a fee from an investment company in connection with the investment of the assets of its fiduciary accounts may be restricted, and represent that to the extent that such investments are permitted they will include in their prospectuses relevant disclosure about the Comptroller's letters.

Applicants state that their governing boards of directors believe that by creating and offering shares in connection with Plans as described above, and by also offering shares independently of Plans, Applicants may be able to achieve added flexibility in meeting the service and investment needs of shareholders and future investors. Applicant's boards believe further that if shares are created and Plans adopted as described, it would be appropriate for the expense of the Service Payments made by an Applicant with respect to a class of shares to be borne exclusively by that class, but anticipate that it would be inefficient, and in some instances economically or operationally unfeasible, to organize a separate investment Portfolio for each class of New Shares created. It is asserted that not only would Applicants incur unnecessary accounting and bookkeeping costs in organizing and operating such new Portfolios, but Applicants' management of the new Portfolios, as well as their existing Portfolios, might be hampered. As an example of such difficulties, the application states that unless the new Portfolios grew at a sufficient rate and to a sufficient size, the Portfolios could face liquidity and diversification problems that would prevent them from producing a favorable yield, and that the risk that the new Portfolios would ultimately fail because of duplicative costs and management problems would not be insignificant in light of today's extremely competitive environment where investors may choose from a broad array of investment alternatives and expect to get services suited to their needs without sacrificing safety or yield.

According to the application, in order to obviate these preceived risks, Applicants contemplate that the New Shares would represent interests in the same Portfolios as the Existing Shares. Under this arrangement, each New and Existing Share in a particular Portfolio, regardless of class, would represent an equal pro-rata interest in the Portfolio and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (1) Each class of New Shares and Existing Shares would have different class designations; (2) each class of shares offered in connection with a Plan would bear the expense of the Service Payments that were made under the Servicing Agreements that have been entered into with respect to that class; and (3) only the holders of the shares of the class or classes involved would be entitled to vote on matters pertaining to the Plan, and the Servicing Agreements, relating to such class or classes (for example, the adoption, amendment or termination of a Plan).

In particular, the application states that the net asset value of all outstanding shares representing interests in the same Portfolio would be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to the Portfolio and dividing the result by the number of that Portfolio's outstanding shares. Further, the gross income of the Portfolio would be allocated on a pro rata basis to each outstanding share in the Portfolio regardless of class, and all expenses incurred by the Portfolio (for example, fees of the adviser, administrator, directors, trustees, transfer agent, custodian, auditors and legal counsel, officers' salaries, registration and printing expenses, taxes, interest, brokerage fees and commissions, insurance premiums and extraordinary expenses) would be borne on a pro rata basis by such outstanding shares, except for Service Payments made under a Plan that has been adopted in connection with a class of shares. On the other hand, because of the Service Payments that would be borne by a class of shares that is offered in connection with a Plan, the net income of (and dividends payable to) that class would be somewhat lower than the net income of the "matched" class of shares that is offered without a Plan, and might be somewhat higher or lower than the net income of other classes of shares of the

same Portfolio that are offered in connection with different Plans. Dividends paid to each class of shares in a Portfolio would, however, be declared and paid on the same days and at the same times, and, except as noted with respect to the expense of Service Payments, would be determined in the same manner and paid in the same amounts.

Applicants request an exemptive order pursuant to section 6(c) of the Act to the extent that the proposed issuance and sale of classes of New Shares representing interests in Applicants' existing and future Portfolios, including dividends thereon as described above, might be deemed: (1) To result in a "senior Security" within the meaning of section 18(g) of the Act and to be prohibited by section 18(f)(1) of the Act; and (2) to violate the requirement in section 18(i) of the Act that every share of stock issued by a registered management investment company shall have equal voting rights with every other outstanding voting stock.

In support of the relief requested, Applicants assert that the issuance and sale of classes of New Shares in their Portfolios will better enable them to meet the competitive demands of today's financial services industry by facilitating the distribution of their securities and permitting them to expand the scope and depth of their services without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

Applicants assert further that the proposed allocation of expenses and voting rights relating to the Plans in the manner described is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a Plan and receiving the services provided thereunder would bear the costs associated with such services, but would also enjoy exclusive shareholder voting rights with respect to matters affecting that Plan. Conversely, investors purchasing shares that are not covered by a Plan would not bear those expenses or exercise those voting rights.

In addition, Applicants submit that the requested exemption is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants assert that the proposed arrangement does not involve borrowings and does not affect Applicants' existing assets or reserves. Nor, it is asserted, will the proposed arrangement increase the speculative character of the shares in a Portfolio, since all shares will participate pro rata in all of the Portfolio's income and all of the Portfolio's expenses (with the exception of the proposed Service Payments).

Applicants state that although they contemplate that Service Payments may be made to institutional shareholders that may be deemed to be affiliated persons of Applicants because they own, control or hold with the power to vote 5% or more of the outstanding voting securities of a Portfolio, they are not requesting exemptive relief from section 17 of the Act because they believe that such payments would not be prohibited by that section.

Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. The only difference between each class of Shares representing interests in the same Portfolio will relate solely to priorities with respect to: (a) The payment of dividends and such priority will reflect only the impact of the Service Payments made by Applicants under the Plans relating to particular classes of Shares, and (b) voting rights on matters which pertain to Plans (and Servicing Agreements and Service Payments thereunder). In addition, the designation of each Class of Shares in a Portfolio would be different, and the Shares in the TempFund Portfolio of Temporary Investment Fund, Inc. would also differ as to dividend record dates as permitted by an exemptive order previously granted by the Commission with respect to TempFund's Existing Shares and as described in the application with respect to its New Shares. (See Investment Company Act Release No. 10713, May 30, 1979.) Temporary Investment Fund, Inc. has agreed, with respect to each class of New Shares created by it in the TempFund Portfolio, to be bound by the condition to that exemptive order that TempFund shall not reduce the amount of any dividend declared to its shareholders in order to maintain its net asset value per share at $1.00.

2. The Plans (including both 12b–1 Plans and non-12b–1 Shareholder Services Plans), Servicing Agreements and Service Payments relating to Shares will be approved and reviewed by the relevent Applicant's governing board of directors in accordance with the procedures set forth in Rule 12b–1 and, in addition, the 12b–1 Plans (and, to the extent required, the Servicing Agreements and Service Payments thereunder) relating to shares will be approved by those shareholders who are affected in accordance with that Rule. In addition, each governing board, in approving and reviewing payments to an institution pursuant to any 12b–1 Plan or non-12b–1 Shareholder Services Plan, will conclude in good faith based on information available to them that such expenditures are competitive with those offered in the industry.

3. Dividends paid by an Applicant with respect to each class of shares in a Portfolio will be calculated in the same manner and will be in the same amount as dividends paid by the Applicant with respect to each other class of shares in the same Portfolio, except that the expenses of any Service Payments made by the Applicant under the Servicing Agreements relating to a class of shares will be borne exclusively by that class.

4. Each Prospectus relating to a class of shares that is offered in connection with a Plan will: (a) Describe the services rendered by institutions under Servicing Agreements with respect to those shares and the fees payable by the Applicant involved for such services; and (b) state that the beneficial owners of those shares should read the prospectus in light of the terms governing their institutional accounts.

5. Each Servicing Agreement entered into by an Applicant will contain representations by the institution involved that: (a) The institution will provide to its customers a schedule of any fees charged by it to the customers relating to the investment of their assets in the class of shares subject to the Servicing Agreement; and (b) the compensation paid to the institution under the Servicing Agreement, together with any other compensation the institution receives from its customers for services contemplated by the Servicing Agreement, will not be excessive or unreasonable under the laws and instruments governing the institution's relationships with its customers.

6. Applicants acknowledge that the grant of the requested exemptive order does not imply Commission approval, authorization or acquiescence in any particular level of payments that Applicants may make to institutions pursuant to Plans in reliance on the exemptive order.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 1, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the

case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5859 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23620; 70-7077]

The Southern Co. and Georgia Power Co.; Proposal To Issue and Sell Short-Term Notes, Term-Loan Notes and Commercial Paper; Exception From Competitive Bidding

March 5, 1985.

The Southern Company ("Southern"), a registered holding company, 64 Perimeter Center East, Atlanta, Georgia 30346, and its public utility subsidiary, Georgia Power Company ("Georgia"), 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308, have filed an application-declaration subject to sections 6 (a) and (b), 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2) and 50(a)(5) thereunder.

Southern and Georgia propose to issue and sell from time to time, prior to April 1, 1986, short-term notes to banks and Georgia also proposes to issue and sell term-loan notes to banks and commercial paper to dealers up to an aggregate principal amount of $100 million for Southern and $1 billion for Georgia. Southern proposes to use the proceeds of its borrowings together with treasury funds and the proceeds from other external sources to make additional equity investments in the form of capital contributions to its subsidiaries, Alabama Power Company, Georgia, Gulf Power Company, and Mississippi Power Company, in amounts not to exceed $25, $410, $15 and $5 million, respectively, and for other corporate purposes.

Southern has obtained commitments aggregating $100 million from certain banks, each commitment currently matures December 31, 1985 and is subject to renewal in accordance with its terms. At Southern's option, borrowings will bear interest at an effective rate of (a) the lender's floating prime rate, (b) a margin over the London Interbank Offered Rate ("LIBOR") or (c) a margin over the bank's cost of either its federal or other funds. Assuming 50% usage of the commitment of each bank, a tenor of 90 days, a prevailing prime interest rate of 10.50% and a LIBOR of 8.375%, the effective cost of borrowing (including commitment fees) under these facilities would range from 11.00% to 10.75% under option (a), and 9.50% to 9.125% under option (b). Southern would borrow under option (b) unless option (c) is lower.

Pursuant to separate commitment agreements with 11 banks ("Bank") Georgia may borrow, through December 31, 1990, on a short-term unsecured revolving credit basis, up to an aggregate of $1.565 billion in principal amount at any one time outstanding. These borrowings have a maximum maturity of 270 days, are renewable at maturity and may be converted to term loans at any time at Georgia's option. Under the term-loan option, borrowings would be repaid in 12 equal quarterly installments beginning March 31, 1991 through December 31, 1993, or at an earlier date at Georgia's option.

Under each agreement, Georgia is obligated to pay a commitment fee based upon the unused portion of the Bank's commitment. The effective annual interest rates on individual borrowings will be either equal to or plus a specified number of basis points in excess of prescribed rates, as selected by Georgia. The rates available for selection by Georgia under the agreements are (a) the lender's floating prime or base rate ("Base Borrowing"), (b) the lender's certificate of deposit rate adjusted for Federal Reserve Board reserve requirements and the Federal Deposit Insurance Corporation ("FDIC") assessment imposed upon the lender ("CD Borrowing"), and (c) the LIBOR adjusted for Federal Reserve Board reserve requirements imposed upon the lender ("Eurodollar Borrowing").

Assuming a prevailing 10.75% per annum prime rate among the 11 Banks, the effective cost of the commitments for 1985 and 1986 assuming full usage would range from 10.75% to 11.063% for short-term borrowings, and 10.75% to 11.376% for term-loan borrowings. Assuming a prevailing 8% per annum certificate of deposit rate among the nine Banks providing the CD Borrowing option and 3% reserve requirements and the FDIC assessment, the effective cost of the commitments for 1985 and 1986 assuming full usage would range from 8.83% to 9.531% for both short-term and term-loan borrowings. Assuming a LIBOR of 8.40% per annum among the 11 Banks and 3% reserve requirements, the effective cost of the commitments for 1985 and 1986 assuming full usage would range from 9.035% to 9.698% for both short-term and term-loan borrowings.

Georgia also may effect short-term borrowings hereunder in connection with the financing of certain pollution control facilities through the issuance by Georgia Development Authorities ("Authority") of their revenue bond anticipation notes. Under a loan agreement with each such Authority, the Authority would loan to Georgia the proceeds of the sale of such revenue bond anticipation notes, having a maturity of not more than nine months after date of issue, and Georgia would issue its non-negotiable promissory note therefore. Georgia's note would provide for payments thereon corresponding to the revenue bond anticipation notes' payments.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 28, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5853 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21820; File No. SR-Amex-85-2]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Rule 576

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 25, 1985, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the

self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Amex is proposing to amend its schedule of approved member firm charges for handling proxy solicitations (Amex Rule 576), to permit the adding of a "surcharge" by member firms for start-up costs in complying with the new Commission Shareholder Identification Rule.

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), (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* Last August, the Commission agreed to delay for one year implementation of its new Shareholder Identification Rule (Rule 14b–1(c)), which had originally been scheduled to take effect on January 1, 1985. The rule requires broker-dealers upon request and assurance of reimbursement of reasonable expenses, to provide issuers with the names, addresses, and security positions of their non-objecting customers whose securities are held in "street name."

The Commission agreed to defer the rule until January 1, 1986, largely at the behest of the brokerage community, in order to resolve certain technical problems prior to implementation. Brokers need additional time to develop operational systems to enable them to accurately survey customers, record responses, and upon request furnish the data to issuers. In addition, while the Commission rule allows for compensation to brokers for the costs incurred in obtaining and furnishing the data to issuers, it was agreed that an existing New York Stock Exchange ("NYSE") Ad Hoc Committee composed of corporate, banking, and brokerage firm representatives would determine the method and amount of reimbursement.

After several months of deliberation, the NYSE Ad Hoc Committee in December 1984 recommended that broker start-up costs—essentially for soliciting consents from "street name" holders and establishing the basic data files—estimated at between $18 to $25 million—be recouped at least in part through a surcharge on issuers of $.20 for each set of proxy materials processed by member firms during 1985 and 1986.[1] The NYSE and Amex were asked to amend their schedules of approved member firm charges for handling proxy solicitations (NYSE Rule 451 and Amex Rule 576), to provide for this surcharge.

The NYSE Ad Hoc Committee's proposal has been endorsed by the Securities Industry Association and the American Society of Corporate Secretaries, and an amendment to the applicable NYSE rule was approved by the Board in January. The proposed Amex rule amendment was endorsed by the Amex's Listed Company Advisory Committee at its December 1984 meeting and after Amex Board approval at its February 1985 meeting, is now being presented to the SEC for approval.

(b) *Basis.* The proposed amendment to Rule 576 is consistent with section 6(b) of the Exchange Act in general and furthers the objectives of sections 6(b)(4) in particular, in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were soliciated or received with respect to the proposed rule change.

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 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by April 2, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 6, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–5856 Filed 3–11–85; 8:45 am]

BILLING CODE 8010–01–M

[1] The Ad Hoc Committee has not yet made any recommendation regarding broker reimbursement for on-going costs of complying with the Rule.

[Release No. 21818; File No. SR–MSTC– 85–3]

Self-Regulatory Organization; Proposed Rule Change of the Midwest Securities Trust Co.; Filing and Immediate Effectiveness

March 6, 1985.

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1985, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the rule change described below. The Commission is publishing this notice to solicit comments on the rule change.

The proposed rule change modifies MSTC's bearer system for securities

processing. In particular, the proposed rule change revises the MSTC Bearer System Manual to establish a bearer bond interface with the Depository Trust Company ("DTC"). This interface is similar to the existing R System interface between MSTC and DTC for registered municipal bonds. The proposed rule change also permits MSTC participants that want to deliver bearer securities to the bearer system in advance to submit Pended and Advanced Notice Requests. Deliveries accompanied by Pended and Advanced Notice Requests will pend until they are filled, up to a maximum of five days.

MSTC states in its filing that the proposed rule change is consistent with the Act in general and with section 17A in particular. Specifically, MSTC maintains that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and will not impose any burden on competition.

The rule change has become effective, pursuant to section 19(b (3) (A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after notice is published in the **Federal Register**. Notice of this proposed rule change is expected to be published during the week of March 11, 1985. Please refer to File No. SR–MSTC–85–3, and file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 5–th Street, N.W., Washington, D.C. 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available at the Commission's Public Reference Room and at the principal offices of the Depository Trust Company.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85–5855 Filed 3–11–85; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–21819; File No. SR–MSRB–85–6]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Suitability, Discretionary Accounts, Supervision, and Recommendations Made During Investment Seminars and to Customer Inquiries Made in Response to Advertisement Published by a Dealer

The Municipal Securities Rulemaking Board on March 1, 1985, filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing amendments which would reorganize rules G–19 on suitability, G–26 on discretionary accounts, and G–27 on supervision, and an interpretation concerning the application of rule G–19 to recommendations made during investment seminars and to customer inquiries made in response to advertisements published by a dealer (hereafter referred to as "the proposed rule change"), as follows: [1]

Rule G–19.

Suitability of Recommendations and Transactions; Discretionary Accounts

(a) Account Information. Each broker, dealer, and municipal securities dealer shall obtain at or before the completion of a transaction in municipal securities with or for the account of a customer a record of the information required by rule G–8(a)(xi).

(b) Knowledge of Customer. Each broker, dealer or municipal securities dealer at or before recommending the purchase, sale or exchange of a municipal security to a customer shall have knowledge or shall inquire about the customer's financial background, tax status, and investment objectives and any other similar information.

[(a) Customer Information] *(c) Suitability of Recommendations.* No broker, dealer, or municipal securities dealer shall recommend the purchase, sale, or exchange of a municipal security to a customer unless such broker, dealer, or municipal securities dealer, after reasonable inquiry,

(i) has reasonable grounds based upon information available from the issuer of the security or otherwise for recommending a purchase, sale or other transaction in the security; and

[(i)] *(ii)(A)* has reasonable grounds to believe and does believe that the recommendation is suitable for such customer [on the basis of information furnished by such customer] *in light of* the customer's financial background, tax status, and investment objectives and any other similar information concerning the customer known by such broker, dealer, or municipal securities dealer, or

[(ii)] *(B)* has no reasonable grounds to believe and does not believe that the recommendation is unsuitable for such customer if all of such information is not furnished or known.

Notwithstanding the foregoing, if a broker, dealer or municipal securities dealer determines that a transaction in municipal securities or in specific municipal securities would not be suitable for a customer and so informs such customer, [such] *the* broker, dealer, or municipal securities dealer may thereafter respond to the customer's requests for investment advice concerning municipal securities generally or such specific securities and may execute transactions at the direction of the customer.

[(c)] *(d)* Discretionary Accounts. No broker, dealer, or municipal securities dealer shall effect a transaction in municipal securities with or for a discretionary account

(i) except to the extent clearly permitted by the prior written authorization of the customer and accepted in writing by a municipal securities principal or municipal securities sales principal on behalf of the broker, dealer, or municipal securities dealer; and

(ii) unless the broker, dealer, or municipal securities dealer first determines that the transaction is suitable for the customer as set forth in paragraph (c)[(i)](ii) of this rule or unless the transaction is specifically authorized by the customer.

[(b)] *(e)* Churning. No broker, dealer, or municipal securities dealer shall recommend transactions in municipal securities to a customer, or effect such transactions or cause such transactions to be effected for a discretionary account, that are excessive in size or frequency in view of information known to such broker, dealer, or municipal

[1] Italics indicate new language; brackets indicate deletions.

securities dealer concerning the customer's financial background, tax status, and investment objectives.

Rule G–26 [Administration of Discretionary and Other Accounts]

[delete whole rule; reserve rule G–26 for future rulemaking]

Rule G–27. Supervision

(a)–(b) No change.

(c) Written Procedures. Each municipal securities broker and municipal securities dealer shall establish, maintain, and enforce written supervisory procedures adopted by the municipal securities broker or municipal securities dealer to assure compliance with the rules of the Board and applicable provisions of the Act and the rules and regulations thereunder. Such procedures shall provide, at minimum, for

(i)–(ii) No change.

(iii) *the prompt review and written approval of each transaction in municipal securities effected with or for a discretionary account (unless the transaction is specifically authorized by the customer) introduced or carried by the municipal securities broker or municipal securities dealer and* the regular and frequent examination by the designated municipal securities principal or the designated municipal securities sales principal of customer accounts introduced or carried by the municipal securities broker or municipal securities dealer, in which transactions in municipal securities are effected, in order to detect and prevent irregularities and abuses.

Application of Suitability Requirements to Investment Seminars and Customer Inquiries Made in Response to a Dealer's Advertisements

The Board recently has been asked about the application of rule G–19 on suitability to recommendations made during investment seminars or to recommendations made to customers responding to an advertisement published by a dealer. As discussed earlier, rule G–19 prohibits a municipal securities professional from recommending transactions in municipal securities to a customer unless the professional makes certain determinations with respect to the suitability of the transactions.

