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Wednesday
April 10, 1985

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-321]

Mexican Fruit Fly; Deletion of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms without change an interim rule published in the **Federal Register** on August 28, 1984, which amended the "Mexican Fruit Fly" quarantine and regulations by removing the previously regulated area in Los Angeles County, California from the list of regulated areas and by removing California from the list of States quarantined because of Mexican fruit fly, *Anastrepha ludens* (Loew). This action was taken because it had been determined that Mexican fruit fly no longer occurs in California. This affect of this action was to remove unnecessary restrictions on regulated articles moving interstate from the previously regulated area in California.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Robert G. Spaide, Assistant Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 663, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

A document published in the **Federal Register** on August 28, 1984, (49 FR 33991-33992) set forth an interim rule amending the Mexican fruit fly quarantine and regulations (7 CFR 301.64 *et seq.*) by removing the previously regulated area in Los Angeles County, California from the list of regulated areas and by removing California from the list of States quarantined because of Mexican fruit fly, *Anastrepha ludens* (Loew). The quarantine and regulations restrict the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly.

The document published on August 28, 1984, stated that Los Angeles County, California, was being removed from the list of regulated areas, and California was being removed from the list of quarantined States in 7 CFR 301.64-3(c) because it has been determined, based on surveys conducted by the U.S. Department of Agriculture and State agencies of California, that the Mexican fruit fly no longer occurs in the previously regulated area in Los Angeles County, or anywhere else in California. The document concluded that there was no longer a basis for imposing restrictions on the interstate movement of regulated articles from anywhere in California.

The amendment became effective on the date of publication in order to relieve unnecessary restrictions on the interstate movement of regulated articles from California.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of August 28, 1984, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on August 28, 1984.

Executive Order 12291 and Regulatory Flexibility Act

This amendment has been 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 amendment 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.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The Administrator of the Animal and Plant Health Inspection Service, has determinated that this action will not have a significant impact on a substantial number of small entities. This amendment removed restrictions on the interstate movement of certain articles from a portion of Los Angeles County, California, approximately 33 square miles in size. There are approximately 30 out of 200 dealers at a local produce market which sell regulated articles interstate from this previously designated area. This compares with hundreds of small entities that move such articles interstate from nonaffected areas in United States. Further, because of certain routine procedures followed at the local produce market in the previously regulated area in Los Angeles County, California in handling regulated articles, little or no treatment of regulated articles was required prior to their movement interstate. For these reasons, this action is not expected to have significant effect on a substantial number of small entities.

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 49 FR 33991-33992 on August 28, 1984, is adopted as a final rule.

Authority: 7 U.S.C. 150dd, 150ee, 161, 162; 7 CFR 2.17, 251 and 371.2(c).

Done at Washington, D.C. this 5th day of April 1985.

William F. Helms,

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

[FR Doc. 85-8601 Filed 4-9-85; 8:45 am]

BILLING CODE 3410-34-M

Office of the Secretary

7 CFR Part 3015

Department of Agriculture Programs and Activities Covered Under Executive Order 12372

AGENCY: Office of the Secretary, USDA.

ACTION: Rule related notice.

SUMMARY: The purpose of this Notice is to inform State and local governments and other interested USDA persons of programs and activities included within the scope of Executive Order 12372, "Intergovernmental Review of Federal Programs." A full understanding of the requirements of the Order may be gained by referring to the final rules published in 7 CFR 3015, Subpart V, at 48 FR 29100, dated June 24, 1983.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Supervisory Program Analyst, Office of Finance and Management, USDA, Room 2117–B, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250. (Telephone (202) 382–1553).

SUPPLEMENTARY INFORMATION: The program listed below by Catalog of Federal Domestic Assistance Number was inadvertently omitted in the June 24, 1983, **Federal Register** listing of USDA programs included under Executive Order 12372 (48 FR 29114). This program is now being included under the scope of the Order and affects only the Boundary Waters Canoe Area in the State of Minnesota.

10.669 Accelerated Cooperative Assistance for Forest Programs on Certain Lands Adjacent to the Boundary Waters Canoe Area

If the State of Minnesota is interested in adding this program for review under the Order, the State Single Point of Contact should notify Ms. Lyn Zimmerman, Office of Finance and Management, Financial Management Division, USDA, Room 2117–B, Auditors Building, 201 14th Street SW., Washington, D.C. 20250. (Telephone (202) 382–1553).

Dated: April 4, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration

[FR Doc. 85–8550 Filed 4–9–85; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–NM–81–AD; Amdt. 39–5039]

Airworthiness Directives; Gates Learjet Models 23, 24, 25, 28, 29, 35, 36, 35A, 36A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends an existing airworthiness directive (AD) applicable to certain Gates Learjet Models 23, 24, and 25 series airplanes. This amendment requires that each airplane's stall prevention system be adjusted to preclude the potential for a hazardous aerodynamic stall. This AD also provides for the installation of a handling qualities improvement kit as an alternate means of compliance.

DATES: Effective May 20, 1985. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information and modification kits may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. Service information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, Central Region, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Sorensen, Aerospace Engineer, Wichita Aircraft Certification Office, ACE–160W, FAA, Central Region, Room 100, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (319) 946–4432.

SUPPLEMENTARY INFORMATION: A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations by amending Amendment 39–3932 (45 FR 65999; October 9, 1980), AD 80–19–11, was published in the **Federal Register** on January 4, 1985 (50 FR 478). The comment period closed February 15, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment.

One comment was received. The commenter (the manufacturer) stated that since the proposal was published, the cost of the airplane modification kits has been revised as follows:

1. Parts:

—1 kit price = $5,000

—2 kit price = $5,000

—3 kit price = $50;

2. Labor: 30 hours at $38 per manhour;

3. Flight Check: $500 (or $200 per day plus expenses if the airplane is flown in the field).

Depending on the configuration of a particular airplane the correct modification kit would be either 84–5–1, 84–5–2 or 84–5–3. This analysis assumes that all affected airplanes will require the more expensive kit. Assuming the most expensive kit is installed at the factory, the total cost per airplane would be $6,640.

The commenter also recommended that the time of compliance be revised to reflect an eighteen (18) month period after issuance of the AD. The FAA has determined that an 18-month compliance time will not compromise safety with respect to this rule, and the amendment has been changed accordingly.

It is estimated that 100 planes of U.S. registry will be affected by this AD. It will require approximately 30 manhours per airplane to accomplish the required installation; the average labor charge will be $38 per hour. The modification kit will cost approximately $5,000 per airplane. The loss associated with two days of down time is estimated to be $1,000 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $764,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Gates Learjet Model 23, 24, or 25 series airplanes are operated by small entities. A final evaluation has been prepared for this action and has been placed 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.

Adoption of the Amendment

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39–3932 (45 FR 65999; October 9, 1980),

AD 80-19-11 is amended by adding a new paragraph (H), to read as follows:

(H) On or before October 1, 1986, accomplish the requirements of paragraphs 1. or 2., below, on Learjet Models 23, 24, 24A, 24B, 24B-A, 24D, 24D-A, 25, 25A, 25B, 25C, with unmodified wings, at an FAA certificated maintenance repair station, and insert in the appropriate sections of the Airplane Flight Manual (AFM) the permanent AFM revision pertaining to procedures and performance associated with Airplane Modification Kit (AMK) 83-4 or 84-5. The limitations and performance information required by paragraphs A)3., A)7., A)8., A)9., A)10., A)11., and A)12 of this AD are superseded by the AFM revision included with these kits.

1. Incorporate AMK 83-4 to improve airplane handling qualities and aerodynamic stall characteristics, or

2. Incorporate AMK 84-5 to make the stall prevention system (pusher) operation consistent with the airplane performance and limitations.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas, 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Room 100, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas.

This amendment becomes effective May 20, 1985.

(Secs. 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 11.89)

Issued in Seattle, Washington, on April 4, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-8596 Filed 4-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-13]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates segments of Federal Airways V-9, V-16, V-17, V-20, V-68 and V-71; revokes segments of V-13, V-16, V-20, V-66, V-68 and V-71; and establishes new segments of V-13, V-202 and V-507 to enhance the traffic flow within the Albuquerque, Fort Worth, Houston and Memphis Air Route Traffic Control Centers' (ARTCC) areas.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, 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:

History

On February 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-9E, V-9W, V-16S, V-17E, V-17W, V-20N, V-20S, a segment of V-68S and V-71W; revoke V-13W, V-16N, V-66N, a segment of V-68S, V-71E, and establish new segments of V-13, V-202 and V-507, to enhance the traffic flow within their respective ARTCC areas (50 FR 6193). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations renumbers V-9E between New Orleans, LA, and Greenwood, MS; renumbers V-9W between McComb, MS, and Greenwood, MS; renumbers V-16S between Tucson, AZ, and Cochise, AZ, and Wink, TX, and Big Spring, TX; renumbers V-17E between Cotulla, TX, and San Antonio, TX; renumbers V-17W between McAllen, TX, and Laredo, TX, and San Antonio, TX, and Austin, TX, and Oklahoma City, OK, and Gage, OK; renumbers V-20N between Beaumont, TX, and Lafayette, LA, and New Orleans, LA and Semmes, AL; renumbers V-20S between Lafayette, LA, and New Orleans, LA, and Semmes, AL, and Monroeville, AL; renumbers V-68S between San Angelo, TX, and Junction, TX; renumbers V-71W between Monroe, LA, and Natchez, MS; revokes V-13W between Shreveport, LA, and Texarkana, AR; revokes V-16N between Columbus, NM, and El Paso, TX; revokes V-66N between Columbus, NM, and El Paso, TX; revokes V-68S between Hobbs, NM, and San Antonio, TX; revokes V-17E between Baton Rouge, LA, and Monroe, LA; establishes new segments of V-13 from Laredo, TX, to McAllen, TX; V-202 from Tucson, AZ, Cochise, AZ, and V-507 from Oklahoma City, OK, to Gage, OK, thereby enhancing the traffic flow within their respective ARTCC areas.

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

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

PART 71—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V-9 [Amended]

By removing the words "McComb, MS, including an E alternate from New Orleans to McComb via Picayune, MS; Jackson, MS, including an E alternate and also a W alternate via INT McComb 348° and Jackson 199° radials; Greenwood, MS, including an E alternate and also a W alternate;" and by substituting the words, "McComb, MS; Jackson, MS; Greenwood, MS;"

V-555 [New]

From New Orleans, LA, via Picayune, MS; McComb, MS; INT McComb 019° and Jackson, MS, 169° radials; Jackson; INT Jackson 010° and Greenwood, MS, 159° radials; to Greenwood.

V-557 [New]

From McComb, MS, via INT McComb 348° and Jackson, MS, 199° radials; Jackson; INT Jackson 340° and Greenwood, MS, 159° radials; to Greenwood.

V-13 [Revised]

From Laredo, TX, via INT Laredo 156° and McAllen, TX, 306° radials; McAllen; Harlingen, TX; INT Harlingen 033° and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 039° and Palacios, TX, 241° radials; Palacios, Humble, TX; Lufkin, TX; Shreveport, LA; Texarkana, AR;

Rich Mountain, OK; Fort Smith, AR; INT Fort Smith 006° and Razorback, AR, 190° radials; Razorback; Neosho, MO; Butler, MO; Napoleon, MO; INT Napoleon 336° and St. Joseph, MO, 132° radials; Lamoni, IA; Des Moines, IA, Mason City, IA; Farmington, MN; Grantsburg, WI; Duluth, MN; to Thunder Bay, ON, Canada. The airspace outside the United States is excluded.

V–16 [Amended]

By removing the words "Cochise, AZ, including a S alternate via INT Tucson 122° and Cochise 257° radials; Columbus, NM; El Paso, TX, including a N alternate via INT Columbus 075° and El Paso 286° radials;" and substituting the words "Cochise, AZ; Columbus, NM; El Paso, TX;" and by removing the words "Big Spring, including a S alternate from Wink to Big Spring via Midland, TX;" and substituting the words "Big Spring;"

V–17 [Revised]

From Brownsville, TX, via Harlingen, TX; McAllen, TX; 29 miles 12 AGL, 34 miles 25 MSL, 37 miles 12 AGL; Laredo, TX; Cotulla, TX; INT Cotulla 046° and San Antonio, TX, 198° radials; San Antonio; INT San Antonio 042° and Austin, TX, 229° radials; Austin; Waco, TX; Acton, TX; Bridgeport, TX; Duncan, OK; INT Duncan 011° and Oklahoma City, OK, 180° radials; Oklahoma City; Gage, OK; Garden City, KS; to Goodland, KS.

V–546 [New]

From Wink, TX, via Midland, TX; to Big Spring, TX.

V–202 [Revised]

From Tucson, AZ, via INT Tucson 122° and Cochise, AZ, 257° radials; Cochise; San Simon, AZ; Silver City, NM; to Truth or Consequences, NM.

V–550 [New]

From Cotulla, TX, via INT Cotulla 046° and San Antonio, TX, 183° radials; San Antonio; INT San Antonio 027° and Austin, TX, 244° radials; Austin; INT Austin 041° and Waco, TX, 173° radials; Waco.

V–552 [New]

From Beaumont, TX, via INT Beaumont 056° and Lake Charles, LA, 272° radials; Lake Charles; INT Lake Charles 064° and Lafayette, LA, 285° radials; Lafayette; Tibby, LA; New Orleans, LA; Picayune, MS; Semmes, AL; INT Semmes 063° and Monroeville, AL, 216° radials; to Monroeville.

V–20 [Amended]

By removing the words "including a north alternate via INT Beaumont 056° and Lake Charles 272° radials; Lafayette, LA, including a N alternate via INT Lake Charles 064° and Lafayette 285° radials; New Orleans, LA, including a S alternate from Lafayette to New Orleans via Tibby, LA;" and by substituting the words "Lafayette, LA; New Orleans, LA;" and by removing the words "Semmes, AL, including a N alternate from New Orleans to Semmes via Picayune, MS, excluding the airspace between the main and this N alternate;" and by substituting the words "Semmes, AL;" and by removing the words "Monroeville, including a S alternate via INT Semmes 063° and Monroeville 216° radials;" and by substituting the word "Monroeville;"

V–66 [Amended]

By removing the words "El Paso, TX, including a N alternate via INT Columbus 075° and El Paso 286° radials;" and by substituting the words "El Paso, TX;"

V–68 [Amended]

By removing the words "Midland, including a S alternate via INT Hobbs 136° and Midland 283° radials; San Angelo, TX, including a S alternate via INT Midland 128° and San Angelo 276° radials; Junction, TX, including a S alternate via INT San Angelo 181° and Junction 310° radials; San Antonio, TX, including a south alternate via Center Point, TX;" and by substituting the words "Midland; San Angelo, TX; Junction, TX; San Antonio, TX;"

V–71 [Amended]

By removing the words "via Natchez, MS, including an E alternate via INT Baton Rouge 026° and Natchez 157° radials; Monroe, LA, including a W alternate;" and by substituting the words "via Natchez, MS; Monroe, LA;"

V–554 [New]

From Natchez, LA, via INT Natchez 310° and Monroe, LA, 160° radials; to Monroe.