The Board believes that rule G–19 applies to recommendations made by a professional at an investment seminar as follows: A dealer recommending a transaction in a particular security during the course of an investment seminar must have reasonable grounds for the recommendation in light of information about the security available from the issuer or otherwise. This duty applies to recommendations made generally to all participants in the seminar as well as to recommendations made to individual customers. In addition, a professional who makes a recommendation to a particular customer—whether during the course of the seminar or in response to an inquiry about purchasing the securities from the customer resulting from the customer's attendance at the seminar—must have reasonable grounds to believe and must believe that the recommendation is suitable for the customer in light of the customer's financial background, tax status, investment objectives and other similar information about the customer relevant to making a determination on suitability. If, after an inquiry by the professional, this information is not provided by the customer or otherwise known by the professional, the professional may make the recommendation only if he has no reasonable grounds to believe and does not believe that the recommendation is unsuitable for the particular customer.

The Board also wishes to advise the industry that the requirements of rule G–19 apply to recommendations made to customers who contact a dealer in response to an advertisement for municipal securities in the same way as they apply to all other recommendations made to customers. As summarized above, if an individual contacts a dealer for additional information concerning municipal securities that were the subject of an advertisement, a professional is permitted to recommend a particular transaction to the individual only if he has reasonable grounds for recommending the security in light of information about the security available from the issuer or otherwise. Moreover, the professional may make the recommendation to the customer only if, after making a reasonable inquiry, he has reasonable grounds to believe and does believe that the recommendation is suitable for the customer on the basis of the financial and other information provided by the customer or obtained from other reliable sources.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) 1. *Rule G–19 on Suitability.* Rule G–19 prohibits a municipal securities professional from recommending transactions in municipal securities to a customer unless the professional makes certain determinations with respect to the suitability of the transactions. The rule also specifies standards for effecting transactions in municipal securities for a discretionary account (as defined in rule D–10) and prohibits "churning" of an account.

2. *Rule G–26 on administration of discretionary and other accounts.* Rule G–26(a) requires a dealer to obtain certain information for each customer, as specified by rule G–8(a)(xi), at or before completion (*i.e.*, settlement) of a transaction in municipal securities. Thus, a dealer is prohibited from transacting any business with a customer unless the customer provides it with the information (except for the tax identification number or social security number) specified in rule G–8(a)(xi).

Rule G–26 (b) and (c) require that a municipal seacurities principal obtain and accept written authorization from a customer for a discretionary account and that each transaction in a discretionary account be approved in writing by a principal. The rule also requires "regular and frequent" reviews of all customer accounts in which transactions in municipal securities are effected "in order to detect and prevent irregularities and abuses."

3. *Rule G–27 on supervision.* The requirement that a municipal securities principal review active customer accounts on a frequent basis is reiterated in rule G–27 which requires a municipal securities dealer to supervise the municipal securities activities of its associated persons and the conduct of its municipal securities business. Rule G–27 specifies, among other things, that a municipal securities principal must be designated in writing to supervise a dealer's municipal securities activities. In addition, the rule requires a dealer to "establish, maintain and enforce written supervisory procedures" adopted by the dealer which must include the prompt review and written approval by the designated municipal securities principal of certain specified municipal securities activities of the dealer.

The supervisory procedures also must provide for the regular and frequent examination by the designated municipal securities principal (or the designated municipal securities sales principal) of customer accounts introduced or carried by the municipal securities broker or municipal securities dealer, in which transactions in municipal securities are effected, in order to detect and prevent irregularities and abuses.

4. *Summary of Amendments.* The Board is incorporating subsections (a) and (b) of rule G–26 into rule G–19. As a result, rule G–19 will contain all of the suitability-related obligations applicable to brokers, dealers and municipal securities dealers. The Board also is revising the language of rule G–19, consistent with its previous interpretations, to require a municipal securities dealer to have reasonable grounds, based upon information available from the issuer of the security or otherwise, for recommending a purchase, sale, or other transaction in a security. This requirement is separate and apart from the current requirement that a dealer have reasonable grounds in light of financial and other information known about a customer for recommending a transaction in municipal securities to the customer.

With respect to supervision, the Board is incorporating the present provisions of rule G–26(c) into rule G–27 so that rule G–27 contains all of the supervision-related responsibilities applicable to municipal securities dealers. Rule G–26 is being withdrawn by the Board, and the rule will be reserved for future rulemaking.

The Board also is issuing an interpretation concerning the application of rules G–19 to investment seminars and inquires made in response to advertisements published by a dealer. The interpretation should dispel any confusion whether a dealer has a duty to consider the suitability of recommendations and transactions in those situations. (b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Act which establishes the Board's authority to adopt rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition.

The proposed rule change applies uniformly to all brokers, dealers, or municipal securities dealers that are engaged in municipal securities activities and is mainly technical in nature. The Board therefore believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others.

The Board has neither asked for or received any comments concerning the proposed rule change.

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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 2, 1985.

For the Commission by the Division of Market, Regulation, pursuant to delegated authority.

Dated: March 6, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–5854 Filed 3–11–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–13686]

Colorado-Ute Electric Association, Inc.; Application and Opportunity for Hearing

March 7, 1985.

Notice is hereby given that Colorado-Ute Electric Association, Inc. (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 the trusteeship of Central Bank of Denver, a banking corporation ("Central Bank") under two indentures of the Applicant described in the application 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 prevent Central Bank from acting as trustee under any such indentures.

The Applicant asserts:

The Company has issued and outstanding the following two debt securities secured by the following indentures, which are the subject of its application:

(1) $240,000,000 principal amount of Serial Facility Bonds Due 1990–2002 (the "Bonds") under a Collateral Trust Indenture dated as of December 1, 1984 (the "Indenture");

(2) Pollution Control Revenue Bonds Series 1978 (the "Series 1978 Bonds") in the aggregate principal amount of $59,000,000 under an Indenture of Trust dated as of May 1, 1978 (the "Pollution 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 (b)(1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture of a company shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of such company are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act seeks to exclude the dual trusteeship from the operation of section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application

is such that the indentures may be excluded from the operation of section 310(b)(1) of the Act if the Company shall have sustained the burden of proving, by application to the Commission and after opportunity for hearing thereon, that the trusteeship of Central Bank under the indentures is not 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 Central Bank from acting as trustee under such indentures.

The Applicant asserts that the collateral securing the Bonds and the Series 1978 Bonds is different. With respect to the Bonds, the collateral held by the trustee which directly secures them consists solely of the Refunding Lessor Notes (the "Notes"). The Applicant indicates that the Refunding Lessor Notes are secured under Lease Indentures (with a different trustee than the Notes) by a Lessor Lease with the Applicant. It should be noted that the Applicant asserts that the Refunding Lessor Notes were not issued by Applicant and would not entitle the trustee as the holder thereof to pursue remedies against the Applicant. The trustee, however, has the indirect benefit of the collateral securing the Refunding Lessor Notes, in that the trustee may utilize these Notes to foreclose upon Unit 3 (the "Facilities") which is owned by five trusts ("Owner Trusts"). The Facilities have been leased to the Applicant and the lease payments due the Owner Trust have been pledged to secure the Notes which in turn secures the Bonds.

With respect to the Series 1978 Bonds the collateral consists of substantially all of the property of the Applicant none of which is collateral for the Bonds. Accordingly, the Applicant indicates that the possibility of a material conflict does not appear likely since there is separate collateral securing the Bonds and the Series 1978 Bonds. Applicant asserts that Central Bank is able to proceed against Applicant solely on behalf of the Series 1978 Bonds.

The Applicant asserts that the indentures are not 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 Central Bank from acting as trustee under any one or more of the indentures. The Applicant has waived notice of hearing, hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application. For a more detailed statement of the matters of fact and law asserted, as well as additional arguments, all persons are referred to said application which is on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW, Judiciary Plaza, Washington, DC 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after March 27, 1985 unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than March 26, 1985, at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commission, his or her views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such comments or requests should be addressed to: Secretary, Securities and Commission, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5852 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-712]

Kidder, Peabody & Co. Incorporated; Application and Opportunity for Hearing

March 6, 1985.

Notice is hereby given that Kidder, Peabody & Co. Incorporated ("Applicant") filed an application pursuant to 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the provisions of section 12(g) of the 1934 Act.

The Applicant states, in part:

(1) In the absence of an exemption, applicant would be required to register its common stock under section 12(g) of the 1934 Act, and comply with the Act's periodic reporting provisions, the proxy rules and the insider reporting and trading requirements.

(2) Applicant believes that the exemptive order requested is appropriate in view of the fact that most of the holders of its common stock are senior employees of the Applicant who are actively engaged in its business. There is no market for the common stock.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than April 1, 1985 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request and issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-5849 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13649]

Household Finance Corp.; Application and Opportunity for Hearing

March 6, 1985.

Notice is hereby given that Household Finance Corporation (the "Company"), a Delaware Corporation, has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Commission that the proposed trusteeship of the First National Bank of Chicago ("FNBC"), as substitute trustee, under an indenture of the Company qualified under the Act is not so likely to involve a material conflict of interest with the existing trusteeship of FNBC under three other indentures qualified under the Act and entered into by the Company with FNBC, as indenture trustee, as to make it necessary in the public interest or for the protection of investors to disqualify FNBC from acting as substitute trustee under the additional 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 that section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other 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 such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

1. FNBC is the trustee under the following indentures qualified under the Act and entered into by the Company with FNBC, as indenture trustee:

(a) an Indenture dated as of November 1, 1964, as supplemented, under which the Company's 4¾% Debentures due 1989 are outstanding;

(b) an Indenture dated as of July 1, 1967, as supplemented, under which the Company's 6⅝% Debentures due 1988 are outstanding;

(c) an Indenture dated August 1, 1972, as supplemented, under which are outstanding the Company's

(1) 7½% Debentures, Series 1F, due August 1, 1995,

(2) 8.30% Debentures, Series 2F, due January 1, 1986,

(3) 9% Debentures, Series 3F, due July 1, 2000,

(4) 8.20% Debentures, Series 4F, due September 15, 2007, and

(5) 9% Debentures, Series 5F, due October 15, 1985.

Such Indentures are hereafter collectively referred to as the "FNBC Indentures".

2. The Northern Trust Company is presently the trustee under an Indenture dated April 1, 1974 (the "Northern Indenture"), qualified under the Act and entered into by the Company with The Northern Trust Company, as indenture trustee, under which are outstanding the Company's 8½% Debentures, Series 2N, due April 1, 2001.

3. The Northern Trust Company has advised the Company that it is resigning, effective January 21, 1985, as Trustee under the Northern Indenture. The Company proposes to have FNBC serve as substitute trustee under the Northern Indenture.

4. Acting as substitute trustee under the Northern Indenture will involve FNBC in a conflict of interest within the meaning of Section 310(b)(1) of the Act. However, the FNBC Indentures and the Northern Indenture are wholly unsecured and the securities issued and outstanding under the FNBC Indentures and the Northern Indenture are equal in rank. In the opinion of the Company, no differences exist between the provisions of the FNBC Indentures and the provisions of the Northern Indenture which are likely to involve a conflict of interest as defined in section 310(b)(1) of the Act as to make it necessary in the public interest or for the protection of investors that FNBC be disqualified from acting as substitute trustee under the Northern Indenture.

5. The Company is not in default in any respect under the FNBC Indentures or the Northern Indenture.

The Company waives notice of hearing, any right to a hearing on the issues raised by the application and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than April 8, 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: John Wheeler, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue and order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection 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. 85-5851 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14404; File No. 812-6015]

Application and Opportunity for Hearing; SMA Life Assurance Company, et al.

March 6, 1985.

Notice is hereby given that SMA Life Assurance Company (the "Company"), a stock life insurance company with its principal operational office in Worcester, Massachusetts, Separate Account VA-A of SMA Life Assurance Company, Separate Account VA-B of SMA Life Assurance Company, Separate Account VA-C of SMA Life Assurance Company, Separate Account VA-G of SMA Life Assurance Company, Separate Account VA-H of SMA Life Assurance Company (the latter five parties referred to as the "Accounts"), SMA Investment Trust, (the "Trust") and SMA Equities, Inc. (together referred to as "Applicants"), filed an application on December 31, 1984, and amendments thereto on February 19 and March 5, 1985, for an order of the Commission (1) pursuant to section 17(b) of the Act exempting Applicants from section 17(a) of the Act to the extent necessary to permit the sale of Trust shares in exchange for the assets of the Accounts, (2) pursuant to section 17(d) of the Act and rule 17d-1 thereunder to permit the Accounts to jointly engage in the same transaction, and (3) pursuant to section 6(c) of the Act exempting Applicants from sections 26(a)(2)(C) and 27(c) to the extent necessary to permit certain deductions from the assets of the Accounts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

Applicants state that the Company is a wholly-owned subsidiary of State Mutual Life Assurance Company of America, a mutual life insurance company incorporated under the laws of the Commonwealth of Massachusetts, and the Accounts are registered as diversified, open-end management investment companies under the Act and are also separate accounts of the Company. The accounts fund individual variable annuity policies.

Applicants propose to convert the Accounts from diversified management investment companies into unit investment trusts to achieve economies of scale by combining similar investment portfolios of both the existing Accounts and possibly other separate accounts to be created in the future. Applicants state that the assets

of Accounts with similar investment objectives and portfolios would be combined to lower average per unit transaction costs and increase the opportunity for investing funds in accordance with their stated objectives. Pursuant to separate agreements and plans of reorganization, and subject to prior approval by a majority vote of the policy-holders of each Account, the Boards of Managers of each Account will take all action necessary to convert each managed Account into a unit investment trust investing exclusively in the shares of one of three series of the Trust that corresponds to the principal investment objective of each Account. Investments in the series of the Trust (each series is referred to as a "Fund") would be as follows: Account A will invest in the Growth Fund; Accounts B and C will invest in the Income Appreciation Fund; Account G and H will invest in the Money Market Fund. Thereafter, each of the Accounts will, on a closing date to be determined independently, transfer all of its assets to the applicable series of the Trust in exchange for shares of the series.

Applicants request an exemption from section 17(a) pursuant to section 17(b) of the Act to effect the proposed plan of reorganization. Applicants state that the Accounts and the Trust may be affiliated persons of each other by reason of common control, and that the Company and the Accounts are affiliated persons of each other because, among other things, the Company has established and maintained the Accounts and may be deemed to control the Accounts. Applicants submit that the terms of the proposed transaction are reasonable and fair and do not involve overreaching by any party, and that the proposed transaction is consistent with the investment policies of each Account and the Trust and with the purposes of the Act.

Applicants submit that the proposed transaction is fair because it will provide policyholders with stability and the benefits of an expanding asset base, thereby facilitating investment management. Applicants submit that some of the Accounts are now losing assets through net redemptions, and that the proposed transaction is expected to result in economies of scale to Account policyholders and will preserve the size of the assets under management. Further, although the Trust will pay certain expenses previously borne by the Company, including part of the investment advisory fee, fees of disinterested trustees, audit fees, and custodian fees, this increase in cost to policyholders is offset by a waiver of annual contract charges aggregating 0.60% of the average annual net asset value of each Account, so that total direct and indirect charges borne by policyholders are not expected to increase, and under certain circumstances, may be reduced. Thus, the reorganization is expected to produce better asset management with the potential for reduced expenses through economies of scale at no cost to policyholders for these benefits. Moreover, Applicants represent that all expenses of the reorganization will be borne by the Company. Applicants state that the Boards of Managers of the Accounts have determined that the reorganization is in the best interests of the policyholders and have concluded that there would be no dilution of any policyholder's interest as a result of the reorganization.

Applicants further submit that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, since the investment objectives, policies, and restrictions of each of the Accounts are substantially identical to those of the applicable series of the Trust. Applicants represent that the proposed transaction is consistent with the general purposes of the Act in that it does not present a situation that is adverse to the public interest or the interest of investors and because policyholders will be presented with a proxy statement describing the reorganization. Applicants also request an order of the Commission pursuant to section 17(d) and rule 17d–1 thereunder since the Accounts may be considered affiliated persons of one another and the proposed reorganization may be viewed as a joint transaction. Further, a preliminary proxy statement submitted to the Commission for review indicated that the proposed plans of reorganization are contingent upon one another. Applicants submit that no Account will participate in the transaction on a basis different from or less advantageous than that of any other participant. Applicants indicated that the terms of the transaction will be effected on equal terms for each of the Accounts. Applicants state that the terms of the plans of reorganization provide for the acquisition by the Trust of the assets of the Accounts on the basis of the net asset values of each of the Accounts, and that the number of shares of a series of the Trust to be issued in return for the assets of a transferor Account will be valued as of the close of business on the valuation date.

Applicants also request an exemption from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit payment of certain charges to the Company from the asets of the Accounts. Applicants submit that after the reorganization, the Company will make deductions for a mortality risk charge, an expense risk charge, and a charge for New York contingency reserve from the assets of the Accounts. These charges will be 0.90% of average net assets annually, which includes 0.60% for mortality risk, 0.20% for expense risk, and 0.10% for New York contingency reserve, although Applicants request to reserve the right to raise the charges to a total of 1.275%. Applicants submit that the morality and expense risk charge is a reasonable and proper insurance charge that compensates the Company for the risk that annuitants under the policies will live longer as a group than had been anticipated in setting the annuity rates guaranteed in the policies, and for the risk that the maximum charges permitted under the policies will prove insufficient to cover the administrative costs incurred in regard to the policies.

Applicants acknowledge that the sales charges assessed under the policies may be insufficient to cover the expenses of distributing the policies, and that any shortfall would be made up through the use of general account funds which may be attributed in part to profits, if any, derived from the asset charge. Applicants acknowledge that this distribution financing arrangement might be deemed to involve the direct or indirect use of Account assets for distribution. Applicants represent that the proposed level of the total charge for mortality and expense risk and contingency reserve at 0.90%, and the maximum level for such charges at 1.275%, are within the range of industry practice for comparable annuity contracts, based upon a survey of the registration statements of such contracts. Applicants undertake to maintain and make available to the Commission upon request a memorandum setting forth the methodology used to support this representation. Applicants represent that the Company has determined that there is a reasonable likelihood that the Account's distribution financing arrangement will benefit the Accounts and their policyholders, and the Company will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation. Applicants further represent that the Accounts will invest only in open-end management

companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under the rule 12b-1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 26, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such 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. 85-5850 Filed 3-11-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: City of Danville and Pittsylvania County, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice of intent to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City of Danville and Pittsylvania County, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert B. Welton, District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240-0045, telephone: (804) 771-2682.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Highways and Transportation (VDH&T), will prepare an environmental impact statement (EIS) on a proposal to provide a four-lane divided facility from an intersection with Route 58, approximately 1.00 mile east of the Danville City Limits to an intersection with Route 29 north of Blairs, Virginia.

The proposed highway project involves extending the Route 265 Danville Expressway with a four-lane divided roadway on new location. Two alternate roadway alignments within the project corridor will be investigated for this study. Three short extensions or relocations will also be investigated: (1) Relocation of Route 360-beginning just west of the Borden Chemical Smith-Douglass plant and tying back into existing Route 360 approximately 0.8 mile northeast of Route 732; (2) Franklin Turnpike Extension-beginning on proposed Route 265 and ending on North Main Street, Business 29, opposite the existing Franklin Turnpike Intersection; (3) Falls Creek Spur-beginning on proposed Route 265 approximately 1.00 mile south of Route 721 and tying back into Route 29 approximately 1.00 mile south of its intersection with Route 721. Regardless of which alternative is selected, the proposed relocations would be approximately the same and apply to either one.

This proposal is considered necessary in order to provide a connecting link for traffic on Route 265 south of Route 58 to interconnect with Route 29 north of Danville to facilitate the more efficient movement of through-traffic, and to bypass the downtown area.

There is also the null or no-build alternative to the proposed project. This includes all elements of the Regional Transportation Plan with the exception of the proposed project.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment. Following publication of the DEIS, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.

Issued on March 5, 1985.

Robert B. Welton,

District Engineer, Richmond, Virginia.

[FR Doc. 85-5794 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-22-M

Environment Impact Statement; Macomb County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to the draft environment impact statement (EIS) published in 1982 for the proposed improvement of a 9.8 mile section of M-59, Macomb County, Michigan will be prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Fort, Jr., District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901, Telephone (FTS) 374-1879 or (Commercial) (517) 377-1879 or Mr. Ross E. Lowes, Manager, Social and Economic Studies Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909, Telephone (517) 373-2226.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, (FHWA), in cooperation with the Michigan Department of Transportation, (MDOT), will prepare a supplement to the draft EIS for a new alternate for the proposed improvement of a 1.5 mile segment of M-59 from Mound Road to Van Dyke Road in the City of Utica. The new alternate was developed in response to local concerns with the alternates previously proposed and addressed in the draft EIS for this segment of the overall improvement of M-59 from Mound Road to I-94.

The new alternate is significantly different from the alignments shown in the draft EIS for this segment of the proposed improvement of M-59. The new alternate includes a boulevard cross-section and one-way pair using existing M-59 for the eastbound roadway and Auburn Street for the westbound roadway in this 1.5 mile segment. Additional right-of-way will be required on the south side of Auburn Street with associated displacements of homes and businesses. Other environmental impacts which may result from the new alternate will also be addressed in the supplement.

No scoping meeting is planned. The new alternate has been discussed at a public information meeting held on December 20, 1984 in the City of Utica and received generally favorable responses. The supplement to the draft EIS is scheduled for circulating in the Fall of 1985 and will be made available for public and agency review and comment. An opportunity for a public hearing will also be provided. Public notice will be given of the time and place of any public hearings.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: March 5, 1985.

Jerry L. Poston,

Assistant Division Administrator, Lansing, Michigan.

[FR Doc. 85-5841 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

[Inconsistency Ruling IR-10]

New York State Thruway Authority Restrictions on the Transportation of Radioactive Materials; Correction

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau (MTB).

ACTION: Inconsistency ruling; correction.

SUMMARY: This document corrects an erroneous characterization of the status of a portion of the New York State Thruway which appeared in the text of inconsistency ruling no. IR-10, published November 27, 1984 (49 FR 46645). As set forth at 49 FR 46646, IR-10 contained the following paragraph:

The State of New York has not designated any alternate preferred routes. Therefore, the preferred routes in New York are Interstate System highways. The New York State Thruway, although financed by construction bonds, has been designated a part of the Interstate System of highways *with the exception of that segment of Interstate 87 between Suffern and Newburgh. With the exception of that segment,* therefore the New York State Thruway is a preferred route as defined in § 177.825(b)(1). [Emphasis Added].

The exception was noted on the basis of information provided by the Federal Highway Administration and reflects a technical distinction which is not relevant to this proceeding. By letter dated September 11, 1969, the Administrator of the Federal Highway Administration designated all of Interstate 87 in the State of New York as part of the Interstate System of highways. With the sole exception of the segment between Suffern and Newburgh, all of Interstate 87 was designated under 23 U.S.C. 103 and, therefore, charged against the statutory mileage limit and eligible for Federal funding as set forth in § 103. The segment from Suffern to Newburgh was designated under 23 U.S.C. 139 and, therefore, not charged against the statutory limitation on total mileage of the Interstate System, nor eligible for the same kind of Federal funding. Thus, for purposes of administering the Federal-Aid Highway Act, the segment of Interstate 87 between Suffern and Newburgh is accorded a status different from the rest of that highway. For purposes of compliance with operational requirements, however, all of Interstate 87 is, as its name indicates, a part of the Interstate System of highways.

Accordingly, the paragraph of IR-10 beginning on line 18, column 1, at 49 FR 46646 is amended to read as follows:

The State of New York has not designated any alternate preferred routes. Therefore, the preferred routes in New York are Interstate System highways. The New York State Thruway, although financed by construction bonds, has been designated a part of the Interstate System of Highways. Therefore, the New York State Thruway is a preferred route as defined in § 177.825(b)(1).

Signed in Washington, D.C. on March 4, 1985.

Alan I. Roberts,

Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-5792 Filed 3-11-85; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 48
Tuesday, March 12, 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 COMMUNICATIONS COMMISSION

March 7, 1985.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 14, 1985, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—Title: Memorandum Opinion and Order on Reconsideration in the Cellular Lottery Proceeding, CC Docket 83-1096. Summary: The Commission will consider the petitions for reconsideration filed against the Report and Order (Cellular Lottery Selection, 55 RR 2d 8) in this proceeding.

Common Carrier—2—Title: Memorandum Opinion and Order, Reconsideration of the Accounting Treatment for AT&T's Judgment and Litigation Expenses from the Litton Systems Antitrust Lawsuit. Summary: The Commission will consider petitions for reconsideration challenging the accounting treatment for AT&T's judgment and litigation costs from the Litton Systems antitrust lawsuit.

Common Carrier—3—Title: Notice of Proposed Rulemaking to amend Part 31 Uniform System of Accounts to account for judgments and other costs associated with antitrust lawsuits, and conforming amendments to the Annual Report Form M. Summary: The Commission will consider whether to adopt a Notice of Proposed Rulemaking to propose rule changes that outline the accounting treatment telephone companies shall give judgments and other costs associated with antitrust lawsuits.

Common Carrier—4—Title: "Lottery ticket" cellular applications in Columbia, SC and San Juan, PR. Summary: The Commission will consider whether to adopt By Direction letters returning certain cellular applications filed for Columbia, South Carolina and San Juan, Puerto Rico as unacceptable for filing.

Common Carrier—5—Title: Inquiry into the policies to be followed in the authorization of common carrier facilities to meet Pacific telecommunications needs during the period 1981-1995 (CC Docket No. 81-343). Summary: The Commission will consider adopting a Further Notice of Proposed Rulemaking in CC Docket No. 81-343.

Mass Media—1—Title: License renewal and assignment/transfer of control applications for Stations WHAT and WWDB (FM), Philadelphia, Pennsylvania. Summary: The Commission will consider a *Memorandum Opinion and Order* addressing petitions to deny alleging employment discrimination, illegal lottery broadcasts and other rule violations.

Mass Media—2—Title: Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals. Summary: In this Report and Order the Commission will consider amending its Rules that specify the maximum time durations for the horizontal and vertical blanking intervals transmitted as part of the video signal by television broadcast stations.

Mass Media—3—Title: Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments. Summary: The Commission will consider in this *Second Report and Order* whether any special consideration should be given to daytime-only licensees when they apply for new FM allotments. We will also consider procedures for accepting applications on the recent channel allotments and for new petitions to further amend the FM Table of Allotments.

Mass Media—4—Title: In the Matter of Amendment to Sections 73.3572 and 73.3573 Relating to Processing of Commercial FM and TV Broadcast Applications. Summary: The Commission will consider whether to adopt proposed rule changes for the processing of commercial TV and FM applications for new or expanded service. The proposed changes would implement a window filing—first come/first serve processing system.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

William J. Tricarico,

Secretary.

[FR Doc. 85-5908 Filed 3-8-85; 10:35 am]

BILLING CODE 6712-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., March 11, 1985.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Agreement No. 202-010689: Actions of the Transpacific Westbound Rate Agreement.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Assistant Secretary, (202) 523-5725.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 85-5931 Filed 3-8-85; 11:21 am]

BILLING CODE 6730-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-13A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 50 Fed. Reg. 7869 (2/26/85).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Wednesday, March 13, 1985.

CHANGES IN THE MEETING: 5. Investigation 731-TA-240, 241 [Preliminary] Correct country of origin to read Republic of Korea instead of Republic of China.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[FR Doc. 85-5993 Filed 3-8-85; 3:45 pm]

BILLING CODE 7020-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-14]

TIME AND DATE: Tuesday, March 19, 1985, at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints, (a) Porch, Patio and Lawn Gliders—Docket No. 1163.
5. Investigation 731-TA-242 [Preliminary] (Tapered tubular steel transmission structures from the Republic of Korea)—briefing and vote.
6. Investigation 337-TA-181 (Certain Meat Deboning Machines)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[FR Doc. 85–5994 Filed 3–8–85; 3:45 pm]

BILLING CODE 7020–02–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Tuesday, March 19, 1985.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*: Zantop International Airlines, Inc., Lockheed L188 Electra, N5523, Chalkhill, Pennsylvania, May 30, 1984.

2. *Hazardous Materials Accident Report*: Release of Hazardous Waste Acids from a Cargo Tank Truck at Orange County, Florida, on March 6, 1984.

3. *Railroad Accident Report*: Derailment of Seaboard System Railroad Freight Train FERHL at Marshville, North Carolina, April 10, 1984.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

Ray Smith,

Federal Register Liaison Officer.

March 8, 1985.

[FR Doc. 85–5982 Filed 3–8–85; 2:27 pm]

BILLING CODE 7533–01–M

federal register

Tuesday
March 12, 1985

Part II

Environmental Protection Agency

40 CFR Part 710

Partial Updating of TSCA Inventory Data Base; Production and Site Reports; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[OPTS-82015; TSH-FRL 2710-4]

Partial Updating of TSCA Inventory Data Base; Production and Site Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the authority of section 8(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a), EPA proposes to require manufacturers and importers of certain chemical substances included on the TSCA Chemical Substances Inventory to report current data on the production volume, plant site, and site-limited status of the substances. EPA will use the information collected under this rule to update the Inventory data base and to support activities associated with the implementation of TSCA. This action would not affect the status of chemical substances listed on the Inventory. EPA is requesting comments on this proposed rule.

DATE: Comments must be received by May 13, 1985.

ADDRESSES: Comments should be forwarded to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M Street SW., Washington D.C. 20460.

Comments must be filed in triplicate and must bear the identifying notation (OPTS-82015). All written comments filed pursuant to this notice, as well as the rulemaking record, will be available for reviewing and copying in Rm. 107, East Tower, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, D.C. 20460, toll free: [800-424-9065], in Washington, D.C.: [554-1404], outside the U.S.A.: [Operator-202 554-1404].

SUPPLEMENTARY INFORMATION:

I. Authority

The Agency is proposing this rule under section 8(a) of TSCA which authorizes the Administrator of EPA to promulgate rules under which manufacturers, importers, and processors of chemical substances must submit such information as the Administrator may reasonably require. Failure to comply fully with any provision of this rule would be a violation of section 15 of TSCA and would subject the violator to penalties of TSCA sections 16 and 17.

It is proposed that this rule be promulgated as an amendment to 40 CFR Part 710 which currently contains the Inventory Reporting Regulations. This amendment would designate existing §§ 710.1 through 710.8 as Subpart A and add a new Subpart B.

II. Summary of the Rule

EPA is proposing to require manufacturers and importers to report current data on the production volume, plant site, and site-limited status (i.e., whether a chemical substance is manufactured and processed only within a plant site and is not distributed for commercial purposes as a substance or as part of a mixture or article outside the plant site) for certain chemical substances included on the TSCA Chemical Substances Inventory. For purposes of this rule and preamble, the term "manufacturer" includes importer, unless otherwise specified. A person would be considered to be a manufacturer subject to this rule if that person has manufactured or imported a reportable substance in the United States at any time during that person's most recent complete corporate fiscal year preceding the effective date of a relevant reporting period under this rule.

This rule requires both initial reporting and subsequent reporting. During the initial reporting period, every manufacturer of a chemical substance covered by this rule, unless otherwise exempt, would be required to report on every such substance for each plant site. After the initial reporting, reporting would only be required every other year if a reportable event has occurred. Reportable events reflect what EPA considers as significant changes in production volume or site-limited status of a reportable substance. Persons who begin manufacture or import of a reportable substance at a particular plant site after the initial reporting period would be required to submit an initial report in the first subsequent reporting period.

The substances covered by this rule would include those that were initially reported for the Inventory, as well as substances added to the Inventory following TSCA section 5(a) premanufacture notification (PMN) review and the Agency's receipt of a notice of commencement of manufacture or import. EPA proposes that four categories of substances, though on the Inventory, be specifically excluded from this rule. These excluded substances are those that are identified as polymers, inorganic substances, microorganisms, and naturally occurring chemical substances, as described under § 710.4(b) of the Inventory Reporting Regulations. Low-volume substances, i.e., substances with an annual site-specific production volume (or total amount imported) of less than 10,000 pounds (4,540 kilograms), will generally also be excluded from this rule.

In addition to the proposed exclusions of substances, EPA proposes that two categories of persons be exempt from all reporting and recordkeeping requirements: Small manufacturers and persons manufacturing substances in limited circumstances.

The information reported under this rule would include data on chemical identity, plant site, annual production volume, and site-limited status of a reportable substance. For each submission, EPA would also require the name, address, and telephone number of a person who can answer technical questions related to the submission. This information would be submitted on EPA-designated reporting forms. Persons subject to this rule would be required to maintain records that support the information in their submissions or that document a decision not to report. Such records would be kept for 5 years. The format for such recordkeeping would be left up to the individual manufacturer.

III. Background

A. Establishment of Inventory Data Base

Section 8(b) of TSCA requires the establishment and maintenance of an Inventory of chemical substances in United States commerce. To meet this requirement, EPA promulgated the Inventory Reporting Regulations in December 1977. The regulations resulted in the compilation of both the Inventory of Chemical Substances in Commerce and the Inventory data base.

The Inventory of Chemical Substances in Commerce is now maintained by EPA in the Agency's Master Inventory File which includes approximately 60,000 substances originally reported for the Inventory and over 1,500 substances which have completed PMN review under section 5(a) of TSCA and for which a notice of commencement of manufacture or import has been received by EPA.

The Inventory data base compiled by EPA currently contains only 1977 production information on the approximately 60,000 chemical

substances originally reported for the Inventory, including:

1. Chemical identity data including Chemical Abstracts Service (CAS) Preferred or Index Names, CAS Registry Numbers, synonyms, and, wherever available, molecular formulas.

2. 1977 manufacturing plant site name and address for each firm that reported in 1977 as manufacturers of one or more of the 60,000 substances originally reported for the Inventory.

3. 1977 production range for each chemical substance produced by each reporting plant site.

4. 1977 manufacturing activity, i.e., whether a submitter was a manufacturer, an importer, or a processor.

5. Whether the substance was site-limited in 1977.

B. Uses of Inventory Data Base

The production volume, plant site, and site-limited status information contained in the Inventory data base have been used by EPA to support numerous TSCA activities. To implement TSCA effectively, EPA requires current knowledge of where and in what quantity chemical substances on the Inventory are manufactured. This information supports the Agency's investigations of health and environmental effects and commercial status of chemical substances and the development of regulations under TSCA.

Production volume information is an important factor in selecting chemical substances for attention because it gives preliminary indications of the potential for human and environmental exposure. In general, EPA needs production data to set priorities for further investigation, to perform first-level screening of chemical substances for testing under TSCA section 4, to estimate, along with other data, the potential for human and environmental exposure to specific substances, to support the implementation of various TSCA regulations, and to perform economic impact analyses for potential TSCA regulations.

EPA uses plant site data to identify and communicate with manufacturers and to estimate the extent and location of potential exposure. Information on whether a substance is site-limited is also used by EPA in estimating exposure. A site-limited substance is presumed to have a lower exposure potential than a substance distributed outside the manufacturing plant site.

The nonconfidential data in the Inventory data base have been used for purposes other than TSCA implementation. For example, the National Toxicology Program (NTP) uses the production data as a tool in screening chemical substances for testing and the plant site data to identify and communicate with manufacturers. The EPA Office of Solid Waste and Emergency Response has used the data base to identify manufacturers of various chemical substances under study and to estimate amounts produced. EPA Headquarters and Regional Offices use the nonconfidential data to respond to inquiries from State governments, industry, and the public, and to support TSCA compliance monitoring activities.

A more detailed discussion of the various uses of Inventory data can be found in a supporting document included in the rulemaking record for this rule.

IV. Need for Updating Inventory Data Base

Data proposed to be gathered under this rule would be used by EPA to update a portion of the Inventory data base. EPA needs an accurate and readily available source for basic information for a significant number of the substances listed on the Inventory. EPA has not been able to identify an alternate data source that can provide the Agency with adequate information in an accurate, complete, and cost-effective manner.

This rule would also enable EPA to obtain current production volume information for certain substances added to the Inventory following the completion of section 5 PMN review and the Agency's receipt of a notice of commencement of manufacture or import. At the present time, the Inventory data base contains production volume data for only the substances originally reported for the Inventory. For the substances submitted under section 5, production estimates, rather than actual production volumes, are reported. These estimates are not included in the Inventory data base. The actual production volume information that would be reported under this rule will be added to the Inventory data base and will be used by the Agency to set priorities for further investigation of these substances.

A. Age of Inventory Data Base

Since the Inventory data base contains only information from 1977, the accuracy of the data has been diminishing significantly with time. The growing obsolescence of the Inventory data base has become a matter of increasing concern to EPA. For any of the regulatory purposes previously described, it is important for the Agency to be able to determine quickly, accurately, and efficiently who produces these chemical substances, where they are produced, and in what quantities. The Inventory data base should be the logical data base from which to obtain such basic information. Unfortunately, it cannot now be relied upon for accurate information because the data have become increasingly outdated.

Over the past several years, evidence of significant changes in the production volume and plant site for many Inventory substances has been observed. For example, the Interagency Testing Committee (ITC) uses the production ranges in the Inventory data base as its first-level screening for candidate substances for testing under TSCA section 4. The ITC has found changes in both the manufacturing plant sites and production ranges for many chemical substances reviewed for testing. These changes have complicated the ITC's initial screening process and have complicated the ITC's initial screening process and have forced the ITC and EPA to spend additional time and resources verifying the data listed in the Inventory data base and attempting to obtain current information. Such efforts are not cost-effective and do not always produce adequate information.

Similarly, EPA discovered that the plant site information in the Inventory data base was not reliable when the Agency attempted to identify and contact manufacturers who would be subject to reporting under the section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712). Major discrepancies were also evident when production volume data collected under the Preliminary Assessment Information Rule were compared against the corresponding production ranges reported for the Inventory data base.

There have been numerous instances in which the Inventory data base has been identified as not providing accurate information on a particular chemical substance when such information was needed by EPA for TSCA purposes. In some cases, EPA was compelled to promulgate chemical-specific section 8(a) rules to monitor the production level of these substances. The lack of readily available current production data on these substances has, therefore, complicated the Agency's investigations of chemical substances, compelled the Agency to obtain current information in a resource-intensive and inefficient manner.

B. Alternate Sources and Their Limitations

1. *Alternate sources.* EPA has attempted to obtain current production volume and plant site information, on a case-by-case basis, directly from industry, through the use of contractors, and from other existing sources such as:

a. "The SRI Directory of Chemical Producers (DCP)."

b. "Synthetic Organic Chemicals: United States Production and Sales (SYNORG)."

c. "Chemical Economics Handbook (CEH)."

d. "Chemical Marketing Reports."

e. "Chemical Industry Notes."

f. Existing internal sources maintained by EPA and other Federal agencies.

2. *Limitations.* The use of sources other than the Inventory data base has three major limitations.

First, many existing sources of similar information, whether compiled by Government or commercial entities, often do not provide adequate information for EPA's needs under TSCA. Sources other than the Inventory usually contain information on only a limited number of substances. To use production data as a tool in chemical screening, EPA needs a data base which provides readily available information for the many thousands of substances over which EPA has jurisdiction under TSCA. A case-by-case search for information would be impractical and costly because of the large number of substances involved.

Second, the information from other sources is often not comprehensive or reliable, does not always relate to specific plant sites, often pertains to product classes rather than specific substances, and, in certain cases, represents plant capacity rather than actual production volume.

Third, certain data bases compiled by other Government agencies often contain company proprietary information which cannot be readily made available to EPA.

V. Substances Covered by the Rule

Reportable substances under this rule would include only those that are listed in the Agency's Master Inventory File as of the time of reporting and that are not specifically excluded from this rule. Substances which were originally excluded from the initial Inventory under 40 CFR 710.2 would therefore not be reportable under this rule. For example, any pesticide when manufactured, processed, or distributed in commerce for use solely as a pesticide would not be reportable.

Prior to the effective date of the final rule, EPA may publish an updated Inventory which will list most of the specific or generic chemical names of both substances initially reported for the Inventory and substances subsequently added to the Inventory. Since EPA continually adds to the Master Inventory File substances that have undergone PMN review and that are subsequently reported as manufactured or imported, the Agency may publish supplements to the Inventory from time to time covering additions to the Master Inventory File since a previous publication. Substances added to the Master Inventory File after the beginning of a reporting period would become reportable in the next reporting period, unless otherwise excluded from this rule.