V–507 [Revised]

From Oklahoma City, OK; via INT Oklahoma City 282° and Gage, OK, 152° radials; Gage; Liberal, KS; to Garden City, KS.

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

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

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–8593 Filed 4–9–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–AWA–34]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates segments of Federal Airways V–15, V–70, V–289, V–291, V–306 and V–477. Additionally, segments of V–15, V–70 and V–198 are also amended due to the relocation of the Scholes, TX, VORTAC to an on-airport site at the Galveston, TX, Airport.

EFFECTIVE DATE: 0901 G.M.T., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, 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:

History

On February 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V–15W, V–70N, V–198N, V–198S, V–289E, V–291N, V–306S and V–477W; and amend segments of V–15, V–70 and V–198N due to the relocation of the Scholes, TX, VORTAC to an on-airport site at the Galveston, TX, Airport (lat. 29°16'08.75" N., long. 94°52'03.09" W.) (50 FR 6192). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The establishment of a new segment of V–359 as announced in the NPRM will not be implemented, as it has been determined that this extension of the airway is not required. Except for the V–359 extension deletion and editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations renumbers V–15W between Hobby, TX, and Waco, TX; renumbers V–70N between Lafayette, LA, and Baton Rouge, LA; renumbers V–198N between Junction, TX, and Stonewall, TX; renumbers V–198S between Eagle Lake, TX, and Sabine Pass, TX; renumbers V–289E between Beaumont, TX, and Lufkin, TX; renumbers V–291N between Winslow, AZ, and Flagstaff, AZ; renumbers V–306S between Navasota, TX, and Lake Charles, TX; renumbers V–477W between Navasota, TX, and Scurry, TX, and amends segments of V–15, V–70 and V–198 due to the relocation of the Scholes, TX, VORTAC to an on-airport site at the Galveston, TX, Airport (lat. 29°16'08.75" N., long. 94°52'03.09" W.).

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

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V-289 [Amended]

By removing the words "Lufkin, including an E alternate;" and by substituting the word "Lufkin;"

V-569 [New]

From Beaumont, TX, via INT Beaumont 338° and Lufkin, TX, 146° radials; to Lufkin.

V-291 [Amended]

By removing the words "Flagstaff, AZ, including a N alternate from Winslow to Flagstaff via INT Winslow 292° and Flagstaff 063° radials" and by substituting the words "to Flagstaff, AZ;"

V-572 [New]

From Winslow, AZ, via INT Winslow 292° and Flagstaff, AZ, 063° radials; to Flagstaff.

V-306 [Revised]

From Junction, TX, via Austin, TX; Navasota, TX; INT Navasota 084° and Diasetta, TX, 283° radials; Daisetta; to Lake Charles, LA.

V-574 [New]

From Navasota, TX, via Humble, TX; Daisetta, TX; Beaumont, TX; to Lake Charles, LA.

V-477 [Revised]

From Humble, TX, via Leona, TX; to Scurry, TX.

V-571 [New]

From Humble, TX, via Navasota, TX; Leona, TX; INT Leona 330° and Scurry, TX, 182° radials; to Scurry.

V-573 [New]

From Texarkana, AR, via INT Texarkana 037° and Hot Springs, AR, 225° radials; Hot Springs; to Little Rock, AR.

V-15 [Revised]

From Hobby, TX, via Navasota, TX; College Station, TX; Waco, TX; Scurry, TX; Blue Ridge, TX; Ardmore, OK; Okmulgee, OK; INT Okmulgee 048° and Neosho, MO, 223° radials; to Neosho. From St. Joseph, MO, via INT St. Joseph 343° and Neola, IA, 157° radials; Neola; INT Neola 322° and Sioux City, IA, 159° radials; Sioux City; INT Sioux City 340° and Sioux Falls, SD, 169° radials; Sioux Falls; Huron, SD, including a west alternate from Sioux Falls to Huron via Mitchell, SD, Aberdeen, SD, including a W alternate; 18 miles, 89 miles, 42 MSL, Bismarck, ND; to Minot, ND.

V-70 [Amended]

By removing the words "Baton Rouge, LA, including a N alternate via INT Lafayette 012° and Baton Rouge 264° radials;" and by substituting the words "Baton Rouge, LA;"

V-198 [Revised]

From San Simon, AZ, via Columbus, NM; El Paso, TX; 6 miles wide; INT El Paso 109° and Hudspeth, TX; 287° radials; 6 miles wide; Hudspeth; 29 miles, 38 miles, 62 MSL, INT Hudspeth 109° and Fort Stockton, TX; 284° radials; 18 miles, 82 MSL; Fort Stockton; 20 miles, 116 miles, 55 MSL; Junction, TX; San Antonio, TX; Eagle Lake, TX; Hobby, TX; INT Hobby 091° and Sabine Pass, TX; 265° radials; Sabine Pass; White Lake, LA; Tibby, LA; Harvey, LA; 69 miles, 33 miles, 25 MSL; Brookley, AL; INT Brookley 056° and Crestview, FL, 266° radials; Crestview; Marianna, FL; Tallahassee, FL; Greenville, FL; Taylor FL; INT Taylor 093° and Jacksonville, FL, 287° radials; to Jacksonville.

V-558 [New]

From San Angelo, TX; via INT San Angelo 181° and Junction, TX; 310° radials; Junction; Stonewall, TX; INT Stonewall 113° and Eagle Lake, TX, 270° radials; Eagle Lake; INT Eagle Lake 116° and Scholes, TX, 278° radials; to Scholes.

V-548 [New]

From Hobby, TX; via INT Hobby 290° and College Station, TX; 151° radials; College Station; INT College Station 307° and Waco, TX, 173° radials; to Waco.

V-559 [New]

From Lafayette, LA, via INT Lafayette 012° and Baton Rouge, LA, 264° radials; to Baton Rouge.

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

Issued in Washington, D.C., April 4, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-8594 Filed 4-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-14]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates segments of Federal Airways V-76, V-94, V-95, V-102, V-105, V-114, V-163 and V-212; revokes a segment of V-94; and establishes a new segment of V-358 to enhance the traffic flow within the Albuquerque, Fort Worth, Los Angeles, Houston and Memphis Air Route Traffic Control Centers' (ARTCC) areas.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, 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:

History

On February 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-76N, V-76S, V-94N, V-95W, V-102S, V-105E, V-114N, V-163W, V-212N and V-94S, and establishes a new segment of V-358, to enhance the traffic flow within their respective ARTCC areas (50 FR 6195). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations renumbers V-76N between Lubbock, TX, and Industry, TX; renumbers V-76S between Llano, TX, and Hobby, TX; renumbers V-94N between Newman, TX, and Salt Flat, TX; renumbers V-95W between Phoenix, AZ, and Winslow, AZ; renumbers V-102S between Salt Flat, TX, and Carlsbad, NM; renumbers V-105E between Prescott, AZ, and Peach Springs, AZ, and between Coaldale, NV, and Reno, NV; renumbers V-114N between Shreveport, LA, and New Orleans, LA; renumbers V-163W between Corpus Christi, TX, and Acton, TX, and beween Ardmore, OK, and Oklahoma City, OK; renumbers V-212N between Alexandria, LA, and McComb, MS; revokes V-94S between Deming, NM, and Newman, TX; establishes a new segment of V-358 from Ardmore, OK, to Oklahoma City, OK, thereby enhancing the traffic flow within their respective ARTCC areas.

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

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V–76 [Revised]

From Lubbock, TX, via INT Lubbock 188° and Big Spring, TX, 286° radials; Big Spring; Hyman, TX; San Angelo, TX; Llano, TX; Austin, TX; Industry, TX; INT Industry 101° and Hobby, TX, 290° radials; to Hobby.

V–563 [New]

From Lubbock, TX; to Big Spring, TX.

V–565 [New]

From Llano, TX, via INT Llano 135° and Austin, TX, 280° radials; to Austin.

V–558 [New]

From Llano, TX; via INT Llano 096° and Austin, TX, 314° radials; Austin; INT Austin 090° and Industry, TX, 310° radials; Industry; Eagle Lake, TX; to Hobby, TX.

V–94 [Amended]

By removing the words "Newman, TX, including a S alternate via INT Deming 119° and Newman 271° radials; Salt Flat, TX, including a north alternate via INT Newman 091° and Slat Flat 312° radials;" and by substituting the words "Newman, TX; Salt Flat, TX;"

V–560 [New]

From Newman, TX, via INT Newman 091° and Salt Flat, TX, 312° radials; Salt Flat; INT Salt Flat 085° and Carlsbad, NM, 220° radials; to Carlsbad.

V–95 [Revised]

From Gila Bend, AZ, via INT Gila Bend 096° and Phoenix, AZ, 204° radials; Phoenix; 49 miles, 40 miles, 95 MSL; Winslow, AZ; 68 miles, 39 miles, 125 MSL; Farmington, NM; Durango, CO; Gunnison, CO; 15 miles 125 MSL, 12 miles 145 MSL, 22 miles 157 MSL, 23 miles 135 MSL, 9 miles 128 MSL; to Kiowa, CO. The airspace 14,000 feet MSL and above is excluded from 23 NM northeast of Phoenix to 22 NM southwest of Winslow, from 1300 GMT to 0200 GMT, Monday through Friday, and other times as advised by a Notice to Airmen.

V–567 [New]

From Phoenix, AZ; via INT Phoenix 006° and Winslow, AZ, 224° radials; 52 miles, 95 MSL; to Winslow. The airspace 14,000 feet MSL and above is excluded from 23 NM north of Phoenix to 26 NM southwest of Winslow, from 1300 GMT to 0200 GMT, Monday through Friday, and other times as advised by a Notice to Airmen.

V–102 [Revised]

From Salt Flat, TX, via Carlsbad, NM; Hobbs, NM; Lubbock, TX; Guthrie, TX; to Wichita Falls, TX.

V–105 [Revised]

From Tucson, AZ, via INT Tucson 298° and Casa Grande, AZ, 145° radials; Casa Grande; Phoenix, AZ; Prescott, AZ; 25 miles, 22 miles 85 MSL; Boulder City, NV; Las Vegas, NV; INT Las Vegas 286° and Beatty, NV, 142° radials; 17 miles, 105 MSL Beatty; 105 MSL Coaldale, NV; 82 miles 110 MSL; to Reno, NV.

V–562 [New]

From Prescott, AZ; 25 miles 85 MSL, via INT Prescott 319° and Peach Springs, AZ, 134° radials; 8 miles 85 MSL; Peach Springs; INT Peach Springs 305° and Las Vegas, NV, 081° radials; to Las Vegas.

V–564 [New]

From Coaldale, NV, 110 MSL via Mina, NV; 110 MSL; INT Mina 300° and Reno, NV, 135° radials; to Reno.

V–114 [Revised]

From Amarillo, TX, via Childress, TX; Wichita Falls, TX; INT Wichita Falls 117° and Blue Ridge, TX, 285° radials; Blue Ridge; Quitman, TX; Gregg County, TX; Alexandria, LA; INT Baton Rouge, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline); Baton Rouge; to New Orleans, LA; excluding the portion within R–3801B and R–3801C.

V–566 [New]

From Gregg County, TX, via Shreveport, LA; INT Shreveport 176° and Alexandria, LA, 302° radials; Alexandria; INT Alexandria 109° and New Orleans, LA, 312° radials; to New Orleans; excluding the portion within R–3801B and R–3801C.

V–163 [Revised]

From Matamoros, Mexico; via Brownsville, TX; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline); Corpus Christi, TX; Three Rivers, TX; INT Three Rivers 345° and San Antonio, TX, 168° radials; San Antonio; Lampasas, TX; Acton, TX; Bridgeport, TX; Ardmore, OK; INT Ardmore 342° and Oklahoma City, OK, 154° radials; to Oklahoma City. The airspace within Mexico is excluded.

V–568 [New]

From Corpus Christi, TX, via INT Corpus Christi 296° and Three Rivers, TX, 165° radials; Three Rivers; INT Three Rivers 327° and San Antonio, TX, 183° radials; San Antonio; Stonewall, TX; Llano, TX; INT Llano 026° and Acton, TX, 215° radials; to Acton.

V–358 [Amended]

By removing the words "to Ardmore, OK." and by substituting the words "Ardmore, OK; INT Ardmore 327° and Oklahoma City, OK, 180° radials; to Oklahoma City.

V–212 [Amended]

By removing the words "to McComb, MS, including a north alternate via Natchez, MS." and by substituting the words "to McComb, MS."

V–570 [New]

From Alexandria, LA, via Natchez, LA; to McComb, LA.

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

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

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–8592 Filed 4–9–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 75

[Airspace Docket No. 85–AWP–11]

Alteration of VOR Federal Airways and Jet Routes; Prescott, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to Federal Airways and Jet Routes change the name of the Prescott Very High Frequency Omni-directional Radio Range and Tactical Air Navigation Aid (VORTAC) facility at Prescott, AZ, to the Drake VORTAC. The name change was initiated in connection with the general policy to change the name of navigation aids bearing the same name as the airports which they serve if the aid is not located on the airport. This action does not change the routing of any airway.

EFFECTIVE DATE: 0901 G.m.t., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Smith, 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) 426–8783.

The Rule

The purpose of these amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to change the description of V–257, V–12, V–264, V–105, V–105E, J–11, J–78, J–92, J–96, J–134, J–6 and J–10 to reflect the new name, Drake VORTAC, which heretofore was referred to as the Prescott VORTAC. This action is part of a system-wide effort to rename each navigational aid that bears the same name as the airport it serves, if the navigational aid is not located on the airport. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to rename the Prescott VORTAC to the Drake VORTAC. Renaming this FAA facility has no impact on users of the navigational aid or upon the use of the associated airspace. Because this action involves only agency management and property, I find under 5 U.S.C. 553(a)(2) that notice or public procedure is not required.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal Airways and jet routes, Aviation Safety.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

§ 71.123 [Amended]

V–562 will be added effective June 6, 1985. The following is an alteration to the original description of V–562, effective upon the establishment.