VI. Substances Excluded From the Rule

EPA proposes that four categories of substances, although included on the Inventory, be excluded from reporting under this rule. The purpose of these exclusions is to focus the information collection effort under this rule on those substances for which the Agency has the greatest need for current information. The four categories of substances proposed for exclusion are polymers, inorganics, microorganisms, and naturally occurring chemical substances. These categories are described below:

A. Polymers

The Inventory covers approximately 15,500 synthetic polymers and biopolymers. Most polymers can be identified in the Inventory's "Chemical Substance Identities" section or in the Agency's Master Inventory File with the words "polymer(s)" or "polymerized," or the prefix "poly" appearing in the corresponding Chemical Abstracts Service (CAS) Index or Preferred Nomenclature for that substance. EPA believes that the overwhelming majority of the synthetic polymers and biopolymers on the Inventory can be so identified. The few synthetic substances that may be borderline polymeric are named differently on the Inventory and would not, therefore, be excluded from this rule.

However, certain biopolymers which are not always identifiable by the terms "polymer(s)," "polymerized," or "poly" would also be excluded from reporting under this rule. These substances are identified in the hierarchy of subset headings for the Inventory's UVCB section (i.e., Chemical Substances of Unknown or Variable Composition, Complex Reaction Products, and Biological Materials). These biopolymers are proteins (albumin, casein, gelatin, gluten, hemoglobin), enzymes, polysaccharides (starch, cellulose, gums), rubber, or lignin. Furthermore, biopolymers which have been chemically modified to the extent that the polymeric structure still remains substantially intact would not be reportable.

EPA's approach to identifying polymers for purposes of this exclusion is intended to be relatively simple, so that a quick determination of whether a substance is a polymer can be made. An Inventory listing of a polymer could represent a group of polymers with the same constituent monomers, irrespective of the proportion of the monomers or chain structure. A more sophisticated definition that would characterize individual polymers based on such criteria as chain structure or molecular weight variations would make a polymer determination more difficult, especially in view of how polymers are listed on the Inventory. The Agency believes that this increased administrative burden would substantially reduce the benefit of the exclusion.

EPA proposes to exclude polymers from the proposed rule for two reasons. First, only a small percentage of the polymers reported under the PMN rule are selected for detailed review because of concern about their toxicity, exposure, or use. Second, it appears unlikely that EPA will use production volume as a means to perform preliminary screening of polymers for further investigation under the existing chemicals review program. Some of the polymers that may become a matter of concern would most likely be identified by other criteria such as toxicity or use. Therefore, there is no need to use this rule to collect production volume and plant site data on all polymers listed on the Inventory, when only a small number of these substances may be assessed further under TSCA. In cases in which production volume and plant site data are needed for specific polymers, EPA could use the authority of a chemical-specific section 8(a) rule to obtain the information after those polymers have been identified.

B. Inorganic Substances

For purposes of this proposed rule, inorganic chemical substances are substances that do not contain a carbon atom, or contain carbon only in the form of carbonato, cyano, cyanato, isocyano, or isocyanato groups, or the chalcogen analogues of these groups. Inorganic substances on the Inventory can be

easily identified and include approximately 3,000 substances.

The inorganic chemical substances are proposed for exclusion for reasons somewhat similar to those for excluding polymers. The hazard potentials of many inorganic substances are relatively well-established. Thus, it is unlikely that the Agency would use production volume as a means to perform preliminary screening of inorganic substances. When production data are needed on specific inorganic substances or groups of inorganic substances, EPA could use the authority of a chemical-specific section 8(a) rule to collect the required information.

C. Microorganisms

EPA is proposing to exclude from reporting under this rule about 200 substances that are classified on the Inventory as microorganisms. For purposes of this rule, this category includes bacteria, fungi, and yeasts which are easily identifiable in the hierarchy of subset headings for the Inventory's UVCB section and are also identified on the Inventory by their corresponding CAS Preferred Names which are usually standard names for the species. Products of microorganisms are, however, reportable unless otherwise excluded.

Microorganisms are proposed for exclusion under this rule because EPA is formulating its policy in the area of biotechnology, and TSCA information requirements for microorganisms are still being determined. Therefore, it would not be necessary to collect site-specific production data for microorganisms at this time. Information requirements relative to microorganisms will be addressed under a separate rule.

D. Naturally Occurring Chemical Substances

The Inventory includes a group of substances which may be naturally occurring, as described in § 710.4(b) of the original Inventory Reporting Regulations. These substances were not reportable under the Inventory Reporting Regulations, although they are included on the Inventory. For this reason, EPA is proposing to exclude from this rule all naturally occurring chemical substances produced as described in § 710.4(b). However, persons who produce a substance in a manner other than as described in § 710.4(b) would be required to report.

This proposed exclusion would cover chemical substances which are naturally occurring and which are unprocessed or processed only by manual, mechanical, or gravitational means, by dissolution in water, by flotation, or by heating solely to remove water or which are extracted from air by any means. Examples of such substances include raw agricultural commodities, water, air, natural gas, crude oil, minerals, ores, and rocks.

E. Other Possible Exclusions

In addition to the four categories of substances proposed for exclusion, EPA is also considering excluding other categories of substances from this rule. The possible candidates for exclusion include those substances that are petroleum refinery streams and wastes, as well as other UVCB substances. EPA invites public comments on these additional categories.

VII. Persons Subject to the Rule

Except for those described in Unit VIII below, a person would be considered to be a manufacturer subject to this rule if that person has manufactured or imported for commercial purposes a reportable substance at any time during that person's most recent complete corporate fiscal year immediately preceding the effective date of the rule or any subsequent reporting period. For example, if the effective date of the initial reporting period were January 1, 1986, and a company's fiscal year begins on October 1, the most recent corporate fiscal year for that company would be October 1, 1984, through September 30, 1985.

A person who has reported manufacture or import of a reportable substance under the rule but has subsequently discontinued such manufacture or import is considered to be a manufacturer subject to this rule for the next reporting period.

This rule includes an initial reporting period and subsequent reporting periods, as discussed in Unit IX of the preamble. In general, all persons subject to the rule would be required to report for the initial reporting. Subsequent reporting will be required only when one of the reportable events, as discussed in Unit IX, occurs.

VIII. Persons Exempt From the Rule

EPA is proposing that two categories of persons be exempt from the reporting and recordkeeping requirements of this rule if they qualify for one of the proposed exemptions at the time of reporting.

A. Small Manufacturers

EPA is proposing that small manufacturers (including importers) of reportable chemical substances be exempted from all reporting and recordkeeping requirements of this rule except with respect to those who manufacture or import chemical substances regulated under TSCA section 5(e), the purpose of this exemption is to reduce the paperwork burden on small chemical manufacturers, while ensuring that EPA's basic information requirements will be satisfied.

Persons would qualify as small manufacturers under this rule if, at the time of reporting, they meet one of the two standards specified in the recently promulgated TSCA section 8(a) Small Manufacturers Exemption Rule (40 CFR Part 704). These two exemption standards are as follows:

1. *First standard.* A chemical manufacturer would qualify as "small" under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than $40 million. However, if a manufacturer with total annual sales of less than $40 million produces annually over 100,000 pounds (45,400 kilograms) of a particular chemical substance at a particular plant site, that manufacturer will not qualify as small with regard to that chemical substance at that plant site.

Under this first standard, a company that meets the sales criterion for small but does not meet the volume criterion for all of its sites will be subject to reporting or recordkeeping for a particular chemical substance only for sites producing 100,000 pounds or more of the chemical substance per year.

2. *Second standard.* A chemical manufacturer would qualify as small if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than $4 million, regardless of the quantity of chemical substances produced by that manufacturer.

For purposes of these two standards, total annual sales would mean the total revenue generated by the sale of all products, including non-chemical products, that are produced at a plant site. EPA will consider periodically adjusting, as necessary, the sales values of both standards to allow for inflation after the promulgation of this rule. The Agency will use an index from the Bureau of Labor Statistics (BLS) for this purpose: the Producer Price Index for Chemicals and Allied Products. Similarly, EPA recognizes the possibility that the sales values may also be subject to deflationary economic trends. The Agency could adjust the sales values downward if significant deflation were to occur.

Companies would use the corporate fiscal year as the 12-month period for which both annual sales and production volume are to be calculated. In the first standard, annual production volume would mean the total amount of a chemical substance produced or imported during the designated 12 month period.

A parent manufacturing company would be one which owns or controls another company. Ownership or control would exist when one company owns 50 percent or more of another company's voting stock or other equity rights, or has the power to control the management and policies of the other company. This proposed definition is drawn from the 1977 Economic Census Report of Organization of the United States Department of Commerce.

B. Persons Manufacturing Substances in Limited Circumstances

EPA is proposing to exempt from this rule persons who manufacture reportable substances either in limited ways or through coincidental manufacture. Section 704.5(a) of the general section 8(a) rules exempts persons who manufacture or import substances solely for research and development; § 704.5(c) exempts persons who import substances as part of articles. EPA is proposing that these two exemptions apply to this rule without change.

For the original Inventory Reporting Regulations and for the PMN rule, EPA recognized that chemical substances are often manufactured incidental to another operation or upon end use of another substance or mixture. For example, a paper carton producer applies adhesives and inks during the carton-making operation and other chemical substanecs are formed coincidentally as these adhesives and inks dry. EPA has exempted such types of "manufacture" from the original Inventory reporting and from PMN requirements. Accordingly, EPA is proposing to exempt these types of "manufacture" from this rule as well, because EPA believes that it does not need information on such coincidental manufacture to update the Inventory Data Base.

Section 720.30(g) of the PMN rule would apply to this rule exempting manufacture of byproducts which are used only as a fuel, which are disposed of as a waste, or from which component chemical substances are extracted. Section 720.30 (h) would also apply, exempting manufacture of impurities and substances from reactions upon end use, as well as nonisolated intermediates.

IX. Whether To Report

A. Initial Reporting

For the initial reporting period, all manufacturers who are subject to this rule would be required to report on every reportable substance manufactured at each particular plant site. If a person later begins to manufacture or import for commercial purposes a reportable substance at a plant site, that person would submit an initial report for that substance and plant site during the next reporting period. The initial reporting would enable EPA to establish a base line of current information on those substances that are in commercial production.

B. Recurring Reporting

After the initial reporting period, reporting would be required every 2 years if one of the reportable events occurred during the most recent complete corporate fiscal year preceding a relevant reporting period. For purposes of this rule, reportable events reflect what EPA considers as significant changes in production volume, or site-limited status of a reportable substance. Based on its experience with the 1977 Inventory data, EPA estimates that approximately 12.5 percent of the production and site information in the Inventory data base would become obsolete each year. The Agency, therefore, believes that the 2-year reporting interval would be reasonable, since this would enable the Agency to maintain a relatively current data base without imposing an unreasonable reporting burden on industry.

For purposes of this proposed rule, reportable events that would trigger reporting after the initial reporting are defined as follows:

1. *Production volume.* For reportable substances with a previously reported annual production volume of 10,000 pounds or more, a reportable event would occur when the previously reported site-specific production volume or the total quantity imported of a substance increases or decreases by 5-fold or more. EPA believes that such a magnitude of change is significant in terms of exposure potential. When there is a 5-fold, i.e., 500 percent, increase in production volume of a substance, the Agency believes that such a substantial increase in production volume would result in a higher exposure potential for the substance. In the case of a 5-fold, i.e., 80 percent, decrease in production volume of a substance, the Agency believes that its concern would be reduced, and priorities for regulatory actions may change as a result.

If a reportable substance is produced at 10,000 pounds or more at a given plant site for the first time since the previous reporting period, this fact would constitute a reportable event for the next reporting period. Similarly, if production of a reportable substance ceases at a given plant site during the 2 fiscal years since the previous reporting period, that fact would be reportable for the next reporting period. No further reporting would be required unless and until commercial production of that substance has resumed at that plant site at 10,000 pounds or more.

2. *Site-limited status.* A reportable event would occur when a substance previously reported as site-limited is distributed outside that specific plant site for commercial purposes for the first time, or when a previously distributed substance covered by this rule becomes site-limited for the first time.

C. Low-Volume Threshold

EPA is proposing to establish a low-volume threshold by exempting from initial reporting substances produced at low volumes. For purposes of this rule, if the site-specific annual production volume or the total amount annually imported for a substance is below 10,000 pounds, no initial reporting would be required. If a person's site-specific annual production volume or total amount annually imported increases to 10,000 pounds or more after the close of the initial reporting period, the person would be required to comply with the reporting requirements of this rule for that substance in the first subsequent reporting period.

EPA's reason for exempting low-volume substances from this rule is based on its information need. Although EPA may need production volume information for certain low-volume substances, it appears unlikely that the Agency will need readily available production volume information as a general tool to screen these substances for further investigation. When production volume information is needed for certain low volume substances, EPA could use the authority of a chemical-specific 8(a) rule to collect the required information. EPA believes that this exemption is reasonable and consistent with the Agency's past efforts in exempting low-volume substances from the requirements of other rules promulgated under TSCA.

X. What To Report

Persons who are subject to this rule would be required to report by completing an EPA-designated reporting form. Proposed reporting forms are

included in § 710.39 of the proposed rule. Detailed instructions for filling out the reporting forms will be made available prior to the effective date of the final rule.

There are two different versions of the reporting form, each containing four parts. The first version of the form, U–1, would be used by persons reporting information on substances whose identity is not confidential at the time of reporting or will not remain confidential on the Inventory. The second version of the form, U–2, would be used only by persons reporting information on chemical substances whose identity will remain confidential on the Inventory.

Parts I, II, and III of the reporting form include the certification to be signed by the submitter and require the reporting of other basic submitter information. Part IV of the form would be used to indicate whether the submission is an initial reporting or a reporting of changes. The extent to which Part V of the form would be completed would depend on the number of chemical substances reported on that form.

EPA is also examining the feasibility of allowing certain submitters to report by computer tapes. If EPA determines that reporting in this manner is a feasible approach, it will provide, prior to the effective date of the final rule, complete instructions stipulating the format specifications for preparing such computer tapes.

The information requirements for this rule are discussed below. In most cases, a submitter would provide fiscal information for the most recent complete corporate fiscal year preceding the relevant reporting period, unless otherwise stated in this rule.

A. Chemical Identity

For each chemical substance covered by this rule, a submitter would be required to provide a specific chemical name, a CAS Registry Number, and/or other identifying numbers used on the Inventory. Persons would check the published Inventory to obtain the correct name and Registry Number for their substances. If the identity of a substance is confidential, a submitter would consult the generic names section of the published Inventory to obtain an EPA-designated Accession Number for that substance. If a person is uncertain whether a reportable substance is covered by one of the generic names, the person would have to contact EPA using the *bona fide* procedures in § 710.7(g) of the Inventory Reporting Regulations or § 720.25(b) of the PMN rule to determine whether the substance in question is reportable.

B. Plant Site

Importers would report by their United States headquarters. Each manufacturer would be required to report by specific plant site name and street address.

Certain manufacturers were permitted to report for the original Inventory by corporate headquarters, business or Post Office Box addresses, or through trade associations and other agents. EPA has found that data on specific plant sites are much more useful to the Agency. Plant site data usually enable the Ageny to develop a more accurate estimation of potentially exposed populations and to identify and communicate with manufacturers of chemical substances more easily.

C. Production Volume

Manufacturers would be required to report the quantity of the substance manufactured at each plant site in separate reports. Importers would be required to report the total quantity imported, regardless of destination, and the information would be reported in pounds. Although EPA does not plan to prescribe specific accuracy ranges for reporting quantities, a submitter should provide the best available information, i.e., production figures normally maintained at a plant site for business purposes and known to, or reasonably ascertainable by, a submitter as specified in section 8(a)(2) of TSCA. Reporting of inaccurate data would constitute a violation of the rule and would subject the violator to EPA enforcement actions.

EPA is proposing that precise production data, rather than production ranges, be reported under this rule because in many applications the Agency has found that the production ranges reported for the 1977 Inventory data base create a certain degree of uncertainty in estimating exposure. This uncertainty is compounded when information from different plant sites is aggregated. Precise production data would minimize the uncertainties prevalent in the Agency's use of the 1977 Inventory production data.

The use of narrower ranges was considered by EPA as an alternative to the wide ranges used for the 1977 Inventory. EPA has not adopted that approach because the Agency believes that production data are not maintained by industry in ranges. Therefore, the reporting of precise production data would not be more burdensome to the submitters and would provide the Agency with more useful information.

D. Site-Limited Status

Manufacturers would be required to indicate whether a chemical substance manufactured at a plant site is distributed for commercial purposes outside that site, including as part of mixtures or articles. Imported substances could not be site-limited.

E. Technical Contact

Persons reporting under this rule would be required to identify the name, address, and telephone number of an individual who can answer questions concerning the information on the reporting form. This information would be used by EPA to resolve reporting errors or technical problems related to the submission.

XI. Reporting Period

As discussed above, after the initial reporting, reporting of changes would occur at two-year intervals. EPA is proposing an initial reporting period of 120 days beginning on the effective date of the rule. EPA believes that such a period will be sufficient for initial reporting. In subsequent reporting years EPA is proposing a reporting period of only 60 days because the volume and burden of reporting would be significantly reduced. Subsequent reporting periods would begin on the anniversary of the effective date of the rule every two years.

XII. Confidentiality

A. Asserting Claims

Submitters would be permitted to claim information submitted to EPA under this rule as confidential if release of the information would reveal trade secrets or confidential commercial or financial information, as provided by section 14 of TSCA. Claims of confidentiality could be asserted only at the time information is submitted to EPA and only in the manner specified in the rule. EPA's procedures for processing and reviewing confidentiality claims are set forth at 40 CFR Part 2, Subpart B.

Any information submitted under this rule could be claimed as confidential, even if the same or similar information (except chemical identity) was not so claimed during reporting for the initial Inventory. However, EPA would strongly encourage submitters to review their claims carefully to ensure that the information in question falls within the protection of section 14 of the Act and to limit claims as much as possible.

To claim information as confidential, a submitter would check the appropriate box and sign the certification statement on the reporting form. If a submitter

failed to do so, EPA would release the information to the public without further notice to the submitter. As in reporting under the initial Inventory Reporting Regulations, by signing the certification statement the submitter would certify that its claims of confidentiality are made in good faith and that the four statements on the back of the form are true for each claim. Procedures for claiming as confidential information submitted by computer tapes will be specified at the time of the final rule, if EPA determines that reporting in this manner is feasible.

Companies that assert claims of confidentiality for chemical identity would follow the procedures set forth in the next section.

B. Chemical Identity

A submitter under this proposed rule could not assert a claim of confidentiality for specific chemical identity of a substance unless the chemical identity is held confidential on the Inventory as of the time of the report. All submitters reporting information on a confidential substance would be required to use the EPA reporting form U–2 specially designed for reports on confidential substances and to check the appropriate box indicating a confidentiality claim for chemical identity. Chemical identity information reported on Form U–1 would be nonconfidential and would be released by EPA without prior notification to the submitter.

To assert a claim of confidentiality for the identity of a chemical substance which is confidential on the Inventory, the person would also be required to substantiate the claim by answering in writing certain questions in §710.39 of the proposed rule. These questions are similar to those used for substantiating claims of confidentiality for chemical identity for the original Inventory Reporting Regulations and for the PMN rule. Persons who reported for the original Inventory and persons whose substances underwent PMN review and were subsequently reported as manufactured or imported asserted and substantiated their claims of confidentiality for chemical identity at that time. Since considerable time has passed since those claims were substantiated, EPA is proposing that those original submitters, as well as any new manufacturers of a given substance who report under this rule would be required to substantiate claims of confidentiality for specific chemical identity at the time of reporting under this rule. When a person submits a report of changes in production volume or site-limited status of a substance under this rule, the person would be required to substantiate the claim again. However, if circumstances with regard to the claim of confidentiality have not changed, such a substantiation could be submission of a copy of the previous substantiation.

If a manufacturer reports under this rule a chemical substance whose identity is held confidential on the inventory, and the manufacturer does not claim the chemical identity confidential, EPA will consider the identity of that substance no longer confidential for purposes of the Inventory because the fact that someone is manufacturing or importing it for commercial purposes is not confidential. In such a situation, EPA would inform all those persons who report the substance under this rule and who reported for the Inventory or under PMN that the substance identity will no longer be held confidential on the Inventory or in the data base. This policy is consistent with the policy adopted for the original Inventory reporting.

EPA strongly encourages persons who asserted claims of confidentiality for chemical identity for substances they reported for the Inventory to reconsider the necessity of retaining those claims. If a person decides not to assert again a claim of confidentiality for the identity of a substance which is on the Inventory, that person would report information on the substance on EPA reporting form U–1.

C. Release of Data

EPA will continue to provide the public with sufficient and informative access to information collected for the Inventory data base while protecting submitters' valid proprietary interests. This will be accomplished by disclosing to the public all information reported that is not claimed as confidential and continuing to release aggregates of confidential production information. By releasing aggregate data, the Agency is able to share with the public at least general information about industry-wide production totals for Inventory substances. EPA is devising a data aggregation methodology that is sensitive to the specific production levels and changes reported under this rule.

XIII. Recordkeeping Requirements

EPA is proposing that persons subject to this rule be required to maintain records that document any information reported or a decision not to report for up to a 5-year period after the creation of these records. For example, if a person had determined that reporting was not necessary for a reporting period because the production volume of a substance did not change sufficiently to be a reportable event, that person would be required to retain records supporting that determination for a 5-year period.

EPA believes that the types of information being requested under this rule are readily available to a submitter, and that the records supporting reporting under the proposed rule will be records that the submitter would normally retain in the course of conducting business.

XIV. Economic Impact

Based on the proposed exclusions and exemptions discussed in this preamble, EPA believes that approximately 15,000 chemical substances would be covered by this rule. EPA estimates that a total of 4,600 plant sites would be required to submit an initial report and that approximately 25 percent of these sites would be required to report in a subsequent reporting period.

EPA estimates that chemical manufacturers subject to this rule will spend a maximum of $5.184 million to report for the initial reporting period. These estimates include both fixed and variable costs.

The fixed costs per plant site to comply with the initial reporting requirements of this rule are estimated at $911. This includes time to become familiar with the reporting requirements, time to determine which of the substances produced at that site is covered by the rule, and time to develop an ongoing reporting mechanism. Maximum variable costs of compliance with the initial reporting are estimated at an additional $242 per reporting form that must be submitted. The variable costs include time to gather necessary data, and time to complete and review a reporting form including a determination of whether the information should be claimed as confidential.

The fixed and variable cost estimates were based on the number of hours that would be required to complete a reporting form. EPA estimates an average of 19 hours for a submitter to become familiar with the rule, determine which of the substances produced at a plant site is reportable, and develop a reporting mechanism. An additional 4.6 hours are estimated for a submitter to gather the necessary information and to complete and review a reporting form. At an average of one report per plant site, these estimates allow 23.6 hours for an average plant site's compliance. This figure could be lower or higher depending on the number of forms involved at a plant site.

For a subsequent reporting period, all plant sites manufacturing a reportable substance would have to make a determination of whether a reportable change has occurred during the specified period. EPA estimates that only 25 percent of these plant sites would be required to report changes. The total cost to manufacturers who must report during a subsequent reporting period is estimated to be $201,000. This estimate includes both the cost for making the determination and for gathering information and completing a reporting form. Additionally, the total cost to the 75 percent of non-reporting plant sites that have to make a determination is estimated to be $418,000.

A more detailed economic impact analysis of the requirements of this rule is included in the rulemaking record.

XV. Alternatives

In developing its approach for updating the TSCA Inventory data base, EPA reviewed a number of options ranging from a complete update of the entire Inventory data base to no update. In its evaluation of the various options, EPA considered the need for current information and the cost to the Agency for obtaining the required information as well as the reporting burden on industry. EPA believes that the proposed approach will provide the Agency with adequate, but not unnecessary, information that it needs to conduct its activities under TSCA, while not imposing any unreasonable burden on industry or the Agency.

A possible alternative that EPA may consider would require manufacturers subject to this rule to submit information if a reportable event has occurred within a three year period. As compared with the proposed approach, recurring reporting under this option would occur less frequently and thus the burden imposed on manufacturers would be reduced; however, this option would result in the Inventory data base being less accurate (by the third year approximately 37.5 percent of the Inventory data base would be out of date). Thus, EPA believes that the three-year interval may not represent the most appropriate balance between maintaining a relatively current data base and minimizing excessive reporting burden.

Another alternative that EPA may consider and would require manufacturers subject to this rule to automatically submit current information all reportable substances every three years. Since recurring reporting under this option would not be triggered by the occurrence of a reportable event, there would be more reports. However, manufacturers would not have to determine whether recurring reporting is necessary and this may further simplify the recordkeeping procedures. EPA invites public comments on these reporting alternatives.

A discussion of other alternatives considered but not adopted by EPA is included in a supporting document in the rulemaking record.

XVI. Rulemaking Record

The record for this proposed rulemaking includes basic information considered by the Agency in developing this proposed rule. The following documents are included in the rulemaking record:

(1) Analysis of reporting requirements for the partial update of the TSCA Inventory Data Base.

(2) Whether and how the TSCA Inventory Data Base should be updated.

(3) Analysis of TSCA section 8(a) Small Manufacturer Exemption.

The Agency will supplement the record with the following types of additional information as they are received or developed:

1. All comments on this proposed rule.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the rule, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date.

XVII. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has his principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so-called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the **Federal Register**. The effective date will be calculated from the promulgation date.

XVIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed regulation is not "major" because it will not have an annual effect of $100 million or more on the economy. It is not anticipated to have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

This rule contains a small manufacturer exemption which would exempt small manufacturers from all reporting requirements. Therefore, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted for approval to OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on the information collection request (not on the substantive content of the rule itself) should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

(Sec. 8 (a), Pub. L. 94-469, 90 Stat. 2027 (15 U.S.C. 2607))

List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Inventory, Hazardous materials, Recordkeeping and reporting requirements.

Dated: March 3, 1985.

Lee M. Thomas,

Administrator.

PART 710—[AMENDED]

Therefore, it is proposed that Part 710 be amended as follows:

§§ 710.1—710.8 (Designated as Subpart A)

1. By designating the existing §§ 710.1 through 710.8 as Subpart A, entitled:

Subpart A—Compilation of the Inventory

2. By adding a new Subpart B to read as follows:

Subpart B—Partial Updating of the Inventory Data Base

Sec.
710.23 Definitions.
710.25 Chemical substances to be reported.
710.27 Persons subject to this subpart.
710.28 Persons not subject to this subpart.
710.30 Reporting requirements.
710.33 Recordkeeping requirements.
710.38 Confidentiality.
710.39 Reporting forms.

(Sec. 8(a), Pub. L. 94-469, 90 Stat. 2027 (15 U.S.C. 2607))

Subpart B—Partial Updating of the Inventory Data Base

§ 710.23 Definitions.

The definitions in § 704.3 of this chapter and § 710.2 apply except as provided in this section.

(a) "Manufacturer" means a person who manufactures or imports a chemical substance for commercial purposes. A person who extracts a component chemical substance from a complex combination of chemical substances is a manufacturer of that component chemical substance.

(b) "Master Inventory File" means EPA's comprehensive list of chemical substances which constitute the Chemical Substances Inventory compiled under section 8(b) of the Act. It includes substances reported under Subpart A of this Part and substances reported under Part 720 of this chapter for which a Notice of Commencement of Manufacture or Import has been received under § 720.120 of this chapter.

(c) "Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

(d) "Parent company" means a company which owns or controls another company. Owership or control exists when one company owns 50 percent or more of another company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(e) "Plant site" means a contiguous property unit under the ownership or control of a manufacturer or importer. Property divided only by a public right-of-way is one plant site. There may be more than one manufacturing facility on a single plant site. For an importer, the plant site is the importers's United States headquarters.

(f) "Site-limited"means that the chemical substance in question is manufactured and processed only within a plant site and is not distributed for commercial purposes outside the plant site as a chemical substance or as part of a mixture of article. No imported chemical substance is site-limited.

(g) "Small manufacturer" means a manufacturer meeting either of the following standards:

(1) *First standard.* A manufacturer is "small" under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than $40 million. However, if a manufacturer with total annual sales of less than $40 million produces annually over 100,000 pounds (45,400 kilograms) of a particular chemical substance at a particular plant side, that manufacturer will not qualify as small with regard to that chemical substance at that plant site. (For imports, the 100,000 pound figure applies to the total amount imported.)

(2) *Second standard.* A manufacturer is small under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than $4 million, regardless of the quantity of chemical substances produced by that manufacturer.

(h) "Total annual sales" means the total annual revenue (in dollars) generated by the sale of all products of a plant site.

§ 710.25 Chemical substances to be reported.

(a) *Inclusions.* Any chemical substance which is in the Master Inventory File at the time of a reporting period specified in § 710.30(c) is subject to the reporting requirements of this subpart unless specifically excluded by paragraph (b) of this section.

(b) *Exclusions.* The following categories of chemical substances are excluded from reporting under this subpart:

(1) *Inorganic chemical substances.* Any chemical substance which does not contain carbon or contains carbon only in the form of carbonato, cyano, cyanato, isocyano, or isocyanato groups, or the chalcogen analogues of such groups.

(2) *Polymers.* (i) Any chemical substances described with the words "polymer" or "polymerized" or the prefix "poly-" in the Chemical Abstracts Service Index or Preferred Nomenclature in the Chemical Substances Identities section of the published Inventory or in the Master Inventory File; (ii) Biopolymers that are proteins (albumin, casein, gelatin, gluten, hemoglobin), enzymes, polysaccharides (starch, cellulose, gums), lignin, or rubber. This exclusion also applies to biopolymers which are chemically modified to the extent that the polymeric structure still remains substantially intact.

(3) *Microorganisms.* Combinations of chemical substances that are living organisms, such as bacteria, fungi, and yeasts. Chemical substances produced from such living organisms are reportable unless otherwise excluded.

(4) *Naturally Occurring Chemical Substances.* Any naturally occurring chemical substances, as described in § 710.4(b). This exclusion applies to the specific activities of the person who must report. Some chemical substances can be manufactured both as described in § 710.4(b) and by means other than those described in § 710.4(b). If a person subject to this subpart manufactures a chemical substance by means other than those described in § 710.4(b), the person must report regardless of whether the substance could also have been produced as described in § 710.4(b). Chemical substances produced from such naturally occurring chemical substances would be reportable unless otherwise excluded.

§ 710.27 Persons subject to this subpart.

Except as provided in § 710.28, the following persons are subject to the requirements of this subpart:

(a) *Initial reporting.* (1) Any person who manufactured for commercial purposes 10,000 pounds (4,540 kilograms) or more of a chemical substance subject to this subpart at a particular plant site during that person's last complete corporate fiscal year before (effective date of final rule).

(2) Any person who manufactured for commercial purposes 10,000 pounds (4,540 kilograms) or more of a chemical substance subject to this subpart at a particular plant site during that person's last complete corporate fiscal year before a reporting period specified in § 710.30(c)(2) for which a report was not previously submitted under § 710.30(a)(1).

(b) *Reporting of changes.* (1) Any person who manufactured for commercial purposes a chemical

substance subject to this subpart at any time during that person's last complete corporate fiscal year before a reporting period specified in § 710.30(c)(2).

(2) Any person who ceased manufacture for commercial purposes of a chemical substance subject to this subpart at a particular plant site during that person's last 2 complete corporate fiscal years before a reporting period specified in § 710.30(c)(2).

§ 710.28 Persons not subject to this subpart.

The following persons are not subject to this subpart except as otherwise noted:

(a) Persons described in § 704.5 (a) and (c) of this chapter and persons who manufacture a chemical substance subject to this subpart as described in § 720.30 (g) and (h) of this chapter.

(b) Persons who are small manufacturers, except that such persons shall be subject to this subpart with respect to those chemical substances subject to an order issued pursuant to section 5(e) of the Act, 15 U.S.C. 2604(e).

§ 710.30 Reporting requirements.

(a) *Initial reporting.* Any person described in § 710.27(a) must submit an initial report for each chemical substance subject to this subpart for each plant site at which the substance is manufactured for commercial purposes as follows:

(1) A person described in § 710.27(a)(1) must submit the report during the reporting period described in paragraph (c)(1) of this section.

(2) A person described in § 710.27(a)(2) must submit the report during the reporting period described in paragraph (c)(2) of this section which immediately follows the event described in § 710.27(a)(2).

(b) *Reporting of changes.* Any person described in § 710.27(b) must submit a report of changes for each chemical substance subject to this subpart for each plant site at which a reportable change has taken place for that substance since the person last reported on the production of the substance at that site. The report must be submitted during the reporting period described in paragraph (c)(2) of this section which immediately follows the reportable change. The following are reportable changes:

(1) For a chemical substance previously reported under this subpart with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site, an increase in the previously reported production volume of 500 percent or more, or a decrease in such volume of 80 percent or more, as measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(2) For a chemical substance previously reported under this subpart with a production volume of greater than zero but less than 10,000 pounds (4,540 kilograms) at a particular plant site, an increase in production volume to 10,000 pounds or more, as measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(3) For a chemical substance previously reported under this subpart with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site, cessation of manufacture at that site during the last two complete corporate fiscal years before the reporting period.

(4) for a chemical substance for which a cessation of manufacture of that substance was previously reported under this subpart at a particular plant site, manufacture of 10,000 (4,540 kilograms) pounds or more, as measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(5) For a chemical substance with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site:

(i) A change in status from site-limited for a plant site at which it was previously reported as site-limited.

(ii) A change in status to site-limited for a plant site at which it was previously not reported as site-limited.

(c) *Reporting periods.* All reports required under this subpart must be submitted to EPA during the applicable reporting period. The reporting periods for this subpart are as follows:

(1) The first reporting period is from (effective date) to (120 days after the effective date).

(2) The second reporting period is from (effective date plus two years) to (60 days after effective date plus two years). Subsequent reporting periods are from (effective date, without year) to (60 days after effective date, without year) at 2-year intervals thereafter.

(d) *Reporting procedures.* Reports under this subpart must be submitted on either the designated reporting forms or on computer tape as follows:

(1) *Reporting forms.* Written reports must be submitted in the form and manner set forth in either EPA Form No. U-1 or U-2 under § 710.39. Forms may be obtained from the TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Initial reports under paragraph (a) of this section must be submitted on separate forms from reports of changes under paragraph (b) of this section. Each form submitted must indicate whether it is an initial report or a report of changes. Form No. U-2 must be used when the specific chemical identity is claimed confidential as prescribed in § 710.38(c). Information for different plant sites must be submitted on separate forms.

(2) *Reporting by computer tape.* Reports by computer tape must be submitted in accordance with (name of guidance document to be supplied at time of final rule).

(e) *Information to be reported.* Each person required to report under this subpart must report on the production of each chemical substance subject to this subpart at each plant site, to the extent known or reasonably ascertainable by the person, as follows:

(1) A certification, signed and dated by an authorized official, that all information submitted is complete and accurate, that certain confidentiality statements are true, and that EPA will be permitted access to and copying of records to document information reported.

(2) For manufactured substances, the name, street address, city, State, and ZIP code of the plant site. For imported substances, the name, street address, city, State, and ZIP code of the United States headquarters.

(3) The name, street address, city, State, ZIP code, and telephone number of a technical contact able to answer questions about the information.

(4) The Chemical Abstracts Service Registry Number (and/or other identifying numbers including EPA-designated Accession Number for confidential substances) and specific chemical name of each chemical substance.

(5) Whether each chemical substance is manufactured or imported.

(6) The production volume in pounds, for the person's last complete corporate fiscal year, of each chemical substance manufactured or imported, reported as precisely as permitted by the person's routine business records.

(7) Whether the chemical substance was site-limited.

§ 710.33 Recordkeeping requirements.

Each person who is subject to this subpart shall maintain records that document any information reported and that support any decision not to submit a report, and shall permit access to and copying of such records by EPA officials

upon request. Records shall be retained for a period of 5 years after the creation of such records.

§ 710.38 Confidentiality.

(a) Any person submitting information under this subpart may assert a business confidentiality claim for the information, as described in the instructions for the reporting forms in § 710.39 or in the instructions for reporting by computer tape. Information claimed as confidential will be treated in accordance with the procedures in Part 2 of this title.

(b) A person may assert a claim of confidentiality for the chemical identity of a specific chemical substance only if the identity of that substance is treated as confidential in the Master Inventory File as of the time the report is submitted.

(c) To assert a claim of confidentiality for the chemical identity of a specific chemical substance, the person must take the following steps:

(1) The person must report on EPA Form No. U-2, not by computer tape.

(2) The person must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) What harmful effects to your competitive position, if any, do you think would result from the identity of the chemical substance being disclosed in connection with reporting under this subpart? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(ii) How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(iii) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?

(iv) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?

(v) Is the fact that the chemical substance is being manufactured or imported for a commercial purpose publicly available, for example in technical journals, libraries, or State, local, or Federal agency public files?

(vi) What measures have you taken to prevent undesired disclosure of the fact that this chemical substance is being manufactured or imported for a commercial purpose?

(vii) To what extent has the fact that this chemical substance is manufactured or imported for a commercial purpose been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

(viii) Does this particular chemical substance leave the site of manufacture in any form, as product, effluent, emission, etc.? If so, what measures have you taken to guard against discovery of its identity?

(ix) If the chemical substance leaves the site in a product that is available to the public or your competitors, can the substance be identified by analysis of the product?

(x) For what purpose do you manufacture or import the substance?

(xi) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

(3) If any of the information contained in the answers to the questions is asserted to contain confidential business information, the person must mark that information as "trade secret," "confidential," or other appropriate designation.

(d) If no claim of confidentiality accompanies information at the time it is submitted to EPA under this subpart or if substantiation required under paragraph (c) of this section is not submitted with the reporting form, EPA may make the information available to the public without further notice to the submitter.

§ 710.39 Reporting forms.

All persons subject to this subpart must use the EPA-designated forms for reporting, unless such reporting is submitted in a computer tape in accordance with § 710.30(d)(2). The EPA-designated reporting forms for this subpart follow.

BILLING CODE 6560-50-M

IMPORTANT (1) Before completing this form, carefully read the accompanying instructions. (2) Use this form for reporting if chemical identity is NOT claimed confidential.

Form Approved. OMB No. 20xx-xxxx
Approval expires xx-xx-xx

U — 1

EPA

US ENVIRONMENTAL PROTECTION AGENCY

PARTIAL UPDATING OF TSCA INVENTORY DATA BASE PRODUCTION AND SITE REPORT

(Section 8(a) Toxic Substances Control Act 15 USC 2607)

I. CERTIFICATION STATEMENT: I hereby certify that (1) all information entered on this form is complete and accurate, and (2) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

SIGNATURE	DATE	NAME/TITLE *(Type or print)*

II. TECHNICAL CONTACT *(Name, Street address, City, State, ZIP Code)*	III. PLANT SITE *(Name, Street address, City, State, ZIP Code)*
TELEPHONE NUMBER OF TECHNICAL CONTACT	IV. ☐ Initial ☐ Report of changes

V. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY

NUMBER	CAS REGISTRY AND/OR OTHER IDENTIFYING NUMBER	SPECIFIC CHEMICAL NAME	ACTIVITY: MANUFACTURE	ACTIVITY: IMPORT	PRODUCTION VOLUME *(pounds)*	SITE LIMITED: YES	SITE LIMITED: NO	CONFIDENTIAL CLAIMS: (a) MFGR/IMPORT	(b) SITE LIMITED	(c) PRODUCTION	(d) PLANT SITE
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											

EPA Form 7740-8A (12-84)

EPA COPY

WHERE TO GET SUPPLIES	Send Completed Forms To
TSCA Section 8(a) Forms U-1 and U-2 and a copy of the instruction booklet may be obtained by contacting the TSCA Assistance Office, Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, TOLL FREE 800-424-9065, in Washington, DC 202-554-1404.	US Environmental Protection Agency Office of Toxic Substances PO Box

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information except chemical substance identity reported to EPA on the front of this form may be claimed confidential by checking the appropriate boxes under "Confidentiality Claims" of Block IV. In certifying this form, the person signing in Block 1 attests to the truth of the following four statements concerning all information (except chemical substance identity) which is claimed confidential.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

The person signing in Block 1 also attests to the truth of the appropriate statement(s) below concerning other information specifically claimed confidential for the particular chemical substance. By checking the box under:

(a) Manufacture/Import: I assert thay my activity as a manufacturer and/or an importer of the chemical substance is confidential *(Note; if only this box is checked, plant site information is not claimed as confidential and may be disclosed).*

(b) Site Limited: I assert that the fact that the chemical substance is not distributed for a commercial purpose outside of the plant site identified in Block II is confidential.

(c) Production: I assert that the production volume of the chemical substance for the plant site identified in Block II is confidential.

(d) Plant Site: I assert that the link of this chemical substance to the plant site identified in Block II is confidential.

IMPORTANT (1) Before completing this form, carefully read the accompanying instructions. (2) Use this form for reporting only if chemical identity is claimed confidential.