V–562 [Amended]

By removing the word "Prescott" wherever it appears in the description and substituting the word "Drake"

V–257 [Amended]

By removing the word "Prescott" wherever it appears in the description and substituting the word "Drake"

V–12 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

V–264 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

V–105 [Amended]

By removing the word "Prescott" wherever it appears in the description and substituting the word "Drake"

§ 75.100 [Amended]

J–11 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–78 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–92 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–96 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–134 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–6 [Amended]

By removing the word "Prescott" and substituting the word "Drake"

J–10 [Amended]

By removing the word "Prescott" wherever it appears in the description and substituting the word "Drake"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.89)

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

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85–8595 Filed 4–9–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 85–66]

Customs Regulations Amendments Relating to Cancellation of Temporary Importation Bonds; Delay of Effective Date

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

ACTION: Notice of delay of effective date.

SUMMARY: By a final rule document published at T.D. 85–40 in the **Federal Register** on March 12, 1985 (50 FR 9797), §§ 10.38 and 10.39, Customs Regulations (19 CFR 10.38, 10.39), were amended. The amendments, which were to become effective on April 11, 1985, would have eliminated the requirement that Customs officers 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 would have been verified by documentary evidence ordinarily submitted to Customs.

It has now been determined that while these amendments would ease Customs workload and be of some benefit to importers, the changes could have compromised enforcement efforts. As this would not be advisable, the effective date of T.D. 85–40 is delayed indefinitely and no amendments will be made to §§ 10.38 and 10.39 at this time.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Arnold Sarasky, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8648).

Dated: April 5, 1985.

William von Raab,

Commissioner of Customs.

[FR Doc. 85–8668 Filed 4–9–85; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Veterinary Medicine Officials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to Center for Veterinary Medicine officials to correct an organization title which was changed by a recent reorganization.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and

Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: Effective February 28, 1985, the Acting Assistant Secretary for Health approved a reorganization of the Center for Veterinary Medicine that changed the title of the Office of Scientific Evaluation to the Office of New Animal Drug Evaluation.

This document revises § 5.71, *Termination of exemptions for new drugs for investigational use in human beings and in animals* (21 CFR 5.71) and § 5.83, *Approval of new animal drug applications and their supplements* (21 CFR 5.83) to reflect the change in organization title.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies); Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. By revising §5.71(b)(2), to read as follows:

§ 5.71 Termination of exemptions for new drugs for investigational use in human beings and in animals.

* * * * *

(b) * * *

(2) The Director and Deputy Director, Office of New Animal Drug Evaluation, CVM.

2. By revising § 5.83(b)(1), to read as follows:

§ 5.83 Approval of new animal drug applications and their supplements.

* * * * *

(b) * * *

(1) The Director and Deputy Director, Office of New Animal Drug Evaluation, CVM.

* * * * *

Effective date. This regulation shall become effective April 10, 1985.

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

Dated: April 3, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–8538 Filed 4–9–85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 5

Delegations of Authority and Organization; Revised Organization

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the regulations to set forth the organization structure of the agency and to provide new addresses for one regional office and one district office.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. By revising § 5.100 to read as follows:

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

Office of the Commissioner [1]

Commissioner of Food and Drugs.
Deputy Commissioner.

Office of Regulatory Affairs

Office of Regulatory Resource Management.
Division of Planning, Evaluation, and Management.
Division of Regulatory Information Systems.
Office of Enforcement.
Division of Regulations Policy.
Division of Compliance Management and Operations.
Division of Compliance Policy
Office of Regional Operations.
Division of Federal-State Relations.
Division of Field Science.
Division of Field Investigations.
Division of Emergency and Epidemiological Operations.

Office of Management and Operations

Office of Health Affairs

Office of Science

Office of Planning and Evaluation

Office of Legislation and Information

Office of Consumer Affairs

Center for Drugs and Biologics [1]

Office of the Center Director.
Office of Management.
Division of Planning and Evaluation.
Division of Administrative Management.
Division of Drug Information Resources.
Division of Information Systems Design.
Medical Library.
Office of Scientific Advisors and Consultants.
Office of Consumer and Professional Affairs.

Office of Compliance

Office of the Director.
Division of Drug Quality Evaluation.
Division of Drug Labeling Compliance.
Division of Drug Quality Compliance.
Division of Scientific Investigations.
Division of Biological Product Compliance.
Division of Regulatory Affairs.

Office of Drug Standards

Office of the Director.
Division of OTC Drug Evaluation.
Division of Biopharmaceutics.
Division of Generic Drugs.
Division of Drug Advertising and Labeling.
Division of Bioequivalence.

Office of Drug Research and Review

Office of the Director.
Division of Cardio-Renal Drug Products.
Division of Surgical-Dental Drug Products.
Division of Neuropharmacological Drug Products.
Division of Oncology and Radiopharmaceutical Drug Products.
Division of Drug Biology.
Division of Drug Chemistry.
Division of Drug Analysis.

Office of Biologics Research and Review

Office of the Director.
Division of Blood and Blood Products.
Division of Virology.
Division of Bacterial Products.
Division of Biochemistry and Biophysics.
Division of Biological Product Quality Control.
Division of Anti-Infective Drug Products.
Division of Metabolism and Endocrine Drug Products.
Division of Biological Product Certification.
Division of Biological Investigational New Drugs.

Office of Epidemiology and Biostatistics

Office of the Director.
Division of Drug and Biological Product Experience.
Division of Biometrics.

[1] Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

Center for Food Safety and Applied Nutrition [2]

Office of the Center Director.
Office of Management.
Office of the Director.
Division of Program Operations.
Division of Administrative Operations.
Division of Information Resources Management.

Office of Compliance

Office of the Director.
Division of Regulatory Guidance.
Division of Food and Color Additives.
Division of Cooperative Programs.

Office of Toxicological Sciences

Office of the Director.
Division of Toxicology.
Division of Pathology.
Division of Mathematics.

Office of Physical Sciences

Office of the Director.
Division of Chemical Technology.
Division of Color Technology.
Division of Cosmetics Technology.
Division of Chemistry and Physics.

Office of Nutrition and Food Sciences

Office of the Director.
Division of Consumer Studies.
Division of Nutrition.
Division of Food Technology.
Division of Microbiology.

Center for Devices and Radiological Health [1]

Office of the Center Director.
Office of Management and Systems.
Office of the Director.
Division of Resource Management.
Division of Information Services.
Division of Computer Services.
Division of Planning and Evaluation.
Office of Health Physics.
Office of Health Affairs.
Office of Standards and Regulations.

Office of Compliance

Office of the Director.
Division of Radiological Products.
Division of Compliance Programs.
Division of Compliance Operations.
Division of Product Surveillance.

Office of Device Evaluation

Office of the Director.
Division of Cardiovascular Devices.
Division of Gastroenterology/Urology and General Use Devices.
Division of Anesthesiology, Neurology, and Radiology Devices.
Division of Obstetrics/Gynecology, Ear, Nose, Throat, and Dental Devices.
Division of Surgical and Rehabilitation Devices.
Division of Clinical Laboratory Devices.
Division of Ophthalmic Devices.

Office of Science and Technology

Office of the Director.
Division of Medical Engineering.
Division of Life Sciences.
Division of Physical Sciences.

Office of Training and Assistance

Office of the Director.
Division of Consumer Affairs.
Division of Small Manufacturers Assistance.
Division of Intergovernmental Programs.
Division of Technical Development.
Division of Professional Practices.
Division of Training Support.

Center For Veterinary Medicine [1]

Office of the Center Director.
Office of Management.

Office of New Animal Drug Evaluation

Division of Biometrics and Production Drugs.
Division of Drug Manufacturing and Residue Chemistry.
Division of Therapeutic Drugs for Food Animals.
Division of Drugs for Non-Food Animals.
Division of Drug and Environmental Toxicology.

Office of Surveillance and Compliance

Division of Compliance.
Division of Surveillance.
Division of Animal Feeds.
Division of Voluntary Compliance and Hearings Development.

Office of Science

Division of Veterinary Medical Research.

National Center for Toxicological Research [3]

Office of the Director.
Office of Scientific Intelligence.
Associate Director for Research Operations and Planning.
Office of Management.
Division of Management Services.
Division of Toxicological Data Management Systems.
Division of Facilities Engineering and Maintenance.
Associate Director for Research.
Division of Teratogenesis Research.
Division of Mutagenesis Research.
Division of Carcinogenesis Research.
Division of Molecular Biology.
Division of Biometry.
Division of Chemistry.
Associate Director for Chemical Evaluation.
Division of Chemical Toxicology.
Division of Pathology.
Division of Microbiological Services.

2. In § 5.115 by revising the entry for "Region IV" to read as follows:

§ 5.115 Field structure.

* * * * *

Region IV

Regional Field Office: 1010 West Peachtree St. NW., 4th Floor, Atlanta, GA 30309.
District Office: 1010 West Peachtree NW., Atlanta, GA 30309.
District Office: 297 Plus Park Blvd., Nashville, TN 37217.
District Office: P.O. Box 118, Orlando, FL 32802.

* * * * *

Effective date. This regulation shall be effective April 10, 1985.

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

Dated: April 3, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8533 Filed 4-9-85; 8:45 am]

BILLING CODE 4160-01-M

[1] Mailing address: 200 C St. SW., Washington, DC 20204.

[3] Mailing address: Jefferson, AR 72079.

21 CFR Part 177

[Docket No. 84F-0097]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of phenol in polycarbonate resin intended for use in contact with food. This action responds to a petition filed by Dow Chemical Co.

DATES: Effective April 10, 1985; objections by May 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 26, 1984 (49 FR 18043), FDA announced that a petition (FAP 4B3787) has been filed by Dow Chemical Co., 1803 Building, Door 7, Midland, MI 48640, proposing that § 177.1580 (21 CFR 177.1580) be amended to provide for the safe use of phenol as an optional adjuvant in polycarbonate resin intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As

provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Lists of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 177 is amended in § 177.1580(b) by alphabetically inserting a new item in the list of substances, to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1580 Polycarbonate resins.

* * * * *

(b) * * *

List of substances	Limitations
* * * * *	
Phenol (CAS Reg. No. 108-95-2)	
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 10, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective April 10, 1985.

(Sec. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: April 2, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-8534 Filed 4-9-85; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 2H5357/R750]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish a food and a feed additive regulation to permit the plant growth regulator ethephon in or on milling fractions of wheat and barley. These regulations to establish maximum permissible levels for residues of the pesticide in or on the commodities were requested pursuant to a petition by Union Carbide Agricultural Products Co.

EFFECTIVE DATE: Effective on April 10, 1985.

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

FOR FURTHER INFORMATION CONTACT:

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

Office location and telephone number: Rm. 240, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 28, 1982 (47 FR 32602), and amended in the **Federal Register** of August 18, 1982 (47 FR 36015), which announced that Union Carbide Agricultural Products Co., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709, had filed food/feed additive petition 2H5357 with the EPA. This petition proposed amending 21 CFR 193.186 and 21 CFR Part 561 by establishing regulations permitting residues of the plant growth regulator ethephon ((2-chloroethyl)phosphonic acid) in or on the commodities and feed items milling fractions of wheat and barley at 5.0 parts per million (ppm).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document (PP–2F2711/R749) published elsewhere in the rules section of this issue of the **Federal Register.**

Temporary tolerances for ethephon used on the commodities and feed items milling fractions of wheat and barley in accordance with an experimental use program were added in the **Federal Register** of May 2, 1984 (49 FR 18737), with an expiration date of April 20, 1985.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 751, 7 U.S.C. 135(a) *et seq.*). Therefore, 21 CFR Parts 193 and 561 are amended as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that

regulations establishing new food or feed additive levels or conditions for safe use of additives, or raising such food or feed additive levels, do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 408(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests.

Dated: March 28, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore 21 CFR, Chapter I, is amended as follows:

PART 193—[AMENDED]

1. In Part 193, in § 193.186 by adding new paragraph (a), which is currently designated "Reserved," and by amending paragraph (b) by removing the entiries "Barley, milling fractions, except flour" and "Wheat, milling fractions, except flour" as follows:

§ 193.186 Ethephon.

(a) A food additive regulation is established permitting residues of the plant growth regulator ethephon [(2-chloroethyl) phosphonic acid] in or on the following food commodities:

Foods	Parts per million
Barley, milling fractions, except flour	5.0
Wheat, milling fractions, except flour	5.0

(b) * * *

Foods	Parts per million
Barley, milling fractions, except flour [Removed]	5.0 [Removed]
* * * * *	
Wheat, milling fractions, except flour [Removed]	5.0 [Removed]
* * * * *	

PART 561—[AMENDED]

2. In Part 561, in § 561.225 by amending paragraph (a) by adding, and alphabetically inserting, the following commodities, and by removing paragraphs (b) and (c) and designating paragraph (b) "Reserved" as follows:

§ 561.225 Ethephon.

(a) * * *

Feeds	Parts per million
Barley, milling fractions, except flour	5.0
* * * * *	
Wheat, milling fractions, except flour	5.0

(b) [Reserved]

[FR Doc. 85-8025 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Parts 193 and 561

[FAP 3H5409/R637; FRL-2811-4]

Tolerances for Pesticides in Food and Animal Feeds Administered by the Environmental Protection Agency; Thiabendazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish a food and a feed additive regulation to permit residues of the fungicide thiabendazole in or on wheat milled fractions (except flour). These regulations to establish maximum permissible levels for the residues of the fungicide in or on the commodity were requested pursuant to a petition by Merck and Co., Inc.

EFFECTIVE DATE: Effective on April 10, 1985.

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

FOR FURTHER INFORMATION CONTACT:

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

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of September 28, 1983 (48 FR 44267), that Merck and Co., Inc., P.O. Box 2000, Rahway, NJ 07065, had submitted a food additive petition (FAP) proposing to amend 21 CFR Part 193 by establishing a regulation permitting residues of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] in or on the commodity wheat milled fractions (except flour). No comments were received in response to the notice of filing.

Wheat milled fractions (except flour) are used for human food and animal feed; for this reason both food and feed tolerance regulations are being established for this commodity.

The toxicology data submitted in the petition and other relevant material have been evaluated and discussed in a related document (PP2F2603 and 3F2882/R638) increasing tolerance levels in or on wheat grain and potatoes that appears elsewhere in this issue of the **Federal Register.**

These food and feed additive regulations for wheat milled fractions (except flour) and established tolerances, including those referred to elsewhere in this issue of the **Federal Register,** will result in a theoretical maximum residue contribution (TMRC) of 2.4712 milligrams per day (mg/day) for a 60-kg person and will utilize 41.18 percent of the acceptable daily intake (ADI).

The metabolism of thiabendazole is adequately understood, and an adequate analytical method, spectrophotometric analysis, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which these food and feed additive regulations are sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended September 30, 1973 (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) et seq.). Therefore, the food and feed additive regulations are established as set forth below.