Form Approved. OMB No. 20xx-xxxx
Approval expires xx-xx-xx

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US ENVIRONMENTAL PROTECTION AGENCY

PARTIAL UPDATING OF TSCA INVENTORY DATA BASE PRODUCTION AND SITE REPORT

(Section 8(a) Toxic Substances Control Act 15 USC 2607)

I. CERTIFICATION STATEMENT: I hereby certify that (1) all information entered on this form is complete and accurate, and (2) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

SIGNATURE	DATE	NAME/TITLE *(Type or print)*
II. TECHNICAL CONTACT *(Name, Street address, City, State, ZIP Code)*		III. PLANT SITE *(Name, Street address, City, State, ZIP Code)*
TELEPHONE NUMBER OF TECHNICAL CONTACT		IV. ☐ Initial Report ☐ Report of changes

V. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY

NUMBER	ACCESSION AND/OR OTHER IDENTIFYING NUMBER	SPECIFIC CHEMICAL NAME	ACTIVITY: MANUFACTURE	ACTIVITY: IMPORT	PRODUCTION VOLUME (pounds)	SITE LIMITED: YES	SITE LIMITED: NO	CONFIDENTIAL CLAIMS: (a) MFGR/IMPORT	(b) SITE LIMITED	(c) PRODUCTION	(d) PLANT SITE	(e) CHEM ID
1												
2												
3												
4												
5												

EPA Form 7740-88 (12-84)

EPA COPY

WHERE TO GET SUPPLIES	Send Completed Forms To
TSCA Inventory Updating Forms U-1 and U-2 and a copy of the instruction booklet may be obtained by contacting the TSCA Assistance Office, Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, TOLL FREE 800-424-9065, in Washington, DC 202-554-1404.	US Environmental Protection Agency Office of Toxic Substances PO Box

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Chemical substance identity and other information reported to EPA on the front of this form may be claimed confidential by checking the appropriate boxes under "Confidentiality Claims" of Block IV. In certifying this form, the person signing in Block 1 attests to the truth of the following four statements concerning all information.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

The person signing in Block 1 also attests to the truth of the appropriate statement(s) below concerning the information specifically claimed confidential for the particular chemical substance. By checking the box under:

(a) Manufacture/Import: I assert thay my activity as a manufacturer and/or an importer of the chemical substance is confidential *(Note: if only this box is checked, plant site information is not claimed as confidential and may be disclosed)*

(b) Site Limited: I assert that the fact that the chemical substance is not distributed for a commercial purpose outside of the plant site identified in Block II is confidential.

(c) Production: I assert that the production volume of the chemical substance for the plant site identified in Block II is confidential.

(d) Plant Site: I assert that the link of this chemical substance to the plant site identified in Block II is confidential.

(e) Chemical Identity: I assert that the identity of the chemical substance is confidential.

The submitter of this form, when claiming that the identity of a chemical substance to be confidential, must provide written substantiation for such claim (see instructions) and also must agree to the following statement.

CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITY STATEMENT

I agree that EPA may disclose, for purposes of section 5(a)(1)(A) of the Act (premanufacture notification), to any person with a bona fide intent to manufacture the substance(s) identified on this form (as determined by EPA under 40 710.7(g)) the fact that the chemical substance(s) is (are) included on the Inventory. Further, I have or will have available and agree to furnish to EPA upon request, all information required in 40 CFR 710.7(e) for the substance(s) identified on this form.

EPA Form 7740-8B (12-84)

[FR Doc. 85-5810 Filed 3-11-85; 8:45 am]

BILLING CODE 6560-50-C

federal register

Tuesday
March 12, 1985

Part III

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Parts 76, 369 and 370

Client Assistance Program; Final Regulations

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 76, 369, and 370

Client Assistance Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations under section 112 of the Rehabilitation Act of 1973, as amended by Pub. L. 98–221. These regulations describe the agencies that a Governor may designate to conduct a client assistance program authorized by section 112, identify examples of authorized activities, and specify the conditions that apply to States in the operation of their client assistance programs. These regulations implement amendments to section 112 made by Pub. L. 98–221 which, among other things, changed the program from a discretionary to a formula grant program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of § 370.44. Section 370.44 will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Albert Rotundo, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3038) Washington, D.C. 20202. Telephone: (202) 732–1289.

SUPPLEMENTARY INFORMATION: The Client Assistance Program is authorized by section 112 of the Rehabilitation Act of 1973 (the Act), Pub. L. 93–112 (29 U.S.C. 732). The Client Assistance Program provides support to a public or private agency designated by the Governor of each State for programs that assist clients and client applicants to secure the benefits and services available to them under the Act.

These final regulations implement section 112 of the Act, as amended by Pub. L. 98–221, the Rehabilitation Amendments of 1984; and incorporate provisions of the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 76, 77, 78, and 79). Additional regulations applicable to this and several other vocational rehabilitation service programs are contained in 34 CFR Part 369.

A notice of proposed rulemaking was published in the **Federal Register** on May 17, 1984 (49 FR 21018). The comments received in response to that notice and the Secretary's responses are summarized in the Appendix to this document.

A summary of the regulations, including significant changes adopted in response to public comments, follows:

Subpart A—General

Section 370.1 describes the program.

Section 370.2 describes who is eligible to apply for an award and what agencies the Governor of each State may designate to carry out that State's client assistance program. In accordance with section 112(e)(3)(A) and (f) of the Act, § 370.2(a) provides that any State, through its Governor, is eligible for a client assistance grant. Section 370.2(b) permits the Governor to designate any public or private agency to conduct the State's client assistance program. However, § 370.2(c) requires the Governor to designate an agency which is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act.

Section 370.2(d) provides an exception to the independence requirement of § 370.2(c) for any State which, before the enactment of Pub. L. 98–221, placed its client assistance program in an agency that was also a Federal grantee under the Act, whether under section 112 or some other provision of the Act. Thus, for example, a State that has in the past placed its client assistance program in the State vocational rehabilitation agency designated under section 101, or in a private organization that was also carrying out a vocational training project under section 302, may continue to place its client assistance program in an agency that also provides other services to handicapped individuals under the Act. Those States that have not previously carried out a client assistance program under section 112, or which have placed their program only in an agency that was not also a grantee under the Act, are subject to the independence requirement of § 370.2(c).

The independence requirement, and the exception to it contained in § 370.2(d), implement section 112(c)(1) of the Act. The Secretary interprets these statutory provisions to mean, in effect, that a State may choose not to conform to the independence requirement if it had not done so prior to the enactment of the amendments to the Act.

Section 370.3 lists the regulations that apply to the Client Assistance Program, including Parts 74, 76, 77, 78 and 79, of the Education Department General Administrative Regulations (EDGAR), and certain provisions of 34 CFR Part 369 (Vocational Rehabilitation Service Projects) that currently apply to several programs, including the Client Assistance Program.

Section 370.3(c)(2) lists certain provisions of Part 76 that do not apply to the Client Assistance Program. Those provisions, relating to three year State plans, the carryover of funds, the retention of records, and the privacy rights of students, implement sections of the General Education Provisions Act (GEPA) which, under section 427 of the Department of Education Organization Act (20 U.S.C. 3487), do not apply to programs transferred to the Department in 1980, such as the Client Assistance Program, which were not subject to GEPA before the Department's creation. To the extent that regulations on these matters are needed for the Client Assistance Program, they are contained in EDGAR Part 74 or in these regulations.

Moreover, because it is the State, rather than the designated client assistance agency, that applies for, and receives, a grant under this program, the State is the applicant and the grantee under Part 370 and EDGAR, even if the Governor designates an agency that is not a State agency to conduct a client assistance program. The State, therefore, remains responsible in all cases for ensuring that the provisions of section 112 of the Act and these regulations are carried out. In addition, because each State's client assistance program is not carried out through multiple competitive or formula-based awards, the Secretary does not regard the designated agency as a "subgrantee" as that term is used in Part 76 of EDGAR. (*See* the Note to § 370.4.) Accordingly, the provisions of EDGAR Part 76 governing the relationship between grantees and subgrantees, such as Subparts D and E of Part 76, are inapplicable to the Client Assistance Program.

Finally, the provisions of Part 76 relating to consolidated grants to Insular Areas, §§ 76.125–76.137, that implement Title V of Pub. L. 95–134, do not apply to the Client Assistance Program. Section 11 of the Rehabilitation Act of 1973, as amended, provides that Title V of Pub. L. 95–134 does not apply to Rehabilitation Act programs.

Section 370.4 provides definitions that apply to the program. In addition to incorporating certain EDGAR definitions, it provides definitions of "Act", "client or client applicant", "designated agency", and "Governor".

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

Section 370.10 lists examples of activities and services that programs are authorized to carry out under this part. The list is based on former § 370.11.

Subpart C—How Does One Apply for a Grant?

Section 370.20 describes the assurances and information that each State must include in its request for funds under this program. A new paragraph (b)(2) has been added to this section. It provides that the authority to pursue administrative, legal, and other remedies must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. A new paragraph (c)(1) has also been added to require that each State include in its request for assistance an assurance that it will advise all clients and client applicants in the State of its client assistance program, the services provided by the program, and how to contact the program.

Subpart D—How Does the Secretary Make a Grant?

Section 370.30 implements section 112(e)(1) of the Act and describes how the Secretary allocates funds under this program. Under § 370.30(a), the Secretary allocates available funds to the 50 States, the District of Columbia, and Puerto Rico on the basis of the relative population of each State, with a minimum allocation of $50,000 to each State. Under § 370.30(b), the Secretary allocates $30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Two new paragraphs have been added to this section. First, paragraph (d) has been added to provide that the Governor may request the Secretary to transfer the State's grant funds directly to the designated agency, but that in such a case the State remains the grantee. Second, paragraph (e) has been added to make it clear that both the State and the designated agency are accountable to the Secretary for the proper use of grant funds.

Section 370.31 provides that the Secretary reallocates funds in accordance with section 112(e)(2) of the Act.

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

Section 370.40, based on former § 370.41, provides that the cost of client, client applicant, or attendant travel in connection with the provision of assistance is an allowable cost under this program.

Section 370.41 describes a conflict of interest provision that applies to employees of client assistance programs. Section 370.41(a) provides that no program employee may, while so employed, serve as a staff member of or consultant to, or receive benefits of any kind directly or indirectly from, any other rehabilitation project, program, or facility receiving assistance under the Act in the State. This provision implements section 112(g)(1) of the Act. Section 370.41(b), however, states that this conflict of interest provision does not prohibit a trainee under section 304 of the Act from serving with a client assistance program during the traineeship.

Section 370.42 requires that a client assistance program director be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities. One way in which the program director may be provided that access would be to include the director among the individuals to be consulted on matters of general policy development and implementation, as required by 34 CFR 361.18. This provision implements section 112(g)(2) of the Act.

Section 370.43 requires each client assistance program to implement procedures designed to ensure that, to the maximum extent possible, mediation procedures are used by the program before it resorts to administrative or legal remedies. This provision implements section 112(g)(3) of the Act. A new paragraph (b) has been added to § 370.43 to make it clear that this section does not require the use of a third party before resorting to administrative or legal remedies.

Section 370.44 requires each designated agency to submit to the Secretary an annual report on the operation of its program during the previous year. This provision implements section 112(g)(4) of the Act.

Section 370.45 prohibits a client assistance program from bringing a class action in carrying out its responsibilities under these regulations. This provision implements section 112(d) of the Act.

Section 370.46 requires the Governor, in designating a client assistance agency under § 370.2 and in carrying out the other provisions of these regulations, to consult with the director of the State vocational rehabilitation agency (and the head of the VR agency for the blind in States with both agencies), the head of the developmental disability protection and advocacy agency, and representatives of professional and consumer organizations serving handicapped individuals in the State. This provision implements section 112(c)(2) of the Act.

Section 370.47 has been added to explain when grant funds must be obligated and how to determine when those funds have been obligated.

Technical Amendments to Parts 76 and 369

Current 34 CFR Part 369, Vocational Rehabilitation Service Projects, contains various general provisions, including selection criteria, applicable to eight discretionary programs, including client assistance projects. Because the Rehabilitation Amendments of 1984, Pub. L. 98-221, change the Client Assistance Program from a discretionary to a formula grant program, it is no longer appropriate to subject the program to all the provisions of Part 369. The Secretary therefore amends Part 369 by deleting references to the Client Assistance Program from that part. Those sections of Part 369 that the Secretary believes should continue to apply to this program are cited in § 370.3(b).

The Secretary also adds the State's request for assistance under this program to the list of "State Plans" contained in 34 CFR 76.102 in order to ensure that appropiate provisions of Part 76 apply to this program.

Executive Order 12291

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

Paperwork Reduction Act of 1980

Information collection requirements contained in these regulations in § 370.20(a)1) and (d) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned an OMB control number. This control number appears as a citation following the appropriate section(s).

Information collection requirements contained in these regulations in § 370.44 have been submitted to OMB for review under the provisions of the Act and will become effective after they have been approved by OMB.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objectives 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.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 76

Grant programs–education.

34 CFR Part 369

Grant programs–Social programs, Vocational rehabilitation.

34 CFR Part 370

Reporting and recordkeeping requirements, Vocational rehabilitation.

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 regulations.

(Catalog of Federal Domestic Assistance No. 84.128; Client Assistance Program)

Dated: March 7, 1985.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 76, 369, and 370 of Title 34 of the Code of Federal Regulations as follows:

PART 76—STATE ADMINISTERED PROGRAMS

1. Section 76.102 is amended by redesignating paragraph (x) as paragraph (y) and adding a new paragraph (x) to read as follows:

§ 76.102 Definition of "State plan" for Part 76.

* * * * *

(x) *Client Assistance Program.* The written request for assistance under section 112 of the Rehabilitation Act of 1973, as amended.

* * * * *

PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

§ 369.1 [Amended]

2. Section 369.1 is amended by removing paragraph (b)(1) and redesignating the remaining paragraphs (b)(2) through (8) as (b)(1) through (7) accordingly.

§ 369.2 [Amended]

3. Section 369.2 is amended by removing paragraph (a) and redesignating the remaining paragraphs (b) through (h) as (a) through (g) accordingly.

§ 369.30 [Amended]

4. Section 369.30 is amended by removing the references to Part 370 and to § 370.30 from § 369.30(a).

§ 369.32 [Amended]

4. Section 369.32 is amended by removing the references to Part 370 and to § 370.30 from § 369.30(a).

§ 369.32 [Amended]

5. Section 369.32 is amended by removing the reference to Part 370.

6. Part 370 is revised to read as follows:

PART 370—CLIENT ASSISTANCE PROGRAM

Subpart A—General

Sec.

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

Subpart C—How Does One Apply for a Grant?

Sec.

Subpart D—How Does the Secretary Make a Grant?

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

Authority: Sec. 112 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 732), except where otherwise noted.

Subpart A—General

§ 370.1 What is the Client Assistance Program?

The purpose of this program is to provide assistance in informing and advising clients and client applicants of all available benefits under the Act and, when requested by clients and client applicants, assist them in their relationships with projects, programs, and facilities providing services to them under the Act.

(Sec. 112(a) of the Act; 29 U.S.C. 732(a))

§ 370.2 Who is eligible for an award under the Client Assistance Program?

(a) Any State, through its Governor, is eligible for an award under this part.

(b) The Governor of each State shall designate a public or private agency to conduct the State's client assistance program under this part.

(c) Except as provided in paragraph (d) of this section, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under the Act.

(d) The Governor may designate an agency which provides treatment, services, or rehabilitation to handicapped individuals under the Act if, at any time before February 22, 1984,

there was an agency in the State that both—

(1) Served as a client assistance agency under section 112 of the Act by directly carrying out a client assistance program; and

(2) Was, at the same time, a grantee under section 112 or any other provision of the Act.

(e) The program conducted by the designated agency must have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatments, services, or rehabilitation under the Act within the State.

(Sec. 112 (a) and (c) of the Act; 29 U.S.C. 732 (a) and (c))

§ 370.3 What regulations apply to the Client Assistance Program?

The following regulations apply to this program:

(a) The regulations in this Part 370.

(b) The regulations in 34 CFR 369.43 and 369.46 through 369.48, relating to various conditions to be met by grantees.

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR—

(1) Part 74 (Administration of Grants);

(2) Part 76 (State-Administered Programs), except for—

(i) § 76.103;

(ii) §§ 76.705 and 76.706;

(iii) § 76.734; and

(iv) §§ 76.740 and 76.741;

(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).

(Sec. 112(c) of the Act; 29 U.S.C. 732(c))

§ 370.4 What definitions apply to the Client Assistance Program?

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

Award
EDGAR
Fiscal year
Private
Public
Secretary
State

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Rehabilitation Act of 1973, as amended.

"Client or client applicant" means an individual receiving or seeking services under the Act.

"Designated agency" means the agency designated by the Governor under § 370.2 to conduct a client assistance program under this part.

"Governor" means the chief executive of the State.

(Sec. 112(e)(3)(B) of the Act; 29 U.S.C. 732(e)(3)(B))

(Note.—The funds made available to a State under this program which are transferred to a designated agency do not comprise a subgrant as that term is defined in 34 CFR 77.1. The designated agency is not, therefore, a subgrantee as that term is defined in that section.)

(Sec. 112 of the Act; 29 U.S.C. 732)

§§ 370.5—370.9 [Reserved]

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

§ 370.10 What kinds of activities does the Secretary assist under this program?

Funds made available under this part may be used for activities consistent with the purpose of this program, including—

(a) Helping clients or client applicants to understand rehabilitation services programs under the Act;

(b) Advising clients or client applicants of all benefits available to them through rehabilitation programs authorized under the Act and related Federal and State assistance programs, and their rights and responsibilities in connection with those benefits;

(c) Otherwise assisting clients and client applicants in their relationships with projects, programs, and facilities providing rehabilitation services under the Act;

(d) Helping clients or client applicants by pursuing, or assisting them in pursuing, legal, administrative, and other available remedies when necessary to ensure the protection of their rights under the Act;

(e) Advising State and other agencies of identified problem areas in the delivery of rehabilitation services to handicapped individuals and suggesting methods and means of improving agency performance; and

(f) Providing information to the public concerning the client assistance program.

(Sec. 112 of the Act; 29 U.S.C. 732)

§§ 370.12-370.19 [Reserved]

Subpart C—How Does One Apply for a Grant?

§ 370.20 What must be included in a request for a grant?

(a) Each State seeking assistance under this part shall submit to the Secretary, in writing—

(1) The name of the designated agency; and

(2) An assurance that the designated agency meets the independence requirement of § 370.2(c) or that the State is excepted from that requirement under § 370.2(d).

(b)(1) Each State shall submit to the Secretary an assurance that the client assistance program for which it seeks funds under this part has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatments, services, or rehabilitation under the Act within the State.

(2) The authority to pursue remedies described in paragraph (b)(1) of this section must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources.

(c) Each State shall also submit to the Secretary assurances that—

(1) The State will advise all clients and client applicants of the existence of the client assistance program, the services provided by the program, and how to contact the program;

(2) The client assistance program will meet each of the requirements of §§ 370.41 through 370.47; and

(3) The client assistance program will provide the Secretary the information needed to conduct evaluations and studies of the program, such as the evaluation described in section 112(h) of the Act.

(d) Each State shall specify the amount of funds requested under this part.

(Sec. 112(f) of the Act; 29 U.S.C. 732(f))

(Approved by the Office of Management and Budget under Control Number 1820-0520)

§§ 370.21-370.29 [Reserved]

Supart D—How Does the Secretary Make a Grant?

§ 370.30 How Does the Secretary Allocate Funds?

(a)(1) The Secretary allocates the funds available under this part for any fiscal year to the States on the basis of the relative population of each State, except that the Secretary allocates at least $50,000 to each State.

(2) For the purposes of paragraph (a)(1) of this section, the term "State" does not include American Samoa,

Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) The Secretary allocates $30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) Upon approval of a State's request for assistance under this part, the Secretary pays to the Governor of each State, from that State's allotment under paragraph (a) or (b) of this section, the amount specified in the State's approved request.

(d) The Governor may request that the Secretary transfer the State's grant directly to the designated agency. In such a case, however, the State remains the grantee.

(e) Both the State and the designated agency are accountable to the Secretary for the proper use of funds made available under this part.

(Sec. 112(e)(1), (3) of the Act; 29 U.S.C. 732(e)(1), (3))

§ 370.31 How does the Secretary reallocate funds?

The Secretary reallocates funds in accordance with section 112(e)(2) of the Act.