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

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

Pursuant to the requirements of Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels or conditions for safe use of additives, or raising such food or feed additive levels, do not have a significant economic impact on a

substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests.

(Sec. 409(c)(1), 72 Stat. 1786, 21 U.S.C. 348(c)(1))

Dated: March 12, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 193—[Amended]

1. In Part 193 by adding new § 193.470, to read as follows:

§ 193.470 Thiabendazole.

A tolerance of 3 parts per million is established for residues of the fungicide thiabendazole [2-4-thiazolyl) benzimidazole] in or on wheat milled fractions (except flour) resulting from applications of the fungicide to growing wheat.

PART 561—[AMENDED]

2. In Part 561 by amending § 561.380 in paragraph (a) by alphabetically inserting the commodity wheat milled fractions (except flour), to read as follows:

§ 561.380 Thiabendazole.

(a) * * *

Feed	Parts per million
* * * * *	
Wheat milled fractions (except flour)	3.0
* * * * *	

[FR Doc. 85-8031 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

POSTAL SERVICE

39 CFR Part 255

Access of Handicapped Persons to Postal Services, Programs, Facilities, and Employment

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of the rule is to bring together in one place a single statement of the Postal Service's policies and procedures concerning handicapped persons. The new part: (a) Informs the public of the Postal Service's policies and administrative practices towards handicapped individuals and of the administrative procedures which handicapped persons may follow when they have a complaint or inquiry about or seek changes in postal practices, policies, or procedures, affecting themselves, based upon their handicap; and (b) guides employees in responding to complaints or inquiries by handicapped persons in which the emphasis is on the person's handicap rather than on the specific postal subject matter. The scope of the rule includes, but is not limited to, the Postal Service's adoption of regulations under section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (1982).

EFFECTIVE DATE: May 10, 1985.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, (202) 245-4620.

SUPPLEMENTARY INFORMATION: On October 20, 1982, the Postal Service published for comment in the **Federal Register** (47 FR 46706) proposed regulations designed to implement and unify various provisions of law including the amendments made to 29 U.S.C. 794 by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Interested persons were invited to submit written comments concerning the proposed regulations on or before December 20, 1982.

The Postal Service received 24 comments. Most specifically endorsed the proposal's basic goal of bringing together into one place a single statement of the Postal Service's policies and procedures concerning handicapped persons. No comment objected to this goal. Questions were raised, however, concerning certain details. Following is a discussion of the principal issues raised by the comments and the substantive changes that were adopted.

Employment

A number of comments expressed concern about whether the proposal was sufficiently detailed to demonstrate the Postal Service's awareness of, and compliance with, both section 501 of the Rehabilitation Act of 1973, and requirements concerning employment of the handicapped in the postal system which are derived from section 501, such as the duty to make "reasonable accommodations" for handicapped employees and job applicants. While the proposal had stated in a separate provision (§ 255.1(d), "Postal Employment") that "Discrimination against otherwise qualified handicapped persons in postal employment is prohibited * * *", the proposal did not specifically mention either section 501, the Postal Service's derivative "reasonable accommodation" duty, or many other details concerning the Postal Service's employment obligations, although the proposal had referred specifically to postal regulations embodied in the Postal Service's Employee & Labor Relations Manual.

The Postal Service, having more than 710,000 employees, and being subject in its personnel decisions to various administrative and judicial review procedures, is aware of the entire governmental regulatory structure applicable to postal employment of the handicapped. That structure includes not only the postal regulations in the Postal Service's Employee & Labor Relations Manual, but also section 501, the affirmative action plan which the Postal Service annually adopts under section 501 with the approval of the Equal Employment Opportunity Commission (EEOC), all of the applicable regulations adopted by the EEOC under section 501, and implementing postal directives other than those contained in the Employee & Labor Relations Manual.

The proposal's brevity concerning employment was intended for readability. In order to accommodate the concerns expressed by the public comments, while retaining as much brevity as possible, the rule is revised in §§ 255.1(a), 255.1(d) and 255.3(a)(1), to include, as appropriate, specific references to section 501, applicable EEOC regulations, and the Postal Service's derivative duties under section 501 not to discriminate against handicapped applicants and employees, and to make reasonable accommodations for them.

Time Limits for Complaint Responses

A number of comments expressed concern about the proposal's general requirement that postal complaint resolution procedures be followed in a timely manner, because the proposal did not specify the number of days for particular actions. At present, the number of days for resolution of customer complaints—by the handicapped and non-handicapped alike—is fixed by internal memoranda rather than by regulations. The administrative advantage of memoranda is that they permit reasonable and flexible time limits according to changing work loads, budgets, and other unavoidable variables. However, one comment correctly observed that it would be helpful for the public to know generally when to expect to receive complaint responses.

According, the final rule incorporates a new provision (§ 255.1(c)(4)) which

establishes regulatory time limits. This provision permits postal managers responsible for complaint handling to prescribe shorter time limits by memorandum where circumstance permit. Conforming changes will be made to postal regulations of a general character concerning all customer complaints, since the intent is to continue to prescribe time limits for complaint resolution on a nondiscriminatory basis for all customers without regard to handicap.

Automatic Review of Service Decisions

A number of comments expressed concern as to whether all local managers receiving service complaints would be able to make legally correct decisions where the legal rights of the handicapped were concerned. While in this area good judgment and the proper attitude will normally be sufficient to ensure correct decisions even without technical legal expertise, the proposal like the final rule authorizes local postal officials to seek legal advice from the Postal Service's Regional Counsel (§ 255.1(c)(3)). In addition, the rule incorporates a provision not contained in the proposal (§ 255.1(c)(5)) requiring an additional and higher level of review where a negative response is proposed. An additional and independent level of review will help insure that legal advice is requested if needed and that good judgement is exercised. The new provision makes clear that such intermediate review will not foreclose an administrative appeal to higher authority by a customer who remains dissatisfied.

Handicapped Parking

A number of commenters expressed concern about the existence or enforcement of parking restrictions for the handicapped on postal property. Provision for federal, state, and local enforcement of such restrictions is already covered, however, by preexisting postal regulations concerning the policing and enforcement of all conduct regulations for postal facilities, 39 CFR 232.1(q) (1984). These general regulations were not specifically mentioned by the proposal. Since the comments showed both that parking was a matter of concern and that the commenters were unfamiliar with these existing postal regulations of a general character on this topic, the final rule incorporates a new provision (255.3(a)(3), "Handicapped Parking") reflecting these enforcement procedures. In addition, § 255.3(a)(1) is amended by the insertion of a new last sentence requiring the "accessible" facilities to be preferred when facilities are selected for lease or purchase to include facilities at which "any needed off-street parking is provided."

Special Arrangements

A few comments expressed concern about the latitude allowed in proposed § 255.2(a) to make special arrangements for handicapped persons other than those specifically prescribed by postal regulations and enumerated in proposed § 255.2(b)(1) through (4). One concern was that it would be helpful to list all available arrangements so that handicapped customers would know in advance what accommodations were available. Another concern was that without completely detailed regulations, local officials would have too much discretion.

While these concerns are understandable, there are a number of countervailing considerations. Handicapped individuals are not all alike. The capabilities and needs of each handicapped customer may change as each individual changes and as the technology available to help each individual to achieve greater self-sufficiency improves. The Postal Service for its part conducts a wide variety of operations throughout the United States, its territories, and possessions, in rural, suburban, and urban America. Post offices vary in their nature from a one-person operation serving an isolated town of a few persons to thousands of employees in more than a hundred branches and stations serving a metropolis of millions. Accordingly, what would properly be considered under existing law to be a legally-required "reasonable accommodation" by one post office for one handicapped customer in one situation may not necessarily be such a "reasonable accommodation" in the circumstances of a different office or another customer at a different time.

Moreover, the practice of working out, at the local level, special arrangements for handicapped postal customers is a long-standing one antedating section 504. Individualized arrangements that have been adopted and have proved satisfactory in one town or for one customer are not necessarily the same as those adopted and accepted for another customer in another town thousands of miles away. Yet both arrangements could meet applicable legal requirements, either because of relevant difference in circumstances, or because either arrangement satisfies customer needs and legal requirements.

Given these complex, varied, and changing circumstances, overly detailed or uniform regulation could be disruptive or harmful. Such regulations could prevent useful service innovations from evolving at the local level in response to new situations. Moreover, very few complaints are received questioning the adequacy of particular local accommodations. None of the comments offered any evidence of any present system-wide problems in the working of the accommodation process, which operates informally on the basis of good judgment, with a regulation such as proposed § 255.2(a). Consequently, § 255.2(a) is adopted as proposed.

Particular Special Programs

Certain comments about proposed § 255.2(a)(1) through (4) questioned why the stamps-by-mail program is limited to "city delivery customers," why many but not all self-service postal centers (SSPCs) are accessible to the handicapped, and why postage-free mailing privileges for the blind are not extended to other handicapped persons.

The stamps-by-mail program is designed as a convenience for city delivery customers, since their carriers do not sell stamps on their routes. Rural delivery carriers do provide this convenience to their customers. Accordingly, a rural delivery customer who finds it inconvenient to buy stamps at a post office can buy stamps whenever the carrier makes his or her daily delivery, an option not available to city delivery customers.

Not all SSPCs are accessible to the handicapped, since some of them are situated in places, such as shopping centers, which are outside the Postal Service's jurisdiction or control, and which may be inaccessible in ways that the Postal Service cannot change. The Postal Service of course prescribes and effectuates access standards for the design, construction, and installation of equipment in the SSPCs, such as parcel post depositories and vending machines, which it owns or controls.

Regulations on postage-free mailings are limited to certain articles for the use of the blind as authorized by Congress, 39 U.S.C. 3403–3405 (1982). The Postal Service is bound by these legal limits on the extent of these postage-free mailing privileges. 39 U.S.C. 208, 403(c), 3621 (1982).

Relationship of Rule to Government-Wide Coordination Guidelines

A number of commenters questioned whether the proposal should follow or duplicate guidelines issued by the former Department of Health, Education, and Welfare (HEW) and the Department of Justice for the coordination of regulations under section 504 for federal grant-in-aid recipients, 28 CFR Part 41,

former 45 CFR Part 84. As an independent agency, the Postal Service is outside the general government-wide section 504 coordination activity formerly administered by HEW and now administered by the Department of Justice. Exec. Order No. 12250, 45 FR 72995. While these coordination guidelines or regulations do not legally apply to the Postal Service, it is legally obligated to follow section 504 to the same extent as are other covered federal agencies. The Postal Service is authorized and obligated to adopt the best implementing postal regulations it can independently formulate for the management of the postal system's effectuation of section 504, and for the information of its customers and employees, even if such regulations vary in wording and detail from nonpostal implementing regulations used by nonpostal federal agencies.

Some of the regulations which the comments specifically asked the Postal Service to adopt were ones which lacked postal relevance, such as those defining the term "federal financial assistance". The Postal Service does not make federal grants to private recipients.

Nonpostal "coordination" regulations are generally inappropriate for the postal system because of their length, their legalistic complexity, and their self-contained structure. Both the proposal and the final rule are comparatively short and simple compared to nonpostal regulations, since postal regulations are primarily intended for postal employees and customers. In general, postal regulations speak as briefly and as clearly as possible to the non-lawyers to whom they are principally addressed. By contrast, nonpostal regulations which govern federal grant-in-aid recipients, such as state and local government agencies and private universities represented by full-time legal counsel, may need to be written quite differently.

Postal regulations concerning the handicapped and laws concerning their implementation must also be written so as to be integrated with postal regulations concerning non-handicapped persons and the implementation of other laws governing the postal system. Virtually all postal personnel must exercise responsibilities which serve the general public, including handicapped persons. The regulations which they use are therefore subdivided into manuals on different postal subjects corresponding to postal operating needs of the individuals who must follow the regulations or inform the public about them. Postal regulations usually must prescribe uniform instructions regardless of whether a handicapped person may be affected: for example, the regulations on wrapping mail properly so as to prevent damage to the contents. It would therefore be impractical to offer a completely separate set of postal regulations for handicapped persons.

Leased Facilities

A number of comments questioned the proposal insofar as it did not require leased postal facilities either to be selected so as to be accessible, to be remodeled to make them accessible to handicapped persons, or to be remodeled to improve access in accordance with a timetable. In light of these comments, the final rule is revised to include an express statement of the Postal Service's mandatory policy to give preference in the selection of leased space to accessible facilities. (§ 255.3(a)(1)). [1] Selection of accessible buildings and remodeling or existing buildings to attain accessibility, however, are not always feasible. Since section 504 does not require buildings to be remodeled when programmatic nondiscrimination can be accomplished through other means, the rule like the proposal continues to authorize the offering of reasonable service accommodations to handicapped customers. [2] Such accommodations can provide equivalent or better service to the customer concerned, such as when a postmaster or clerk in a small office, to which a ramp cannot be added, can conveniently and promptly be summoned by a handicapped customer to provide service while the customer remains seated in his or her car.

Discretionary Modification of Facilities

Other comments questioned the propriety of the factors enumerated in proposed § 255.3(a)(2) for discretionary remodeling of facilities not legally required to be remodeled. The Postal Service shares the dissatisfaction with inaccessible facilities but must operate within existing constraints. Foremost among these are (a) the requirement that the Postal Service fund its operations out of postal revenues, 39 U.S.C. 3621 (1982), (b) the fact that most privately-constructed buildings, whether already leased or purchased or available for lease or purchase, do not conform to current federal access standards, (c) the general requirement that federal remodeling projects conform to federal access standards for new construction, and (d) the fact that remodeling of an existing structure to comply with access standards for new construction may be impractical or impossible. The Postal Service must therefore exercise discretion in remodeling preexisting facilities. Section 255.3(a)(2) is therefore adopted as proposed.

Historic Preservation

Several comments questioned the portions of the proposal (§ 255.3 (a)(2)(vi) and (a)(4)) reflecting the Postal Service's policy of complying with the National Historic Preservation Act of 1966. These comments seemed to be based on the misapprehension that historic preservation could be used by the Postal Service as a "loophole" to keep the handicapped out of postal buildings.

The National Historic Preservation Act, however, is independently administered by the Secretary of the Interior in cooperation with State and local historic preservation officers. National policies on nondiscrimination toward the handicapped and on historic preservation have generally not conflicted in practice. The Postal Service's Board of Governors has determined that, ". . . it is the policy of the Postal Service to abide by the general policies and requirements for historic preservation applicable in the government." [3] Postal management adheres to this guideline on historic preservation considerations. 39 U.S.C. 202(a), 205(a) (1982). Accordingly, the proposed historic preservation provisioins are adopted without change.

Access Standard Uniformity

One commenter expressed concern about the lack of uniformity that would result from the Postal Service's use of its own handicapped access standards for building design and construction rather than the standards recommended for private use by the American National Standards Institute (ANSI) or the minimum guidelines and requirements for federal standards which are issued by the Architectural and Transportation Barriers Compliance Board. However, the Postal Service is required by law (the Architectural Barriers Act of 1968) to issue and follow its own access standards. 42 U.S.C. 4154a, 4155.

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[1] "At every discretionary opportunity, including the selection of new leased space, accessibility should be provided where the cost of providing accessibility is at an acceptable level." U.S. Postal Service, Real Estate and Buildings Bulletin No. GN-81-8, July 15, 1981, ¶IV.A.

[2] The question of whether the Postal Service's views about when remodeling is legally required are correct is the subject of litigation which is now pending before the courts.

[3] Resolution No. 82-7, of the Board of Governors of the United States Postal Service, "Policy on Historic Preservation", November 9, 1982.

Existing law in this respect reflects the fact that the access requirements for buildings dedicated to postal uses may need to differ in some respects from those for buildings dedicated to nonpostal federal uses, such as military installations or federally funded residential housing.

In order to promote greater uniformity in federal and non-federal access standards, the Postal Service has been working for several years with the three other federal agencies authorized by the Barriers Act to issue federal access standards to develop uniform federal standards that would comply with the Board's minimum guidelines and requirements in a uniform way and also be as closely aligned as possible with ANSI's recommendations. A joint proposal for such uniform standards has already been published by the four agencies in the **Federal Register** for public comment, 48 FR 19610. Staff work on a final uniform standards document is complete, and the Postal Service has approved the final staff draft. When that uniform document is approved by the other three agencies, the Postal Service will revise its own standards accordingly. While the Postal Service will continue to have and apply its own standards as the law contemplates, postal standards will be as closely aligned with nonpostal standards as possible.

Proposed Public Hearings

One suggestion was that the Postal Service should hold "public hearings" on the proposal, but no justification was offered except a generalized assertion concerning the proposal's "importance." The limitation of a rule-making procedure to written comments is not illegal or unreasonable, however, regardless of the importance of the proposed rule. Public hearings can be costly and burdensome both to the sponsoring agency and to the commenters, who may feel compelled to participate to assure an effective presentation of views. In the absence of any promise of benefits to be gained from public hearings, the Postal Service chose to rely on written comments.

Proposed Self-Evaluation

One suggestion was that the proposal should be amended to establish a program for continuing reevaluation by the Postal Service of its own policies toward the handicapped. Postal management feels that reevaluation programs are already in place. The agency is subject to congressional oversight and independent review by other government agencies such as the General Accounting Office, the Equal Employment Opportunity Commission, and the Architectural and Transportation Barriers Compliance Board. The Postal Service regularly receives and responds to complaints from its customers. The Postal Service is subject to scrutiny by political leaders, journalists, and competitors. The legality of postal decisions and policies is subject to challenge in federal litigation. 39 U.S.C. 409(a), 1208, 3628 (1982).

Criticism of existing postal practices and policies is thus already provided by interested parties directly and indirectly. Since self-evaluation within the Postal Service necessarily results on a regular basis, an amendment of the proposal to establish a self-evaluation program seemed redundant. This conclusion is not intended to suggest any view as to whether such a provision would be desirable or should be required in the regulations adopted by any other federal agency, since few federal agencies operate with as much direct public contact and under as much public scrutiny as the postal Service. The need for special self-evaluation programs has to be determined by each agency in the light of its own circumstances.

Publication of Proposal in Federal Register

The proposal was criticized for being published only in the **Federal Register**, and for only listing a telephone number to call for further information, on the theory that the proposal was "inaccessible" without being available in braille or on cassette tape and without listing a telephone number equipped with a teletypewriter to enable deaf persons having such equipment or access to it to telecommunicate with the Postal Service for further information. However, these comments were criticisms of the proposal by persons or groups who manifested no need for such assistance. No requests were received from anyone either for copies of the proposal in braille or on cassette, or for special telecommunications arrangements. The 60-day comment period allowed ample time for special arrangements to be made upon request.

Cross-References to Other Postal Manuals

One commenter claimed that the proposal was illegally "ambiguous and unintelligible" because of its references to various manuals of postal regulations, and that therefore another proposal should be published. Provisions to which the proposal specifically referred, however, were published as an appendix to the proposal. Moreover, prospective commenters calling the telephone number or writing to the address published with the proposal to ask for further information about either the proposal or the regulations to which cross-references were made were promptly given during the 60-day comment period any information about the cross-referenced regulations which they requested.

In the notice-and-comment rulemaking procedure which the Postal Service is following, the published notice of proposed rulemaking is only required to give "either the terms or substance of the proposed rule or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3) (1982). The notice published in this rulemaking exceeded this requirement: it included all of the terms of the proposed rule and all of the terms of the preexisting published regulations to which cross-references were proposed to be made. The comments received reflected general understanding of the proposal. Accordingly, a second proposal does not appear to be needed or required.

Comments Not Directed to the Proposal

A few responses commented not only on the proposed rule on which comments were invited, but also on the supplementary information section and the appendix of existing postal regulations accompanying the proposal. The Postal Service provided the supplementary information section and the appendix as a convenience for the public to help interested persons understand and comment on the proposal. This supplementary information section of the final rule accordingly discusses only those comments which were relevant to the proposed rule.

Notice

It was suggested that the proposed regulation was deficient in not requiring signs to be posted in post office lobbies to give notice to customers of their rights under section 504 of the Rehabilitation Act, and the procedures to follow to complain about discrimination. Since there are many laws and regulations which may affect a postal customer's rights, it is impractical to post signs in lobbies giving notice of all applicable legal sources or requirements, and it would be unjust to require a dissatisfied customer to support a complaint with citations of specific laws or regulations. The Postal Service instead makes every effort to solicit both written and oral comments and complaints from customers. Consumer Service Cards are required to be available in post office

lobbies to enable any customer to complain in writing "about any aspect of products, services or personnel . . . ." [4] When a customer complains orally to an employee, the employee receiving the complaint is required to record it on a Consumer Service Card so that follow-up attention and action can occur.[5]

In view of the foregoing considerations, the Postal Service adopts the following revisions of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 255

Handicapped persons.

In title 39, CFR, add a new Part 255 to read as follows:

PART 255—ACCESS OF HANDICAPPED PERSONS TO POSTAL SERVICES, PROGRAMS, FACILITIES, AND EMPLOYMENT

Sec.

255.1 Discrimination against handicapped persons prohibited.
255.2 Special arrangements for postal services.
255.3 Access to postal facilities.
255.4 Other postal regulations; authority of postal officials and employees.

Authority: 39 U.S.C. 101, 401, 403, 1001, 1003, 3403, 3404; 29 U.S.C. 791, 794.

§ 255.1 Discrimination against handicapped persons prohibited.

(a) *Policy.* Postal Service policy is to comply fully with sections 501 and 504 of the Rehabilitation Act of 1973, and other applicable laws. Accordingly, no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity operated by the Postal Service, or in employment.

(b) *Definition.* For purposes of paragraph (a) of this section, the term "handicapped" applies to a person who has, has a record of, or is regarded as having, a physical or mental impairment which substantially limits one or more of such person's major life activities.

(c) *Customer Service Complaints.*—(1) *How made.* Complaints by or on behalf of otherwise qualified handicapped customers who believe that they have been discriminated against in the provision of postal services solely by reason of their handicap may be made in accordance with Domestic Mail Manual 114.1. The customer should provide, or be willing to provide upon request, sufficient information regarding the matter to permit a complete examination of all of the relevant circumstances concerning the complaint.

(2) *Exhaustion of Administrative Remedies.* See Domestic Mail Manual 114.14.

(3) *Resolution.* A local official receiving a complaint of unlawful discrimination against a handicapped person, such as a refusal to serve an otherwise qualified customer solely because of the customer's handicap, must handle it in accordance with existing regulations and procedures for resolution of customer complaints, including the time limits prescribed in or under § 255.1(c)(4). The steps taken by the official should include an initial review of the complaint to determine whether further investigation is necessary to resolve the complaint, or whether immediate action can be taken to remedy any illegal discrimination that may be occurring. Such corrective action as is determined to be necessary to resolve the complaint should be taken as soon as possible. The complainant should be notified promptly of the action taken; if the matter cannot be resolved quickly, appropriate interim reports, including an acknowledgment of receipt of the complaint, should be furnished to the complainant. Replies to written complaints must be in writing; replies to nonwritten complaints may be in writing or any other appropriate medium. If a complaint claims that discrimination has resulted from the lack of special arrangements for handicapped persons, the complaint should be handled in accordance with § 255.2(b) or § 255.3(b), as appropriate. Legal advice on whether a particular complaint seeks to end unlawful discrimination or to request special arrangements may be sought from the Regional Counsel.

(4) *Time Limits.* If a complaint cannot be resolved within fifteen (15) days the customer must be sent a written acknowledgment of the receipt of the complaint. If the complaint cannot be resolved within thirty (30) days of its receipt, the customer must be sent an interim report in writing, including a statement of when the matter is expected to be resolved. Whenever it appears that a complaint cannot be resolved within sixty (60) days of its receipt, a written report and explanation must be submitted to the appropriate Regional Office, and to the Consumer Advocate, U.S. Postal Service, Washington, D.C. 20260-6320. Local managers may prescribe shorter time limits for complaint responses within their area of responsibility by memorandum or other appropriate written directive.

(5) *Automatic Review.* If an associate office postmaster or management sectional center manager proposes to deny a request by a handicapped customer for a special arrangement or the alteration of a facility, the proposed decision shall be submitted to the next higher level of management (if the request is for a special arrangement) or to the appropriate Field Real Estate and Buildings Office (if the request is for the alteration of a facility). The customer shall be notified of the approved decision. No review under this provision limits the customer's right of appeal to the Consumer Advocate under Domestic Mail Manual 114.14.

(6) *Appeal.* See Domestic Mail Manual 114.14.

(d) *Postal Employment.* Discrimination against otherwise qualified handicapped postal employees or job applicants is prohibited, under section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, and by implementing regulations promulgated by the Equal Employment Opportunity Commission and the Postal Service. Complaints of discrimination against handicapped applicants or employees may be made in accordance with the procedures prescribed in the Employee and Labor Relations Manual (ELM) concerning Equal Employment Opportunity, which apply to discrimination against handicapped persons.

§ 255.2 Special arrangements for postal services.

(a) *Policy.* The Postal Service offers all of its services to all of its customers without discrimination. Customers who would have difficulty using or be unable to use certain services may be eligible under postal regulations for special arrangements. Some of the special arrangements that the Postal Service has authorized are listed below. No customer is required to use any special arrangement offered by the Postal Service, but a customer's refusal to make use of such special arrangement does not require the Postal Service to offer other special arrangements to that customer.

(1) *Carrier Delivery Services and Programs.* See Domestic Mail Manual 155.262.

(2) *Postal Retail Services and Programs.*—(i) *Stamps by Mail.* See Postal Operations Manual 145.

(ii) *Retail Service from Rural Carriers.* See Domestic Mail Manual 156.41.

(iii) *Self-Service Postal Centers.* Self-Service Postal Centers (SSPCs) contain vending equipment for the sale of stamps and stamp items, and parcel and letter deposit boxes. See Postal Operations Manual 154. Many SSPCs are accessible to individuals in

[4] Domestic Mail Manual 114.11, published in the Appendix of the proposal, 47 FR 46709, column 2.
[5] *Id.*

wheelchairs. Customers may obtain information concerning the nearest such SSPC from their local post office.

(iv) *Postage-Free Mailing for Certain Mailings.* See Domestic Mail Manual parts 135 and 115.24, and International Mail Manual 225.

(b) *Inquiries and Requests.*—(1) *How made:* Customers wishing further information about special arrangements for particular postal services may contact the postmaster or other local postal official responsible for such service.

(2) *Response.* A local official receiving a request for special arrangements must provide the customer with any such arrangements as are required by postal regulations and must notify the customer of the special arrangements. If no such special arrangements are required, the responsible official may take such actions to accommodate the customer as are within his or her authority to provide under postal regulations, if he or she determines that doing so would be reasonable, practical, and consistent with the economical and proper operation of the program or activity for which he or she has budgetary responsibility. Every customer who requests special arrangements shall be notified promptly of the determination made and the reasons therefor. If a determination cannot be made quickly, appropriate interim reports, including an acknowledgment of receipt of the request, must be furnished to the customer. Replies to written requests must be in writing; replies to nonwritten requests may be in writing or any other appropriate medium.

(c) *Exhaustion of Administrative Remedies and Appeal.* See Domestic Mail Manual 114.14.

§ 255.3 Access to postal facilities.

(a) *Policy.*—(1) *Legal and Policy Requirements.* It is Postal Service policy to comply fully with the physical access requirements of the Architectural Barriers Act of 1968, as amended. Pursuant to that Act, the Postal Service designs, constructs, and alters its facilities in accordance with its published standards for access to postal facilities. Such standards are contained in Handbook RE–4, Standards for Facility Accessibility by the Physically Handicapped, single copies of which may be obtained free of charge by writing to the Real Estate and Buildings Department, U.S Postal Service Headquarters, Washington, D.C. 20260–6400. In general, the Postal Service's access standards apply prospectively to all newly constructed facilities, and to all new alterations of certain features of existing facilities, regardless of whether the facilities are owned or leased, and regardless of whether the alteration is required or discretionary. In addition, the Postal Service remodels facilities for handicapped access whenever such remodeling is legally required under section 501 of the Rehabilitation Act of 1973 as a "reasonable accommodation" to handicapped employees or applicants. Moreover, where handicapped persons are employed or are to be employed, their work areas are required by postal policy to be altered in accordance with Postal Service access standards to make them accessible to the handicapped employees. At every available opportunity, accessible facilities must be selected for lease or purchase, where cost is at an acceptable level, and such facilities provide desirable working conditions, a maximum degree of convenient and efficient postal services, proper access to existing and future air and surface transportation facilities, and control of postal costs (*see* 39 U.S.C. 101(g) and 403(b)(3)). For purposes of the preceding sentence, a facility and its elements are considered "accessible" if they comply with any handicapped access code which has been adopted by any government agency or recommended by the American National Standards Institute, and if any needed off-street parking is provided.