(Sec. 112(e)(2) of the Act; 29 U.S.C. 732(e)(2))

§§ 370.32-370.39 [Reserved]

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

§ 370.40 What are allowable costs?

In addition to those allowable costs established in EDGAR, and consistent with the program activities listed in § 370.10, the cost of client, client applicant, or attendant travel in connection with the provision of assistance is also allowable under this program.

(Sec. 112 of the Act; 29 U.S.C. 732)

§ 370.41 What conflict of interest provision applies to program employees?

(a) No program employee may, while so employed, serve as a staff member of or consultant to, or receive benefits of any kind directly or indirectly from, any other rehabilitation project, program, or facility receiving assistance under the Act in the State.

(b) This section does not prohibit an individual receiving a traineeship under Section 304 of the Act from serving with a program under this part during the traineeship.

(Sec. 112(g)(1) of the Act; 29 U.S.C. 732(g)(1))

§ 370.42 What access must the program director be afforded to policymaking and administrative personnel?

The program director must be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities. One way in which the program director may be provided that access would be to include the director among the individuals to be consulted on matters of general policy development and implementation, as required by 34 CFR 361.18.

(Sec. 112(g)(2) of the Act; 29 U.S.C. 732(g)(2))

§ 370.43 What requirement applies to the use of mediation procedures?

(a) Each designated agency shall implement procedures designed to ensure that, to the maximum extent possible, mediation procedures are used before resorting to administrative or legal remedies.

(b) As used in this section, "mediation" includes good faith negotiations, but this section does not require the use of a third party before resorting to administrative or legal remedies.

(Sec. 112(g)(3) of the Act; 29 U.S.C. 732(g)(3))

§ 370.44 What reporting requirement applies to each designated agency?

Each designated agency shall submit to the Secretary an annual report on the operation of its program during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by the program.

(Sec. 112(g)(4) of the Act; 29 U.S.C. 732(g)(4))

§ 370.45 What limitation applies to the pursuit of legal remedies?

A designated agency may not bring any class action in carrying out its responsibilities under this part.

(Sec. 112(d) of the Act; 29 U.S.C. 732(d))

§ 370.46 What consultation requirement applies to the Governor?

In designating a client assistance agency under § 370.2 and in carrying out the other provisions of this part, the Governor shall consult with the director of the State vocational rehabilitation agency (or, in States with both a general agency and an agency for the blind, the directors of both agencies), the head of the developmental disability protection and advocacy agency, and representatives of professional and consumer organizations serving handicapped individuals in the State.

(Sec. 112(c)(2) of the Act; 29 U.S.C. 732(c)(2))

§ 370.47 When must grant funds be obligated?

(a) Each designated agency must obligate funds received under this part by the end of the fiscal year for which they are made available.

(b) The designated agency is considered a State for purposes of 34 CFR 76.707.

(Sec. 112 of the Act; 29 U.S.C. 732)

§§ 370.48-370.49 [Reserved]

Appendix A—Analysis of Public Comments and Changes in the Final Regulations

Note.—This Appendix will not appear in the Code of Federal Regulations.

The following is a summary of public comments concerning the notice of proposed rulemaking for the Client Assistance Program published in the **Federal Register** on May 17, 1984 (49 FR 21018) and the Secretary's responses to those comments.

General

Comment. Several commenters recommended that, as a general matter, the regulations be much more detailed and comprehensive. Some of these commenters requested that the regulations more fully describe the powers and duties of designated agencies.

Response. No changes have been made in response to these general comments. The Secretary believes that the statute provides sufficient detail on most aspects of the Client Assistance Program and that States should generally be afforded flexibility and discretion on matters not covered by the statute or by other applicable laws and regulations. As described more fully below, the Secretary has made several changes in response to specific comments, but does not believe that it is necessary to make these regulations more detailed and comprehensive throughout.

Section 370.2

Comment. Two commenters recommended that the regulations permit the Governor to designate more than one agency within the State, and that references to the "agency" be changed to "agencies" accordingly. The commenters stated that this change is important for those States that have both a general and a blind vocational rehabilitation agency as authorized under the Title I Basic Vocational Rehabilitation program.

Response. No change has been made. The statutory use of the singular term "agency" precludes the designation of

more than one agency in a State. The designated agency may, however, use subcontracts or other administrative arrangements to ensure the effective provision of client assistance services throughout the State, including the provision of services to the blind, but there must be one designated agency that is administratively and financially responsible for the program, and that prepares the annual report to the Secretary required by section 112(g)(4) of the Act.

Comment. One commenter objected to the provision in § 370.2(d) that, in order to be exempt from the requirement to designate an independent agency, there must have been an agency in the State that was "directly carrying out" a client assistance program. The commenter recommended that "directly carrying out" be changed to "administering".

Response. No change has been made. The recommended change would mean that States in which a client assistance program has been "administered" by the State vocational rehabilitation agency, but actually carried out by an independent agency under a contract or other arrangement, would be exempt from the requirement to designate an independent agency. In effect, this change would exempt from that requirement every State that had conducted a client assistance program, whether or not the program was actually operated by the State vocational rehabilitation agency. This is clearly inconsistent with the statutory language, since it would make superfluous the additional requirement that the previous agency "received Federal financial assistance under (the Rehabilitation) Act."

Comment. One commenter recommended that if a Governor in a State that currently has a client assistance program designates an agency other than the current program agency, the regulations should require the Governor to include a justification in the State's request for a grant.

Response. No change has been made. The Secretary believes that so long as the statutory requirements pertaining to designation are met, it would be inappropriate to require a Governor to explain the selection of the designated agency to the Federal Government.

Comment. One commenter recommended that the regulations establish an appeal process for a State to contest the Department's determination that the Governor of that State must designate an independent agency to conduct the State's client assistance program.

Response. No change has been made. Any State that disagrees with the Department's determination on this matter may request the Department to explain or reconsider its determination and may submit information which it believes supports a different result. The Secretary does not believe, however, that there is a need for a formalized appeal process.

Comment. One commenter recommended that the regulations permit the Governor to revoke the designation of a client assistance agency only for "good cause shown". The commenter stated that such a provision is necessary to ensure that client assistance agencies are indeed independent and able to pursue the legal claims of their clients without fear that the Governor may revoke their designation as client assistance agencies.

Response. No change has been made. The statute affords each Governor substantial discretion in selecting an agency to carry out the State's client assistance program and in changing to a different agency in the future. The Secretary does not believe that it is appropriate to restrict that discretion in these regulations.

Section 370.10

Comment. One commenter was concerned that the use of the term "may" in the introductory paragraph of § 370.10 appeared to give discretion to the client assistance agency to determine whether or not to provide the services described in that section, and recommended that "may" be changed to "shall".

Response. No change is made. The introductory paragraph means that program funds may be used only for activities consistent with the purpose of the program, and may not be used for other activities. While the Secretary expects each client assistance program to provide the mix of services that will most effectively meet the needs of clients and client applicants in that State, the Secretary believes that it would be inappropriate, particularly in light of the limited funds available under this program, to specify the extent to which each State must provide particular services.

Comment. One commenter noted that the statute and proposed § 370.1 provide that client assistance programs are to advise clients and client applicants of "all" available benefits under the Rehabilitation Act and recommended that the word "all" be added to the corresponding language of § 370.10(b).

Response. A change has been made. The world "all" has been inserted before "benefits available" in § 370.10(b).

Comment. One commenter stated that the purpose of the Client Assistance Program overlaps that of the basic State vocational rehabilitation program under Title I of the Act, and that professional vocational rehabilitation counselors under that program already carry out all the activities listed in § 370.10. The commenter recommended that the regulations prohibit the client assistance agency from initiating "first" contact with clients and client applicants and prohibit State vocational rehabilitation agencies from routinely providing client assistance agencies with lists of clients and client applicants.

Response. No change has been made. The Secretary does not agree that vocational rehabilitation agencies already carry out all the activities listed in § 370.10. The Secretary also believes that the recommendation of the commenter could substantially interfere with the ability of client assistance agencies to carry out their responsibilities and could prevent needed cooperation between vocational rehabilitation and client assistance agencies, to the extent that such cooperation is permissible under the confidentiality requirements of 34 CFR 361.49.

Section 370.20

Comment. Several commenters recommended that § 370.20 be amended to require a State to include in its request for a grant an assurance that the authority to pursue legal remedies includes the authority to bring legal actions against the State vocational rehabilitation agency and other agencies of State government.

Response. A change has been made. A new paragraph (b)(2) has been added to § 370.20, and the other provisions of § 370.20 have been redesignated accordingly. The new provision states that the authority to pursue administrative, legal, and other remedies must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The new language also provides that the designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources. The Secretary believes that this additional provision is necessary to accommodate States that are permitted to designate a State agency as the client assistance agency.

Comment. Several commenters recommended that the regulations require the State to include in its request

for a grant an assurance that it will provide clients with information about the Act and remedies available under the Client Assistance Program.

Response. A change has been made. A new paragraph (c)(1) has been added to § 370.20, to require that each State include an assurance that it will advise all clients and client applicants in the State of its client assistance program, the services provided by the program, and how to contact the program. The Secretary also notes that current regulations for the basic State vocational rehabilitation program require that each client's individualized written rehabilitation program, where appropriate, assure that the client has been provided a detailed explanation of the resources within a client assistance program (34 CFR 361.41(a)(9)).

Comment. Several commenters recommended that § 370.20 be amended to require a State to include in its request for a grant an assurance that if the Governor designates a State vocational rehabilitation agency or any other agency which provides treatment, services or rehabilitation under the Rehabilitation Act as its client assistance agency, the State must also include an assurance that the client assistance program will be placed in that agency only for administrative purposes, and that the director of that agency will not exercise any supervision, direction, or control over the program in the exercise of its responsibilities under the Act.

Response. No change has been made. Those States in which the governor is free to designate an agency that provides treatment, services, or rehabilitation under the Act are expressly exempt from the statutory requirement to designate an independent agency. The Secretary believes that it would be a serious and inappropriate intrusion into a State's operation of its client assistance program to build in an independence requirement not found in the statute.

Comment. Several commenters recommended that § 370.20 be amended to require a State to include in its request for a grant a description of the specific means by which its client assistance program will provide clients with legal, administrative, and other available remedies.

Response. No change has been made. The Secretary believes that a simple assurance that each State's client assistance program has the authority to pursue these remedies is sufficient to ensure that those remedies will be made available to clients and client applicants and that it is therefore unnecessary to impose a requirement not found in the statute.

Section 370.30

Comment. Several commenters recommended that § 370.30 be amended to permit direct payment of Federal funds to private agencies designated to operate client assistance programs. Some of the commenters stated that this change would make funds available to the designated private agency more quickly than if they were paid directly to the State and then transferred by the State to the private agency.

Another commenter recommended that the regulations reflect the requirement of section 112(c)(3) of the Act that the designated agency be accountable for the proper use of funds made available under this program.

Response. Two changes have been made to § 370.30. First, paragraph (d) has been added to provide that the Governor may request the Secretary to transfer the State's grant funds directly to the designated agency, but that in such a case the State remains the grantee. Second, paragraph (e) has been added to make it clear that both the State and the designated agency are accountable to the Secretary for the proper use of grant funds. This is the case whether or not the Secretary transfers the State's grant funds directly to the designated agency.

Comment. Several commenters recommended that § 370.30 be amended to provide that if a Governor designates a private agency, but wishes to name a State agency or official as the actual payee, the payee may not be the State vocational rehabilitation agency or any other agency that provides treatment, services, or rehabilitation under the Rehabilitation Act, nor may it be an official of such an agency. Some of these commenters stated that this change was important in order to maintain the independence of designated private agencies.

Response. No change has been made. The Secretary does not believe that it is necessary at this time to restrict a State's options on administrative matters such as the determination of which State agency will be the payee under the grant.

Section 370.40

Comment. One commenter asked whether, under § 370.40, grant funds may be used for the pursuit of legal remedies and recommended that a provision be added authorizing the use of grant funds for that purpose.

Response. No change has been made. Section 370.10(d) makes it clear that grant funds may be used for, among other things, helping clients and client applicants by pursuing legal remedies.

Comment. One commenter asked whether grant funds could be used for the pursuit of legal remedies against the Federal Government under the Act, such as employment discrimination claims under section 501, in light of the provision in the Education Department General Administrative Regulations (EDGAR) cost principles prohibiting the use of grant funds for legal expenses for the prosecution of claims against the Federal Government. *See* EDGAR, Part 74, Appendix C, Part II.B.16.

Response. No change has been made. Although section 112(a) of the Act provides that client assistance programs assist clients and client applicants by advising them of "all" available benefits under the Act and in pursuing legal remedies to ensure the protection of their rights under the Act, the statute authorizes the pursuit of remedies only against those operating projects, programs, and facilities that provide services under the Act to clients and client applicants and only in connection with the provision of those services. Since the Federal Government does not operate such projects, programs, or facilities, the Act does not authorize the pursuit of remedies against the Government. A client assistance program could, however, assist a client or client applicant in pursuing a claim under section 504 of the Act against a designated State unit that provides vocational rehabilitation services under Title I of the Act if the claim involved the provision of those services.

Comment. Two commenters recommended that more detail be included in § 370.41, relating to program employee conflicts-of-interest.

Response. No change has been made. The Secretary has been able to effectively respond, on a case-by-case basis, to questions presented by the conflict-of-interest provision, which has been in section 112 of the Act since 1973. The Secretary does not believe, therefore, that these regulations need to expand on the statutory provision.

Section 370.42

Comment. One commenter recommended that § 370.42 elaborate on the meaning of "reasonable access" under this provision requiring that a client assistance program director be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, and facilities. In particular, the commenter stated that, at a minimum, a client assistance program should be allowed

to provide input into the development of major administrative and policy decisions. The commenter also recommended that a client assistance program be notified of, and be allowed to attend, any meetings of the State vocational rehabilitation consumer advisory panel, which the commenter stated is required under 34 CFR 361.18.

Response. A change has been made. Proposed § 370.42 has been expanded to include an additional sentence which suggests a way in which "reasonable access" may be provided to the client assistance program director. The additional sentence suggests "One way in which the program director may be provided that access would be to include the director among the individuals to be consulted on matters of general policy development and implementation as required by 34 CFR 361.18." The Secretary notes, however, that 34 CFR 361.18 does not require the establishment of a consumer advisory panel, as stated by the commenter. Finally, the Secretary does not believe that, aside from the suggestion now included in § 370.42, it is necessary to provide additional guidance on the "reasonable access" requirement. This requirement can be applied in a common sense manner on a case-by-case basis.

Comment. Several commenters recommended that the regulations provide that "access" include access by a client assistance program to the vocational rehabilitation agency to assist the vocational rehabilitation agency in providing information to clients and client applicants.

Response. No change has been made. The Secretary encourages vocational rehabilitation agencies to work closely with client assistance agencies in informing clients and client applicants about the Client Assistance Program, but does not believe that it is appropriate to require vocational rehabilitation agencies to follow any particular approach in providing that information. The manner in which vocational rehabilitation agencies provide information about the Client Assistance Program to clients and client applicants is, of course, one of the subjects which a client assistance program director may raise with vocational rehabilitation agencies under the "reasonable access" requirement.

Section 370.43

Comment. Several commenters objected to the use of the term "mediation" on the ground that it implies a more formal and elaborate mechanism than is necessary. Some of these commenters recommended that the term "negotiation" be used instead of, or in addition to, "mediation".

Response. A change has been made. Section 112(g)(3) of the Act uses the term "mediation", but the Secretary does not interpret this term to require the use of a third party or any other attributes of formal mediation. A sentence to this effect is therefore added to § 370.43.

Section 370.44

Comment. One commenter recommended that the regulations specify the nature of both qualitative and statistical data that each State must gather and submit in its annual report. The commenter stated that without accurate, uniform data, the Secretary will not be able to prepare the comprehensive evaluation of the Client Assistance Program that section 112(h) of the Act requires to be submitted to the Congress by February 1, 1986.

Response. No change has been made. The Department is developing a standard reporting form to be submitted by designated agencies. The Department will seek comment from designated agencies, vocational rehabilitation agencies, consumer groups, and interested individuals before the form becomes final, but the Secretary does not believe that it would be beneficial to include additional requirements in these final regulations.

Section 370.45

Comment. Several commenters recommended that this section, which prohibits a designated agency from bringing any class action in carrying out its responsibilities under the program, apply only to funds made available under this program. Several of these commenters stated that such a limitation is necessary to ensure that these regulations not unduly restrict designated agencies in using funds obtained from other sources.

Response. No change has been made. The Secretary does not believe that the recommended change is permissible under the statute. The Secretary interprets section 112(d) of the Act to prohibit a designated agency from bringing a class action, regardless of the funding source, if the effect of the class action would be to carry out the agency's client assistance responsibilities.

Section 370.46

Comment. One commenter recommended that the director of the State unit for the blind be added to the list of individuals whom the Governor must consult under this section. This commenter also recommended that the requirement that the Governor consult representatives of professional and consumer organizations serving handicapped individuals specifically refer to organizations serving the blind and visually impaired.

Response. A change has been made. Several States have designated a separate agency for the blind under the basic State vocational rehabilitation program, as authorized by section 101(a)(1)(A) of the Act. In those States, the Secretary believes that the Governor should consult with the heads of both the general vocational rehabilitation agency and the agency for the blind. Section 370.46 has been revised accordingly. The Secretary does not believe, however, that it is appropriate to specify particular disability groups in the provision requiring the Governor to consult with organizations serving handicapped individuals.

Comment. One commenter stated that the requirement for consultation is "vague" and "loose." The commenter recommended that § 370.46 require the Governor to convene periodic meetings of an advisory body composed of the individuals listed in the regulation.

Response. No change has been made. The Secretary does not believe that it is necessary to go beyond the statutory requirement by prescribing any particular method of consultation.

Comment. One commenter recommended that the regulation require the client assistance agency to have a policy which ensures that disabled people will be given a "preference" in staffing client assistance programs.

Response. No change has been made. Section 370.3(b) incorporates certain regulations applicable to several Vocational Rehabilitation Service Programs authorized by the Act. These regulations include 34 CFR 369.43, which requires each designated agency to develop and implement an affirmative action plan to employ and advance in employment qualified handicapped individuals.

Comment. Several commenters recommended that the regulations clarify the point at which grant funds are obligated. Some commenters recommended that a "flexible" approach be adopted in determining when funds are obligated.

Response. A change has been made. A new § 370.47 has been added to clarify the applicable EDGAR provision (34 CFR 76.707) in the context of the Client Assistance Program. Section 370.47 provides that each designated agency must obligate its grant funds by the end of the fiscal year for which they

were awarded, in accordance with 34 CFR 76.707.

Comment. One commenter recommended that the regulations require each client assistance program to provide the Secretary with documentation that it is complying with § 370.2(c) and §§ 370.40 through 370.46.

Response. No change has been made. The Secretary believes that the annual report submitted by each agency under § 370.44, together with information obtained through monitoring and other means, will provide sufficient information to determine whether an agency is complying with the provisions cited by the commenter.

Comment. One commenter recommended that the regulations provide that where the client assistance agency also provides other services, specifically assigned staff be assigned client assistance responsibilities.

Response. No change has been made. While the Secretary strongly encourages client assistance agencies that provide other services to establish discrete units, composed of full-time employees, to provide client assistance services, the Secretary does not believe that such an approach will necessarily be preferred in all instances or that it is appropriate to require this approach in these regulations.

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Tuesday
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Part IV

Department of Education

34 CFR Parts 700, 701, 702, 703, 709, 710, 716, 718, 720, 795

Educational Research Grant Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 700, 701, 702, 703, 709, 710, 716, 718, 720, and 795

Educational Research Grant Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education issues proposed regulations that would consolidate ten existing regulations affecting the National Institute of Education's (NIE) direct grant programs into one regulation implementing the General Education Provisions Act (EPA) section 405, except subsections 405(f) and 405(k). These proposed regulations would streamline government administration, improve readability, and reduce the burdens on the affected public.

DATE: Comments should be received on or before April 11, 1985.

ADDRESS: Comments should be addressed to Frank Sobol, U.S. Department of Education, National Institute of Education, Mail Stop 1620, 1200 19th Street NW., Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Frank Sobol, (202) 254-5510.

SUPPLEMENTARY INFORMATION:

Background

NIE was established in 1972 to fulfill a limited Federal role in American education by providing leadership in the conduct and support of scientific inquiry into the educational process. Beginning in fiscal year (FY) 1973 and continuing through FY 1983, regulations governing specific educational research programs funded by NIE were promulgated under the Institute's authorizing legislation, section 405 GEPA, as amended (20 U.S.C. 1221e).