(2) *Discretionary Modifications.* The Postal Service may also modify facilities not legally required to conform to the Barriers Act's standards when it determines that doing so would be consistent with efficient postal operations. Not all facilities are required to conform to the standards adopted under the Act. In determining whether modifications not legally required should be made, due regard is given to:

(i) The cost of the discretionary modification;

(ii) The number of customers to be benefited by the modification;

(iii) The inconvenience, if any, to the general public;

(iv) The anticipated useful life of the modification to the Postal Service;

(v) If the facility is leased, whether the lease would require the Postal Service to restore the premises to their original condition at the expiration of the lease, and, if so, the possible cost of such restoration;

(vi) The historic or architectural significance of the property in accordance with paragraph (a)(4) of this section;

(vii) The availability of other options to foster service accessibility; and

(viii) Any other factor that may be relevant and appropriate to the decision.

(3) *Handicapped Parking.* Handicapped parking restrictions must be rigorously enforced by the installation's Security Control Officer. Where members of the U.S. Postal Security Force are not available to exercise the powers of special policemen under 40 U.S.C. 318, local postmasters and installation heads must, pursuant to 40 U.S.C. 318b and with the approval of the chief postal inspector or his designee, seek the assistance of state and local enforcement agencies to insure that these restrictions are enforced. See 39 CFR 232.1(q).

(4) *Historic Preservation.* Postal Service policy is to comply with the requirements of the National Historic Preservation Act of 1966, Executive Order 11593, and the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800 (1984) as they pertain to the modification of historic and architecturally significant properties.

(5) *Blind Vendor Facilities.* See Employee & Labor Relations Manual 614 (Issue 6, 5–20–81).

(b) *Inquiries and Requests.*—(1) *How made.* Inquiries concerning access to postal facilities, and requests for discretionary alterations of postal facilities not covered by the access standards, may be made to the local postmaster or to the manager of the facility involved.

(2) *Response.* The official contacted, if authorized to do so, must determine, in consultation with appropriate supervisors, whether the facility is required to be modified to conform to access standards, and if it is not, whether discretionary alterations should be made. If the facility is required to be modified, arrangements for the required alterations must be made as soon as practicable. If modifications are not required, discretionary alterations may be made, on a case-by-case basis, in accordance with the criteria listed in paragraph (a)(2) of this section. Every customer who requests modifications must be notified promptly of the determination made and the reasons therefor. If a determination cannot be made quickly, appropriate interim reports, including an acknowledgement of the request, must be furnished to the customer. Replies to written requests must be in writing; replies to nonwritten requests must be in writing or any other appropriate medium.

(c) *Exhaustion of Administrative Remedies and Appeal.* See Domestic Mail Manual 114.14.

§ 255.4 Other postal regulations; authority of postal officials and employees.

This Part 255 supplements all other postal regulations. Nothing in this part is intended either to repeal, modify, or amend any other postal regulation, to authorize any postal official or employee to violate or exceed any regulatory limit, or to confer any budgetary authority on any postal official or employee outside normal budgetary procedures. Officials or employees receiving complaints which they lack authority to resolve must promptly refer any such complaint to a higher-level or more appropriate official or employee, and at the same time must notify the customer of the name of the person who is handling the complaint.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-8543 Filed 4-9-85; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3F2883/R616; FRL-2811-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide thiabendazole in or on mushrooms. This regulation to establish a maximum permissible level for residues of the fungicide in or on mushrooms was requested by Merck & Co., Inc.

EFFECTIVE DATE: Effective on April 10, 1985.

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

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

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 1, 1983 (48 FR 24452), which announced that Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, has submitted a pesticide petition (3F2883) to EPA proposing that 40 CFR Part 180 be amended by establishing a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)-benzimidazole) resulting from its preharvest application in or on mushrooms at 40.0 parts per million (ppm).

There were no comments received in response to the notice of filing. The data submitted in the petition and other relevant material have been evaluated. The data considered include a 2-year dog-feeding study with no-observed-effect level (NOEL) of 50 milligrams per kilogram of body weight per day (mg/kg/bw/day); a rat reproduction study with NOEL of 20 mg/kg/bw/day; a rabbit teratology study with NOEL up to 800 mg/kg/bw/day (highest dose tested); a mouse reproduction study with NOEL of 150 mg/kg/bw/day; a rat teratology study with NOEL up to 80 mg/kg/bw/day (highest dose tested); a 2-year rat-feeding study with NOEL of 10 mg/kg/bw/day with no significant oncogenic effects at 0, 10, 40, and 160 mg/kg/day under the conditions of the study; and a mouse oncogenicity feeding study with no significant oncogenic effects under the conditions of the study at doses of 0.066, 0.533, and 0.2 percent for females and 0.022, 0.066, and 0.2 percent for males. Based on the rat-feeding study with a NOEL of 200 ppm (10 mg/kg/bw/day) and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.1000 mg/kg/bw/day, and the maximum permissible intake (MPI) is 6.000 mg/day for a 60-kg person. Established tolerances and this proposed tolerance result in a theoretical maximum residue contribution of 1.9339 mg/day for a 60-kg person and utilization of 32.23 percent of the ADI. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities ranging from 0.1 to 10.0 ppm.

The pesticide is considered useful for the purpose for which the tolerance is sought. There are no regulatory actions pending against the continued registration of the pesticide. The metabolism of the pesticide is adequately understood, and an adequate analytical method, spectrophotofluorometry, is available for enforcement purposes.

Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the pesticide in or on the mushrooms will protect the public health. Therefore, the tolerance is established as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

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

Dated: March 12, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.242(a) is amended by adding, and alphabetically inserting, the raw agricultural commodity mushrooms, to read as follows:

§ 180.242 Thiabendazole; tolerance for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Mushrooms	40.0
* * * * *	

* * * * *

[FR Doc. 85-8032 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2711/R749; PH-FRL 2812-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the plant growth regulator ethephon in or on various agricultural commodities. This regulation to establish maximum permissible residues of ethephon on the commodities was requested pursuant to a petition by Union Carbide Agricultural Products Co.

EFFECTIVE DATE: Effective on April 10, 1985.

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

FOR FURTHER INFORMATION CONTACT:
By mail: Robert J. Jaylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 240, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 28, 1982 (47 FR 32602), which announced that Union Carbide Agricultural Products Co., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709, had filed a pesticide petition (PP 2F2711) with the Agency proposing to amend 40 CFR 180.300 by establishing tolerances for residues of the plant growth regulator ethephon ((2-chloroethyl)phosphonic acid) in or on the raw agricultural commodities grain of wheat and barley at 0.1 part per million (ppm) and straw of wheat and barley at 10.0 ppm.

In the **Federal Register** of January 23, 1985 (50 FR 3024), the petitioner amended the petition by increasing the tolerance level on grain of barley and wheat from 1.0 to 2.0 ppm and proposing tolerances for milk at 0.1 ppm and liver and kidney of cattle, goats, hogs, and horses at 2.0 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F proposing tolerances for residues of ethephon on wheat grain at 2.0 ppm; wheat straw at 10 ppm; barley grain at 2.0 ppm; barley straw at 10 ppm; milk at 0.1 ppm; and meat, fat, and meat by-products of cattle, hogs, horses, goats, and sheep at 0.1 ppm. Since there is no potential increase in exposure from these tolerances, a period of public comment is not necessary.

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

The data submitted in the petition and other relevant material have been evaluated. The data considered include several acute toxicology studies, a 90-day feeding study with dogs (0; 5; 25; 187.5 mg/kg/day) with a no-observed effect level (NOEL) of 5 mg/kg/day (ChE) and no systemic effects; a 3-generation reproduction study (rats) with a NOEL greater than 75 mg/kg/day (reproductive effects); a teratology study (rats) with a NOEL greater than 600 mg/kg/day; a teratology study (rabbits) with a NOEL greater than or equal to 50 mg/kg/day; a neurotoxicity study (hens) negative at 1,000 mg/kg/day; a 2-year chronic feeding/oncogenicity study with rats (0; 1.5; mg/kg) with a NOEL of 1.5 mg/kg (ChE) and no oncogenic effects noted under the conditions of the study; a 2-year chronic feeding study (dogs) with NOEL less than or equal to 1.25 mg/kg/day (ChE) and 7.5 mg/kg/day (systemic effects); and a 3-week dermal application study (no systemic toxicity, dermal effects only).

The acceptable daily intake (ADI) based on the 2-year dog feeding study (NOEL of 7.5 mg/kg) and using a 100-fold safety factor is calculated to be 0.0750 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 4.5 mg/day. The theoretical maximum residue contribution (TMRC) for existing tolerances for a 1.5-kg diet is calculated to be 0.4304 mg. Food additive and feed additive tolerances are being established for milling fractions of barley and wheat (except flours) concurrently (see FAP No. 2H5357/R750 appearing elsewhere in the rules section of this issue of the **Federal Register**). The current action will use 3.47 percent of the ADI. Published tolerances use 9.57 percent of the ADI. Additional information is needed to clarify results of a mouse oncogenicity study. The company has been notified of the required information and has agreed to submit the information required.

The nature of the residue is adequately understood, and an adequate analytical method (gas liquid chromatography using a capillary column and a flame photometric detector) is available for enforcement purposes. There are currently no actions pending against the continued registration of this chemical. No residues of this chemical are expected to occur in poultry and eggs from this use pattern. Residues of the chemical are expected to occur in meat and milk from this use pattern, but the residues will be covered by the proposed tolerance on meat, fat, meat by-products, and milk.

Based on the above information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health and are established as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: March 28, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.300 is amended by adding, and alphabetically inserting, the following raw agricultural commodities to read as follows:

§ 180.300 Ethephon; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Barley, grain	2.0
Barley, straw	10.0
* * * * *	
Cattle, fat	0.1
Cattle, mbyp	0.1
Cattle, meat	0.1
* * * * *	
Goats, fat	0.1
Goats, mbyp	0.1
Goats, meat	0.1
* * * * *	
Hogs, fat	0.1
Hogs, mbyp	0.1
Hogs, meat	0.1
Horses, fat	0.1
Horses, mbyp	0.1
Horses, meat	0.1
* * * * *	
Milk	0.1
* * * * *	
Sheep, fat	0.1
Sheep, mbyp	0.1
Sheep, meat	0.1
* * * * *	
Wheat, grain	2.0
Wheat, straw	10.0
* * * * *	

[FR Doc. 85-8027 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2603 and 3F2882/R638; FRL-2811-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases the tolerances for residues of the fungicide thiabendazole in or on potatoes and wheat grain. This regulation to increase maximum permissible levels for residues of thiabendazole in or on these raw agricultural commodities was requested by Merck and Co., Inc.

EFFECTIVE DATE: Effective on April 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 17, 1982 (47 FR 6991), which announced that Merck and Co., Inc., P.O. Box 2000, Rahway, NJ 07065, had filed a pesticide petition (PP 2F2603) with EPA. The petition proposed that 40 CFR 180.242 be amended by increasing the tolerance for residues of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] in or on the raw agricultural commodity wheat grain from 0.2 part per million (ppm) to 1.0 ppm. EPA also issued a notice, published in the **Federal Register** of June 1, 1983 (48 FR 24451), which announced that Merck and Co., Inc., had filed a pesticide petition (PP 3F2882) with EPA. This petition proposed that 40 CFR 180.242 be amended by increasing the tolerance for residues of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] in or on the raw agricultural commodity potatoes from 3.0 ppm to 8.0 ppm. EPA issued a second notice, published in the **Federal Register** of September 30, 1983 (48 FR 44904), which announced that Merck and Co., Inc., had amended the petition by increasing the tolerance from 8.0 to 10.0 ppm. No comments were received in response to these notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which these tolerances are sought. The toxicological data considered in support of the tolerances include the following: an acute oral lethal dose rat study (median lethal dose (LD_{50}) = 3.3 grams per kilogram (g/kg)); an acute oral lethal dose mouse study (LD_{50} = 3.8 g/kg); a 2-year rat-feeding study with a no-observed-effect level (NOEL) of 10 mg/kg/day that was negative for oncogenic potential up to and including 160 mg/kg/day; a 2-year dog-feeding study with a NOEL of 50 mg/kg/day; a mouse oncogenicity feeding study with a negative oncogenic potential up to and including 799.5 mg/kg/day; a rat teratology study that was negative at 80 mg/kg; a rabbit teratology study that was negative at 800 mg/kg; a mouse reproduction study with a NOEL of 150 mg/kg/day; and a rat reproduction study with a NOEL of 20 mg/kg/day. Based on the 2-year rat-feeding study (NOEL = 10 mg/kg/day) and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.10 mg/kg/day; the maximum permissible intake (MPI) is 6.0 mg/day for a 60-kg person. Currently established tolerances; the feed and food additive tolerance for wheat milled fractions (except flour) at 3.0 ppm, which appears elsewhere in this issue of the **Federal Register**; and these tolerances result in a maximum theoretical exposure of 2.4712 mg/day for a 60-kg person and utilize 41.18 percent of the ADI. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities (40 CFR 180.242). There are no regulatory actions pending against continued registration of the pesticide, and there are no other considerations involved in establishing these tolerances. Secondary residues of thiabendazole and its metabolite, 5-hydroxy thiabendazole, in meat, milk, poultry, and eggs will not exceed the currently established tolerances. The metabolism of thiabendazole is adequately understood, and an adequate analytical method, spectrophotometric analysis, is available for enforcement purposes.

A related document (FAP 3H5409/637) establishing a food and feed additive tolerance for the fungicide in or on wheat milled fractions (except flour) appears elsewhere in this issue of the **Federal Register.**

Based on the information cited above, the Agency had determined that the establishment of these tolerances for the fungicide thiabendazole in or on the raw agricultural commodities potatoes and wheat grain will protect the public health. Therefore, the regulation is established by amending 40 CFR 180.242, as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

List of Subjects in 40 CFR Part 180

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

Dated: March 12, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.242(a) is amended by revising the tolerances for potatoes and wheat grain, to read as follows:

§ 180.242 Thiabendazole; tolerance for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Potatoes (pre & post-h)	10.0
* * * * *	
Wheat grain	10.0

* * * * *

[FR Doc. 85-8034 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 50344-5044]

Foreign Fishing; Bering Sea and Aleutian Islands Groundfish Fishery

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

ACTION: Notice of reopening a foreign fishery and request for comment.

SUMMARY: The Secretary of Commerce has determined that fishing vessels of the Union of Soviet Socialist Republics (U.S.S.R) may continue trawling for the 1985 Soviet allocation of groundfish in the Bering Sea and Aleutian Islands (BSA) management area. The Director, Alaska Region, NMFS (Regional Director), closed the BSA management area to trawling by vessels of the U.S.S.R. on February 20, 1985, after the Soviet portion of the prohibited species catch (PSC) limit for king crab was exceeded while fishing for yellowfin sole. The Regional Director is allowing the U.S.S.R. to continue a directed fishery for pollock under foreign fishing regulations governing the BSA groundfish fishery. This action is necessary to achieve the total allowable catch (TAC) of pollock in the BSA management area. It is intended as a conservation and management measure to promote full use of BSA groundfish resources.

DATES: This notice is effective April 5, 1985. Comments must be submitted on or before May 6, 1985.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 30-day comment period, the data on which this notice is based will be available for public inspection during business hours (8 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Resource Management Specialist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Regulations governing foreign fishing for groundfish in the BSA establish PSC limits for four species caught incidentally to the permitted foreign trawl fisheries. Overall PSC limits are calculated annually based on the total allowable level of foreign fishing (TALFF) for BSA groundfish. The initial PSC limit for king crab is increased, using a specified formula, in proportion to increases in TALFF during the fishing year. Each foreign nation receiving an allocation of BSA groundfish is given a portion of the overall PSC limit, based on the amount of its groundfish allocation. Foreign governments are informed of their initial PSC limits at the beginning of the fishing year. The initial 1985 PSC limit of king crab for fishing vessels of the U.S.S.R. was 6,619 crabs.

The foreign fishing regulations further provide that the Regional Director will notify a nation when any of its PSC limits is approached so that voluntary efforts by vessels of that nation may reduce the incidental catch of the species in question. When a PSC limit is reached, the entire management area is to be closed to trawling by vessels of that nation for the remainder of the fishing year. After making certain findings, however, the Regional Director may allow a selected portion of that nation's fleet to continue fishing under specified conditions until that nation's groundfish allocation is reached. In making such findings under § 611.93(e)(2)(iii), the Regional Director must take into account the following considerations:

(A) The risk of biological harm to prohibited species stocks and of socioeconomic harm to authorized prohibited species users posed by continued trawling by the selected elements;

(B) The extent to which the selected elements have avoided incidental prohibited species catches up to that point in the fishing year;

(C) The confidence of the Regional Director in the accuracy of the estimates of prohibited species catch by the selected elements up to that point in the fishing year;

(D) Whether observer coverage of the selected elements is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increases in the elements' prohibited species catch; and

(E) The enforcement record of owners and operators of vessels included in the selected elements, and the confidence of the Regional Director that adherence to prescribed conditions can be assured in light of available enforcement resources.

Fishing vessels of the U.S.S.R. began harvesting the initial Soviet allocation of groundfish in the BSA during the first week of January 1985. During its first two weeks, this fishery targeted on pollock, and only 569 king crabs were incidentally caught. During its third week the fishery began targeting on yellowfin sole, and its estimated incidental harvest of king crab was 3,434 crabs. During the week ending January 26, an estimated 36,284 king crabs were incidentally harvested. An additional incidental catch of 9,981 king crabs was estimated for the week ending February 2. The current total incidental harvest by Soviet trawlers is 51,995 king crabs. Clearly, the Soviet fleet exceeded the initial Soviet king crab PSC limit by January 26.

Estimates of PSC's are based on reports from NMFS observers on board foreign fishing vessels. These reports are not available to the Regional Director until two weeks after the week being reported. Thus it was not apparent until February 11 that the U.S.S.R. had exceeded its PSC limit for king crab. The Soviet fleet had departed the BSA by that time, and it was too late to issue a warning. Nevertheless, the Regional Director closed the BSA management area to further fishing by vessels of the U.S.S.R. effective February 20, 1985.

During March 1985, a revised initial allocation of TALFF was made for the 1985 BSA foreign groundfish fishery. The U.S.S.R. received an allocation of 10,205 metric tons (mt), most of which is pollock. Accordingly, the Soviet PSC limit for king crab increased to 12,371 crabs. Under the closure of February 20, however, the Soviet fleet is not permitted to harvest this allocation of TALFF or any future allocations this

year. This notice is issued under § 611.93(e)(2)(iii) to allow a portion of the Soviet fleet to continue fishing.

Findings

The Regional Director has considered the five criteria listed above in developing the following findings:

(A) The risk of biological and socioeconomic harm to king crab stocks and fishermen would be low if Soviet trawlers conduct a directed fishery for pollock only. The PSC rates prescribed by the foreign fishing regulations are such that all foreign fisheries in the BSA will maintain their PSCs at acceptably low levels of biological risk. Currently the king crab PSC limit for the entire foreign groundfish fishery in the BSA is 242,210 crabs; the total estimated incidental catch to date for the five nations fishing in the BSA is 52,055 crabs. Thus the total incidental catch of king crab is substantially below the amount that would cause concern that king crab stocks would be harmed by continued Soviet fishing for pollock.

The total incidental king crab catch to date indicates also that socioeconomic harm to authorized prohibited species users would be minimal if Soviet vessels were allowed to continue fishing for pollock. The remaining balance of the PSC limit for king crab is ample to accommodate the four other nations permitted to fish in the BSA. These other nations have demonstrated extremely low incidental catches of king crab. The socioeconomic impact on U.S. fishermen also is likely to be insignificant despite the fact that domestic king crab landings have been reduced in recent years. Assuming that Soviet vessels fishing for their current revised allocation of pollock made incidental catches of king crab at the same rate as occurred during their pollock fishery in early January 1985, their projected total Soviet king crab catch would be about 1.7 percent of the estimated 3.4 million king crabs harvested in the BSA by domestic fishermen in 1984. The entire current PSC limit is about 7.1 percent of the 1984 domestic harvest of king crab in the BSA. In past years, however, total king crab incidental harvest has not exceeded one-third of the annual PSC limit. Assuming that the domestic king crab fishery will harvest about the same amount in 1985 as in 1984, these percentages are within the normal range of year-to-year variability expected from environmental and other biological influences.

(B) The Soviet trawl fleet has avoided excessive incidental PSCs up to this point in the fishing year while fishing for pollock. During the first two weeks of 1985 when the Soviet fleet was targeting on pollock, its incidental catch rate was 0.52 king crab per metric ton of pollock. This rate is within the incidental catch rate of 0.56365 king crab per metric ton of groundfish prescribed by the foreign fishing regulations. In addition, the performance of the Soviet fleet in October, November, and December of 1984 was good. It harvested 12,014 mt of pollock and 8,156 mt of yellowfin sole during those months; its incidental catch rate was 0.03 king crab per mt of pollock and yellowfin sole combined. This rate was substantially below the rate of 0.6 king crab per metric ton of groundfish allocation specified for foreign fisheries in 1984.

The Soviet trawl fleet in 1985 also has stayed within its prescribed PSC limits for other prohibited species. To date, the fleet has caught relatively low percentages of its PSC limits for Tanner crab (6 percent), halibut (6.5 percent), and salmon (3.5 percent).

(C) The Regional Director is confident that the PSC estimates are accurate, due to 100 percent observer coverage of the fishing vessels of the U.S.S.R.

(D) The 100 percent observer coverage of the Soviet trawl fleet is sufficient to assure adherence to the condition that it fish for pollock only and to alert the Regional Director to increases in its PSC.

(E) The enforcement record of fishing vessels of the U.S.S.R. is generally good; they have had no significant violations under current regulations since entering the fishery in October 1984. Observer data indicate that the excessive incidental catches of king crab occurred when the fleet was targeting on yellowfin sole. The Regional Director is confident that these incidental catches were not intentional and may have resulted from increased vulnerability of king crab to bottom trawl gear fishing yellowfin sole early in the fishing year. Historically, trawling for pollock has not involved high incidental catches of king crab.

Pollock will be the target species because the remaining yellowfin sole allocation is sufficient only for incidental catches which, when taken, will cause closure of the Soviet BSA groundfish fishery. Current allocations of other species are too small to encourage directed fishing for them. Opening the BSA management area to the Soviet trawl fleet, therefore, should not result in excessive incidental catches of king crab. Fnally, the Regional Director has been assured of Soviet intentions to observe their PSC limits strictly.

For these reasons, the Regional Director finds that fishing vessels of the U.S.S.R. may be allowed to resume fishing for their remaining groundfish allocations in the BSA management area during the remainder of the 1985 fishing year. The Regional Director finds also that this action is necessary immediately to achieve the TAC for pollock in the BSA management area in an orderly manner.

This notice will become effective upon filing for public inspection with the Office of the Federal Register. Public comments on this notice may be submitted to the Regional Director at the address above. After considering any comments received, the Regional Director will determine whether the field order should be changed.

Other Matters

Allowing the Soviet fleet to harvest its current allocation of TALFF increases the efficiency of Soviet factory trawlers participating in joint ventures with domestic fishermen because the factory trawlers are able to fish when weather conditions prevent fishing by the smaller domestic joint venture vessels. This is especially important during the winter and spring when adverse weather conditions prevail in the BSA management area. The flexibility afforded by a TALFF allocation has prompted the Soviets to increase substantially their purchase of groundfish from domestic joint venture fishermen. This benefit to domestic fishermen could be reduced if further delay of the Soviet pollock fishery resulted in the withdrawal of Soviet processors from the BSA management area. For these reasons, delay of the Soviet pollock fishery is undesirable.

In addition pollock are currently in spawning concentrations, allowing their harvest with increased efficiency and reduced incidental catches of prohibited species. The pollock are dispersed later in the year and incidental catches of other species increase. When spawning is completed during May, the oil content and meat quality of the pollock is low, making them less desirable for food. Finally, further delay of the Soviet pollock fishery could jeopardize achievement of the TAC for pollock in the BSA.

For these reasons, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), finds, under § 611.93(e)(1)(ii)(C), that provision of an opportunity for public comment prior to the effective date of this notice would adversely affect the conservation and management of groundfish. The Assistant Administrator finds for the same reasons that advance opportunity for public comment on this notice would be impracticable and contrary to the

public interest and that no delay should occur in its effective date, under the provision of sections 553 (b) and (d) of the Administrative Procedure Act.

This action is taken under the authority of regulations specified at § 611.93 and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information requests, as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fisheries.

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

Dated: April 5, 1985.

Carmen J. Blondin,

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

[FR Doc. 85-8576 Filed 4-5-85; 2:21 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 69
Wednesday, April 10, 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

Agricultural Marketing Service

7 CFR Parts 1002 and 1004

[Docket Nos. AO-162-A62 and AO-71-A74]

Milk in the Middle Atlantic and New York-New Jersey Marketing Areas; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rules.

SUMMARY: This notice establishes May 10 as the new deadline for filing exceptions to the March 5 recommended decision concerning proposed amendments to the Middle Atlantic and New York-New Jersey milk orders. Counsel for a federation of cooperatives and a handler who would become regulated because of the marketing area expansion requested the additional time to prepare his exceptions. Also, counsel for two proprietary handlers and a cooperative association asked for more time to file exceptions. Petitioners stated that more time is needed to evaluate the impact of the Department's recommendations on the operations of their clients.

DATE: Exceptions now are due on or before May 10, 1985.

ADDRESS: Comments (six copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued June 17, 1983; published June 23, 1983 (48 FR 28655).

Recommended decision: Issued March 5, 1985; published March 11, 1985 (50 FR 9637).

Correction to recommended decision: Published March 21, 1985 (50 FR 11374).

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and New York-New Jersey marketing areas, which was issued in March 5, 1985, is hereby extended to May 10, 1985.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Parts 1002 and 1004

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C., on April 5, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-8603 Filed 4-9-85; 8:45 am]

BILLING CODE 3410-02-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Funding and Fiscal Affairs; Farm Credit System; Liquidation; Extension of Comment Period

AGENCY: Farm Credit Administration.

ACTION: Notice; Proposed rule comment period extension.

SUMMARY: The Farm Credit Administration ("FCA"), by its Federal Farm Credit Board ("Federal Board"), published for comment proposed amendments to its regulations relating to the voluntary or involuntary liquidations of Farm Credit System ("System") banks and associations in the **Federal Register** on February 13, 1985 (50 FR 6000-6005). The FCA hereby gives notice that the original comment period is extended to May 1, 1985.

DATE: The period for receipt of written comments is hereby extended to May 1, 1985.

ADDRESS: All comments should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. Copies of all written communications received will be available for inspection by interested parties in the Office of the Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4020.

SUPPLEMENTARY INFORMATION: On February 13, 1985, the FCA published in the **Federal Register** proposed revisions to its regulations relating to the voluntary or involuntary liquidations of System institutions. The proposed revision would expand the FCA receivership regulations to include the basic provisions that have heretofore been contained in the orders appointing receivers and will apply to banks as well as associations. These provisions in the regulations will assist in clarifying the status of receivers of System institutions as agents of the FCA and will enhance the ability of receivers to carry out their responsibilities. The proposed regulations set forth procedures for placing a bank or association into receivership, the powers and duties of receivers, the rights of creditors and stockholders of an institution in liquidation, and the inventory and examination requirements associated with receiverships. Since the publication of the proposed regulations, the FCA has received several comments requesting additional time to respond to the proposed regulations. The Federal Board has determined that an extended comment period would be beneficial in order to ensure that all interested parties have an opportunity to comment on the proposed revision to the regulations.

Donald E. Wilkinson,

Governor.

[FR Doc. 85-8521 Filed 4-9-85; 8:45 am]

BILLING CODE 6705-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21914; File No. S7-14-85]

Initiation or Resumption of Quotations Without Specified Information

AGENCY: Securities and Exchange Commission.

ACTION: Solicitation of comments.

SUMMARY: Recently, in adopting amendments to Rule 15c2-11 under the Securities Exchange Act of 1934, the Commission instructed the staff to compile and evaluate information on the costs and benefits associated with the rule. Rule 15c2-11 regulates the submission and publication of quotations by broker-dealers for certain over-the-counter securities. Under the rule, a broker-dealer must obtain specified information about the security and its issuer prior to initiating or resuming a quotation in a quotation medium. This release identifies particular costs and benefits believed to be associated with the the rule as recently amended, and solicits comments and data on them. Comments are also requested on any other costs and benefits that can be identified, and on whether there are alternative regulatory approaches that, in light of cost/benefit data, would better achieve the rule's objectives. Commentators are urged to quantify their observations and views to the extent possible..

DATE: Comments must be received on or before June 10, 1985.