The Secretary has reviewed the existing regulations governing programs authorized by section 405 of GEPA and proposes to amend Title 34 of the Code of Federal Regulations (CFR) by removing Parts 701, 702, 703, 709, 710, 716, 718, 720, and 795, and by revising Part 700. The proposed action will consolidate portions of existing regulations while removing others that are obsolete. The proposed regulations establishing an Educational research Grant Program define applicant eligibility; provide definitions of terms used in the regulations; specify types of grants; list authorized activities; list possible funding priorities; establish application procedures for field-initiated studies projects; establish procedures for evaluation of applications; and provide selection criteria.

Summary of Major Provisions

(1) *Program Purposes.* Section 700.1 of the proposed regulations states the purposes of the Educational Research Grant Program.

(2) *Eligible Parties.* Proposed § 700.2 identifies the agencies, organizations, or individuals eligible for awards under this program.

(3) *Applicable Regulations.* Proposed § 700.3 identifies the regulations that apply to this program. They include the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74 to 78 and the regulations of this Part 700. However, the regulations of this Part 700 do not apply to contracts awarded under the Educational Research Grant Program. Also applicable to this program are the recently published regulations to be codified at 34 CFR Part 98 (Student Rights in Research, Experimental Activities, and Testing), which are published in the **Federal Register** at 49 FR 35318 to 35322 (September 6, 1984).

(4) *Definitions.* Section 700.4 of the proposed regulations lists definitions provided in EDGAR 34 CFR 77.1. In addition, the section provides a definition of "educational research" using terms from NIE's authorizing legislation in section 405(e)(1) of GEPA. Finally, definitions are provided for the terms "institution of higher education" and "technical assistance."

(5) *Types of Grants.* Under proposed § 700.10(a), the Secretary may set a maximum amount for a small grant application. Proposed § 700.10(a) also limits the duration of funding that may be received under a small grant to 12 months. An application requesting more than the maximum funding amount or more than 12 months of funding is treated as one for a large grant. Proposed § 700.10(b) indicates that when a maximum funding amount is set, the Secretary will establish separate competitions for large and small grants. For example, the Secretary might announce a $35,000 maximum funding limitation for a small grant on the teaching of reading. In this case an application that requests more than $35,000 for a grant on the teaching of reading is considered to be a large grant and is reviewed separately from any small grant applications received.

(6) *Types of Projects.* Under § 700.11(a) of the proposed regulations, the Secretary may restrict any competition to applications that propose one or more activity authorized by section 405(e) of GEPA. In addition, under proposed § 700.11(b), the Secretary may restrict a competition for educational research projects to one or more of the types of educational research activities listed in section 405(e)(1) of GEPA.

(7) *Funding Priorities.* Under proposed § 700.12(a), the Secretary may select among or combine specific priorities in establishing a priority or priorities for competitions under this program. For example, in one competition the Secretary could give priority to a set of topics such as teaching, educational technology, and adolescent education. In another competition, the Secretary might give priority to a single topic such as educational finance.

In addition, proposed § 700.12(b) (1) through (3) describes field-initiated studies applications that the Secretary may fund.

(8) *Preapplication Requirements.* Under proposed § 700.20, the Secretary may require or invite preapplications before an applicant submits a full application in a particular competition. Notice of such a requirement is made in **Federal Register** notice. Other requirements for the content of applications are also established by EDGAR, 34 CFR 75.107 to 75.119.

(9) *Evaluating Applications.* Under § 700.30 of the proposed regulations, the Secretary would assign up to 100 points in evaluating an application. Seventy-five of these points are distributed among the criteria in proposed § 700.31. The remaining 25 points are reserved for the Secretary to distribute among the criteria in proposed § 700.31 at the time each competition is announced in the **Federal Register.** In addition, in cases where the Secretary conducts a competition for field-initiated studies awards under proposed § 700.12(b)(2), the Secretary assigns the reserved 25 points to the selection criterion in proposed § 700.31(f) (Significance).

(10) *Selection Criteria for Educational Research Applications.* Under proposed § 700.31, the Secretary applies eight separate criteria in evaluating applications for an award under the procedures in the proposed rules in § 700.30.

(11) *Procedures Used to Select a Field-Initiated Studies Application for Funding.* Under § 700.32 of the proposed regulations, the Secretary may assemble a review board, as described in proposed § 700.32(a)(2), to review field-initiated studies applications in accordance with EDGAR, 34 CFR 75.217(b). Under proposed § 700.32(b), the Secretary may fund a field-initiated studies application without publishing an application notice pursuant to 34 CFR 75.100. Proposed § 700.32(b) permits the

Secretary, from time to time during any fiscal year, to review and to select applications for funding. An application not selected for funding is reserved for further consideration until the end of the fiscal year.

(12) *Special Considerations.* Under proposed § 700.33, the Secretary may consider the geographical distribution and the diversity of potential awards under this program in making a final selection of applications for funding. The Secretary may also decline to fund projects that are eligible for awards under other existing ED programs. Finally, under EDGAR, 34 CFR 75.217(d), which is applicable to this program, the Secretary may also consider, among other things, the applicant's prior performance under Federal educational research grant awards in light of the requirements of this program, including requirements in EDGAR, 34 CFR Parts 74 and 75.

(13) *Restrictions of Use of Funds.* Under proposed § 700.34, the Secretary may restrict the use of funds awarded under this program that can be applied to the purchase of equipment.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as 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.

Only a small number of awards are likely under this program, and the regulations would impose minimal burden on applicants and grantees.

Paperwork Reduction Act of 1980

The information collection requirements contained in § 700.31 of these proposed regulations will be sent to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

A copy of any comments that *only* concern information collection requirements should be sent 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. Atention: Desk Officer for the U.S. Department of Education.

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

Invitation to Comment:

Interested persons invited to submit comments and recommendations regarding these 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 723B, 1200 19th Street NW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except on Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction 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 proposed regulations.

Assessment of Educational Impact

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

List of Subjects in 34 CFR Part 700

Education research, Grant Programs—education, Reporting and recordkeeping requirements.

Citation of Legal Authority

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

(Catalog of Federal Domestic Assistance number 84.117, Educational Research and Development)

Dated: March 7, 1985.

William J. Bennett,

Secretary of Education.

PARTS 701, 702, 703, 709, 710, 716, 718, 720, AND 795—[REMOVED]

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by removing Parts 701, 702, 703, 709, 710, 716, 718, 720, and 795 and by revising Part 700 to read as follows:

PART 700—EDUCATIONAL RESEARCH GRANT PROGRAM

Subpart A—General

Sec.

Authority: Section 405 of the General Education Provisions Act, as added by section 310(a)(2) of Pub. L. 92-318, 86 Stat. 328 (20 U.S.C. 121e), unless otherwise noted.

Subpart A—General

§ 700.1 What is the Educational Research Grant Program?

The Educational Research Grant Program supports scientific inquiry designed to provide more dependable knowledge about the processes of learning and education.

(20 U.S.C. 1221e(a))

§ 700.2 What parties are eligible for an award under the Educational Research Grant Program?

Parties eligible for an award under the Educational Research Grant Program are public or private organizations, institutions, agencies, or individuals.

(20 U.S.C. 1221e(e))

§ 700.3 What regulations apply to this program?

(a) The following regulations apply to awards under the Educational Research Grant Program:

(1) The Education Department General Administrative Regulations (EDGAR) established in Title 34 of the Code of Federal Regulations in Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), part 77

(Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board).

(2) The regulations in this Part 700.

(b) The regulations in this part 700 do not apply to contracts awarded under the Educational Research Grant Program.

(20 U.S.C. 1221e)

§ 700.4 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.
Budget.
Budget period.
Contract.
ED.
EDGAR.
Equipment.
Facilities.
Grant.
Grantee.
Local educational agency.
Nonprofit.
Private.
Project.
Project period.
Public.
Secretary.
State educational agency.

(b) *Definitions that apply to this part.* The following definitions also apply to this part:

"Educational research" means all research and related activities including, but not limited to, basic and applied research, planning surveys, evaluations, investigations, dissemination, experiments, development, and demonstrations in the field of education (including career education).

"Institution of higher education" means an institution of higher education as defined in section 1201 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141)

"Technical assistance" means assistance provided by a grantee to others for the purpose of applying the results of educational research to resolve educational problems at the State or local level.

(20 U.S.C. 1221e)

Subpart B—What Types of Activities Does the Secretary Support Under This Program?

§ 700.10 What types of awards does the Secretary make under this program?

(a) In a notice published in the **Federal Register**, the Secretary may choose an amount between $25,000 and $50,000 as the maximum amount of a small grant in any competition under this Part 700. An application for a small grant may not rquest funding for more than 12 months. An application that requests more than the maximum amount for a small grant or requests funding for more than 12 months is considered an application for a large grant.

(b) If the Secretary announces a maximum amount for a small grant under paragraph (a) of this section, the Secretary establishes separate competitions for large and small grants.

(20 U.S.C. 1221e)

§ 700.11 What types of projects does the Secretary assist under this program?

(a) For each competition announced in the **Federal Register**, the Secretary may fund applications that include, but are not limited to, those designed to accomplish one or more of the following:

(1) Educational research.

(2) Dissemination of educational research.

(3) Training of individuals in educational research.

(4) Technical assistance.

(b) For each competition announced in the **Federal Register**, the Secretary may restrict educational research projects to one or more of the following activities:

(1) Basic research.

(2) Applied research.

(3) Surveys.

(4) Evaluations.

(5) Investigations.

(6) Dissemination.

(7) Experiments.

(8) Development.

(9) Demonstrations in the field of education.

(20 U.S.C. 1221e)

§ 700.12 What funding priorities does the Secretary establish for this program?

(a) *Priorities.* For each competition, the Secretary may select one or more funding priorities by choosing from the following list of priorities or by combining one or more of the priorities:

(1) Learning.

(2) Teaching.

(3) Educational technology.

(4) Instructional processes and materials, including textbooks and computer software for instruction.

(5) Preparation and training of educational personnel.

(6) Organization and management of schools, including effective school administration and leadership.

(7) Evaluation and school indicators, including testing and measurement.

(8) Governance of education, including school board policies and practices.

(9) Educational finance.

(10) Dissemination and knowledge utilization in education.

(11) Change and improvement processes in eudcation.

(12) Student achievement and educational standards, including students' motivation to learn, their failure to learn, and their failure to attend school and graduate.

(13) Home, family, parental choice, and community influences in education.

(14) Education, work, and careers.

(15) Desegregation, busing, and their impact on educational equity and excellence.

(16) Guidance and counseling.

(17) International education.

(18) English literacy, including reading, writing, and language skills.

(19) Disciplines of the humanities, including history, philosophy, and literature.

(20) Mathematics.

(21) Science.

(22) Foreign languages.

(23) Preschool education.

(24) Elementary education.

(25) Secondary education.

(26) Private education.

(27) Adolescent education.

(28) Postsecondary education.

(29) Adult and continuing education.

(30) Education of special populations, including the educationally disadvantaged, the handicapped, and the academically gifted and talented.

(b) *Field-initiated studies.* The Secretary may fund any field-initiated studies application that—

(1) Does not meet a priority established in accordance with paragraph (a) of this section;

(2) Is limited to activities listed in § 700.11(a)(1)–(4); and

(3) Satisfies all other requirements for funding under this program.

Note.—EDGAR establishes the method for applying priorities. See 34 CFR 75.105 (Annual priorities).

(20 U.S.C. 1221e)

Subpart C—How Does One Apply for a Grant?

§ 700.20 Are preapplications required?

As announced in the **Federal Register**, the Secretary may require or invite an applicant to submit a preapplication for a particular competition.

Note.—EDGAR establishes the procedures under which the Secretary considers a preapplication. See 34 CFR 75.130–75.134.

(20 U.S.C. 1221e)

Subpart D—How Does the Secretary Make a Grant?

§ 700.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under this

program on the basis of the selection criteria in § 700.31.

(b) The Secretary awards up to 100 points, including a reserved 25 points to be distributed in accordance with paragraph (d) of this section, based on the selection criteria in § 700.31.

(c) Subject to paragraph (d) of this section, the maximum possible points for each criterion is indicated in parentheses after the heading of each criterion.

(d) For each competition announced in the **Federal Register**, the Secretary distributes the reserved 25 points among the criteria in § 700.31. In the case of a field-initiated studies competition conducted in accordance with § 700.32(b)(1), the Secretary assigns the reserved 25 points to the selection criterion in § 700.31(f) (Significance).

§ 700.31 What selection criteria does the Secretary use to evaluate an application under this program?

The Secretary uses the following criteria in evaluating each application for an award under § 700.11:

(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 purposes 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 ethinic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 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 paragraphs (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, training, and professional productivity, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 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—See EDGAR 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 quantifiable.

(e) *Adequacy of the 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) *Significance.* (15 Points)

(1) The Secretary reviews each application for information that shows the significance of the proposed project.

(2) The Secretary looks for information that shows the project's potential to make a significant contribution to American education, as measured by factors such as—

(i) Importance of the proposed project from the standpoint of basic knowledge or of problems of American education;

(ii) The likely magnitude of the addition that will be made to knowledge or educational practices if the project is successful, including the generalizability of the results;

(iii) The extent to which the project involves creative or innovative approaches that complement or are alternatives to existing approaches to the project's problem area; and

(iv) The extent to which the project is designed to yield outcomes that can be disseminated and utilized in other settings, such as information, materials, processes, or techniques.

(g) *Technical soundness.* (15 Points)

(1) The Secretary reviews each application for information that demonstrates the technical soundness of the proposed activities.

(2) The Secretary looks for information that shows—

(i) The adequacy of the project's design, methodology, instrumentation, and data analysis plan, where applicable;

(ii) The extent to which the application exhibits a thorough knowledge of current research and development concepts, theories, and outcomes and relates these to the proposed activity; and

(iii) Evidence that, where appropriate, the perspectives of a variety of disciplines are used.

(h) *Applicant's commitment and capacity.* (0 Points)

The Secretary looks for information that shows the extent of the applicant's commitment to the project, its capacity to continue the project, and the likelihood that it will build upon the project when Federal assistance ends.

(20 U.S.C. 1221e)

§ 700.32 What procedures may the Secretary use to select a field-initiated studies application for funding?

(a)(1) Notwithstanding the provisions of 34 CFR 75.217(a), the Secretary may assemble a board to review field-initiated studies applications described at § 700.12(b).

(2) The board consists of—

(i) A program officer of the program under which that applicant wants a grant;

(ii) A Department grants officer;

(iii) A Department employee who is not a program officer of the program but

who is qualified to evaluate the application.

(3) The board reviews applications in accordance with 34 CFR 75.217(b).

(b) (1) Notwithstanding the provisions of 34 CFR 75.100, the Secretary may fund a field-initiated studies application, as described in § 700.12(b) without publishing an application notice in the **Federal Register** each fiscal year.

(2) At any time during each fiscal year, the Secretary may review all field-initiated studies applications submitted and may select applications for funding in accordance with procedures in § 700.32(a).

(3) The Secretary reserves any applications which were reviewed in accordance with (b)(1) of this section, but which were not selected for funding, for further consideration during the remainder of that fiscal year.

(4) If the Secretary selects a priority in accordance with § 700.12(a), the Secretary may reserve all applications that relate to that priority for review under a separate competition.

(20 U.S.C. 1221e)

§ 700.33 What special consideration may the Secretary use in selecting an application for funding?

(a) After evaluating applications according to the criteria contained in § 700.31, the Secretary may determine whether the most highly rated applications are broadly and equitably distributed throughout the Nation for each competition under this program. The Secretary may select other applications for funding if doing so would improve the geographical distribution of projects funded under a particular competition or under this program.

(b) The Secretary may select an application for funding to improve the diversity of activities or projects funded under a particular competition.

(c) The Secretary may decline to fund a project that is eligible for funding under a different Department of Education competition or program.

(20 U.S.C. 1221e)

§ 700.34 What restrictions apply to the use of funds awarded under this program?

Of the funds made available through an award under this program, the Secretary may restrict the amount of funds used to purchase equipment.

(20 U.S.C. 1221e)

[FR Doc. 85-5848 Filed 3-11-85; 8:45 am]
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federal register

Tuesday
March 12, 1985

Part V

Department of Transportation

Federal Railroad Administration

49 CFR Part 215

Railroad Freight Car Standards; Rescheduled Hearing; Proposed Rule

Part V

Department of Transportation

Federal Railroad Administration

49 CFR Part 215

Railroad Freight Car Standards

Proposed Rulemaking; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[FRA Docket No. RSFC-6, Notice 10]

Railroad Freight Car Standards; Rescheduled Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of change in hearing schedule.

SUMMARY: FRA announces that the public hearing scheduled for March 12, 1985 in Washington, D.C., regarding thermal abuse of freight car wheels, has been rescheduled to April 25, 1985 and may be extended for an additional day (through April 26, 1985) if necessary.

DATES: The public hearing previously announced as beginning at 1:00 p.m. on Tuesday, March 12, 1985, will not be convened until 10:00 a.m. on April 25, 1985 and, if necessary to assure adequate time for the presentation of information or views, may be reconvened at 10:00 a.m. on April 26, 1985.

ADDRESSES: The public hearing will be held in Room 8334 of the Nassif Building located at 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426-0897.

SUPPLEMENTARY INFORMATION: On December 17, 1984 FRA published in the **Federal Register** (49 FR 48952) an announcement that it was scheduling additional dates for public hearings regarding its proposal to amend FRA's regulatory provision defining freight car wheels as defective because of thermal abuse. The hearing scheduled for March 12, 1985 was focused on the concern raised by a commenter that FRA's current regulatory approach to thermally abused freight car wheels is intrinsically flawed because it continues to rely on a scientifically unjustified detection methodology.

Due to unforeseen scheduling conflicts, FRA has decided to reschedule this hearing until 10:00 a.m. on April 25, 1985. Based on the information FRA has received concerning this hearing, FRA believes that it may be necessary to extend the hearing until the following day so as to permit all interested parties to fully explain their views. Therefore, FRA is tentatively scheduling an additional day for the conduct of this hearing. If appropriate, FRA will reconvene the hearing on April 26, 1985 at 10:00 a.m. in the same location.

To assist FRA in conducting this hearing, any individual or organization desiring to present testimony is requested to notify FRA prior to the hearing and to provide FRA with the name and title of the person expected to testify as well as an estimate of the amount of time required for the presentation.

Issued in Washington, D.C. on March 8, 1985.

John H. Riley,

Administrator.

[FR Doc. 85-5991 Filed 3-11-85; 11:00 am]

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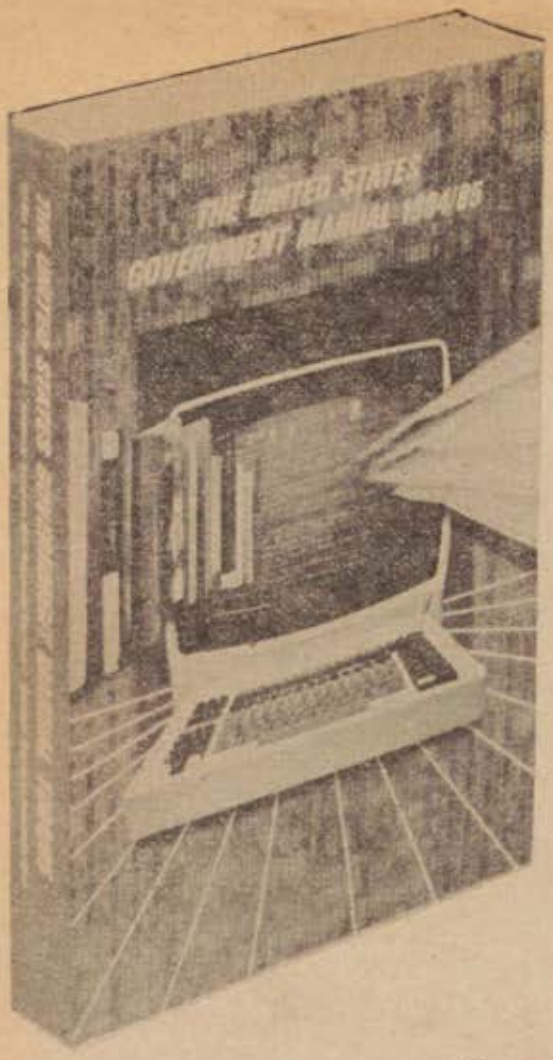

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