ADDRESSES: Interested persons should submit three copies of their written data, views, and opinions to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 and should refer to File No. S7-14-85. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry E. Bergmann (202-272-2874) or Nancy J. Burke (202-272-2848), Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Recently, the Securities and Exchange Commission adopted amendments to Rule 15c2-11 ("Rule 15c2-11" or the "Rule") [1] under the Securities Exchange Act of 1934 (the "Act").[2] At that time, the Commission announced that it intended to continue its review of the benefits and costs associated with the Rule and would seek further public comment on these matters, including the application of the Rule to quotations entered without a specified price.[3]

Unless an exception is available, Rule 15c2-11 requires that, prior to entering a quotation for an over-the-counter security in a quotation medium, a broker or dealer have in its files specified information about the security and its issuer.[4] Adopted in 1971,[5] the Rule was designed to deter manipualtive and fraudulent behavior that had been prevalent in connection with the distribution and trading of unregistered securities of corporations having little or no earnings, assets or operations ("shell corporations").[6] A broader purpose of the Rule, however, is to inhibit broker-dealers from establishing arbitrary quotations for infrequently traded over-the-counter securities.[7] Because changes in the over-the-counter market since the Rule's adoption had restricted the Rule's effectiveness, the Commission adopted the 1984 Amendments.[8]

During consideration of the 1984 Amendments, the Commission expressed its interest in obtaining additional information about the impact of the Rule on the over-the counter market and on market makers that participate in that market. This information will assist the Commission in assessing whether the principal objectives of the Rule are being or can be fulfilled and thus whether the Rule should be retained in its current form, be revised, or be rescinded. Accordingly, this release describes certain benefits the Commission believes are derived through the Rule, and solicits comments with respect to these and other possible benefits. The Commission is also soliciting comment about various costs that may be associated with the Rule. Finally, public comment is requested on the appropriateness, in light of relevant costs and benefits, of adopting an alternative regulatory approach to Rule 15c2-11.

II. Benefits Associated With Rule 15c-11

The Commission has identified four benefits which appear to be associated with the Rule. Commentators are requested to discuss these apparent benefits, and to quantify them, if possible. Because this is not an exclusive list of benefits that the Rule may provide, commentators are encouraged to identify and, to the extent feasible, quantify any other benefits.

A. Information.

Rule 15c2-11 generally requires a broker-dealer to have information concerning an issuer before the broker-dealer initiates or resumes the publication of a quotation in the issuer's securities that are covered by the Rule.[9]

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[1] 17 CFR 240.15c2-11. *See* Securities Exchange Act Release No. 21470 (November 8, 1984), 31 SEC Docket 1041 (November 20, 1984), 49 FR 45117 (November 15, 1984) (the "1984 Amendments").

[2] 15 U.S.C. 78a-jj.

[3] Securities Exchange Act Release No. 21470 (November 8, 1984), 31 SEC Docket at 1041 (November 20, 1984), 49 FR at 45117 (November 15, 1984).

[4] Because of the operation of paragraph (f)(3) of the Rule, commonly referred to as the "piggyback" exception, Rule 15c2-11 as a general matter is applicable only with respect to the initiation or resumption of a quotation.

[5] Securities Exchange Act Release No. 9310 (September 13, 1971), 36 FR 18641 (September 18, 1971). Rule 15c2-11 was adopted under section 15(c)(2) of the Act, among other sections. Section 15(c)(2) gives the Commission broad authority to promulgate rules that define, and that prescribe means reasonably designed to prevent, fraudulent, deceptive or manipulative acts or practices in the over-the-counter securities market.

[6] Rule 15c2-11 was intended to address a variety of questionable practices involving a "spin-off" or other distribution to the public of the securities of a shell corporation and the subsequent active trading of those shares at increasingly higher prices that bore no relation to the securities' value. *See* Securities Act Release No. 4982 (July 2, 1969), 34 FR 11581 (July 15, 1969).

[7] As discussed *infra*, the Rule prompts broker-dealers to focus their attention on the issuer of a covered security when they participate in the initiation or resumption of a public market for that security. In addition, the Rule serves as a surveillance mechanism with respect to covered securities, since the Commission generally receives copies of the information broker-dealers have gathered to satisfy the Rule's requirements when they initiate quotations in an interdealer system.

[8] The 1984 Amendments made the Rule applicable to publication of quotations without a specified price and to publication of quotations for certain foreign securities and depositary shares evidenced by American Depositary Receipts ("ADRs"). However, exceptions to the Rule were established for the publication of quotations for NASDAQ securities and for quotations that represent a customer's unsolicited indication of interest. The amendments also revised the scope of the Rule's piggyback exception and permitted broker-dealers to maintain alternative items of information about reporting companies when the specified reports are not reasonably available. The 1984 Amendments became effective on January 14, 1985.

The Commission notes that commentators' views are sought herein with respect to the Rule as amended, including the application of the Rule to unpriced entries.

[9] The information requirements are set forth in paragraph (a) of the Rule. Generally, they require a

Continued

The Rule is intended to prompt a broker-dealer to give some measure of attention to certain fundamental financial and other information about issuers of certain over-the-counter securities before it commences trading in their securities. By requiring a broker-dealer to have that information on hand, the Rule assists the firm in determining that it is not participating in a manipulative or fraudulent scheme.[10] At the same time, the requirement also provides a means for making available to the marketplace generally a basic level of information concerning the securities at the time a trading market starts.[11] The Rule, however, does not itself require issuers to make disclosure. Rather, it provides a precondition before a broker-dealer can publish quotations for securities comprising a segment of the over-the-counter market, *e.g.*, inactively traded or newly-distributed securities that are not quoted through the NASDAQ system.

B. Surveillance

Under current practice, when a broker or dealer wishes to initiate or resume the publication of a quotation in the "pink sheets," it files "NQB" Form 211"with the National Quotation Bureau, Inc. ("NQB"), the publisher of the pink sheets. This form notifies the NQB of the basis upon which the quotation is made (*e.g.*, whether or not the quoted security is a reporting company), and in the case of a non-reporting company requires that the 16 fundamental items of information prescribed in paragraph (a)(5) of the Rule be provided to the NQB.[12] For each quotation that is to be initiated or resumed, the NQB, as a matter of practice, sends copies of the form and its accompanying information to the Commission's staff in New York and Washington. The information so provided constitutes an important surveillance mechanism for infrequently traded, non-NASDAQ over-the-counter securities, and has been helpful to the Commission's enforcement staff in connection with its investigative activities. In the past, review of the NQB forms has provided the Commission with information that has resulted in several trading suspensions, injunctive actions, administrative proceedings, and/or requests from criminal authorities for access to the Commission's files.

C. Evidence.

Rule 15c2–11 was adopted as a response to the market making activities of certain brokers and dealers who submitted quotations, in many cases, at a time when no financial or other material information concerning the security or the issuer was available to either the brokers and dealers submitting the quotations or to public investors induced to purchase the security.[13] These activities were considered to be essential to the successful manipulative trading of the stock of shell corporations, usually at increasingly higher prices.[14] Until the Rule was adopted, the Commission encountered difficulty in establishing that those broker-dealers were culpable participants in such manipulations because the broker-dealers asserted that they were unaware that the issuers involved were shell corporations. By requiring broker-dealers to obtain information about the securities in which they initiate quotations, the Rule provides a source which the Commission could use to rebut such assertions.

While violations of Rule 15c2–11 are rarely alleged by the Commission in lawsuits claiming manipulation or violations of a broker-dealer's "shingle theory" obligations,[15] the information requirements of the Rule have served to help the Commission's enforcement staff build an argument that the defendant acted with the requisite intent. For example, in one case where an employee of a broker-dealer recommended the purchase of a particular stock to retail customers and at the same time acted as market maker in that stock without ascertaining the accuracy of financial information about the issuer and without having all of the information required by Rule 15c2–11, the court found that the employee's actions were reckless and established that he acted with the requisite scienter, in violation of the antifraud provisions of the federal securities laws.[16]

D. Deterrence

In response to the Commission's 1983 release proposing amendments to the Rule,[17] one of the commentators recounted that the Rule had prevented at least one potentially fraudulent scheme where trading in the stock of a dormant company was about to be resumed. The commentator stated that when he demonstrated to the issuer, a broker-dealer, and a transfer agent that trading in the company's securities could not be commenced by the broker-dealer until the company furnished the broker-dealer with the information specified in Rule 15c2–11, the plan was abandoned.

The Commission recognizes that such anecdotal evidence is not easily quantified in evaluating the benefits associated with the Rule. Nevertheless, it believes that such evidence exists and should be considered when conducting an analysis of the operation of the Rule. Therefore, commentators are urged to provide the Commission with information or evidence which may be helpful in evaluating the Rule's deterrent effect. To the extent that commentators can quantify this information, they are requested to do so.[18]

III. Costs Associated with Rule 15c2–11

The Commission has identified three types of costs which may be associated with the Rule. Commentators are encouraged to discuss these costs and to

broker-dealer that wishes to enter a quotation for the securities of an issuer to maintain (i) a prospectus, if the issuer has conducted a recent public offering registered under the Securities Act of 1933 (the "Securities Act"); (ii) an offering circular, if the issuer has effected a recent offering pursuant to Regulation A under the Securities Act; (iii) the most recent annual report or annual statement and any subsequent periodic reports for an issuer that is required to file certain reports pursuant to section 13 or 15(d) of the Act or that is an insurance company whose securities are exempt from registration under section 12(g) of the Act; (iv) current information furnished to the Commission pursuant to Rule 12g3–2(b) under the Act, in the case of a foreign private issuer; or (v) certain specified financial and other information about the security and its issuer, in the case of non-reporting companies.

[10] Paragraph (c) of the Rule provides that the broker-dealer must keep the information relating to the publication or submission of a quotation for the period specified in Rule 17a–4 under the Act (*i.e.*, for a minimum of three years, the first two years in an accessible place).

[11] *See* paragraphs (a)(4) and (a)(5) of the Rule, which require the broker-dealer submitting quotations for covered securities to make the information required to be maintained under those paragraphs reasonably available upon request.

[12] *See* Rule 15c2–11(d).

[13] *See* Securities Act Release No. 4982 (July 2, 1969), 34 FR 11581 (July, 1979).

[14] *See* Securities Exchange Act Release No. 9310 (September 13, 1971), 36 FR 18641 (September 18, 1971).

[15] The "shingle theory", as articulated in *Charles Hughes & Co.* v. *S.E.C.*, 139 F.2d 434 (2d Cir. 1943), *cert. denied*, 321 U.S. 786 (1944), states that a broker-dealer impliedly represents that it will deal fairly with its customers, and that it has an adequate basis for all representations it makes concerning securities. *See, e.g., Hanly* v. *S.E.C.*, 415 F.2d 589, 596–97 (2d Cir. 1969); *Duker & Duker*, 6 S.E.C. 386, 388 (1939).

[16] *Securities and Exchange Commission* v. *World Gambling Corporation*, 555 F. Supp. 930 (S.D.N.Y. 1983), *aff'd*, No. 83–6102 (2d Cir. October 27, 1983) (unreported opinion); *see also Securities and Exchange Commission* v. *Management Dynamics, Inc.*, 515 F.2d 801, 810–11 n.8 (2d Cir. 1975).

[17] Securities Exchange Act Release No. 19673 (April 14, 1983), 27 SEC Docket 1099 (April 26, 1983), 48 FR 17111 (April 21, 1983) (the "1983 Proposing Release").

[18] For example, where the dollar amount of a thwarted scheme is ascertainable, commentators should include such information.

quantify them where possible. In addition, they are requested to identify and, to the extent feasible, quantify any other costs.

A. The Costs to Market Makers

The Rule requires market makers to obtain and then to preserve for a specified period information about issuers of certain securities in which they wish to initiate or resume making markets. The costs involved in obtaining this information are uncertain.[19] One market maker has stated orally to the staff that actual costs of acquiring this information are equal to the cost of the telephone call to the issuer in whose securities the broker-dealer desires to make a market. However, two commentators to the 1983 Proposing Release stated that the Rule imposes significant costs on market makers, but they did not quantify those costs.

The costs of the Rule also may depend on any other uses to which this information may be put by market makers. For example, market makers who also conduct a retail brokerage business may find this information useful to satisfy suitability, due diligence, or similar obligations if they recommend the security to customers. The Commission is interested in whether market makers would obtain some or all of this information even if not required to do so by the Rule.

B. The Cost to Issuers

The requirements of Rule 15c2–11 are restricted to brokers and dealers and do not extend to issuers. The Rule may, however, indirectly affect those issuers that desire broker-dealers to make a market for their securities, but that are not subject to a system of continuous disclosure, *i.e.*, non-reporting companies. This indirect affect may occur since a broker-dealer initiating a quotation for the securities of such issuers must have the information specified by paragraph (a)(5) [20] of the Rule. To obtain this information the broker-dealer may contact the issuer. In that case, the issuer, if it does not already have such information for other purposes, may have to compile the information and then forward it to requesting market makers. Thus, some issuers may have to incur certain costs or see their securityholders forego the services of market makers. The Commission is interested in obtaining information and data about these costs and, if they are significant, any ways in which they can be reduced.

C. Liquidity Considerations

Issuers may choose not to respond to market makers' requests for the information required by the Rule, for example, if they are not interested in whether a public market for their securities exists. Moreover, if the Rule imposes significant costs on market makers, some may withdraw from market making in certain issues, including some that may be thinly traded. While individuals can still lawfully effect transactions, liquidity in such securities may be reduced, conceivably reducing the value of the shares. The Commission is interested in any evidence that issuers or market makers have reacted in this manner and, if so, the effect of their actions on the liquidity of the securities involved.

IV. Recent Amendments and the "Piggyback" Exception

Historically, to establish eligibility for the "piggyback" exception there had to be two-way priced quotations for at least twelve days during the thirty prior calendar days, with no more than four consecutive business days without such quotations.[21] However, to accommodate the amendment extending the application of the Rule to unpriced quotations, the 1984 Amendments added another piggyback provision that can be relied on when the interdealer quotation system specifically identifies unsolicited customer indications of interest. In that case, to qualify for piggybacking, there must be quotations (excluding any quotation identifed as a customer interest, but including unpriced as well as priced quotations) in the interdealer quotation system for at least twelve days during the prior thirty days, with no more than four consecutive business days without a quotation.[22] Because the piggyback revisions have prompted some inquiries, the Commission is seeking comment on the piggyback exception. Specifically, as in the 1983 Proposing Release, commentators are asked to provide information with respect to the benefits and costs of the current formulation of, and compliance practices under, the piggyback exception and whether there are other formulations that would achieve the same result in light of cost/benefit considerations.

Although the 1984 Amendments applied the Rule to the quotation of securities of foreign private issuers and of ADRs that represent deposited shares of foreign private issuers, the Rule makes no allowance for a market maker's piggybacking on quotations in foreign markets for the securities of foreign private issuers. The Commission was concerned about the commencement of quotations for these securities in the U.S. over-the-counter market without sufficient information about the foreign private issuers being available to the marketplace. In addition, the Commission has insufficient knowledge of the reliability of the price-setting mechanisms of foreign markets and does not believe that it can readily identify foreign securities that are actively traded in their native market. Commentators are invited to comment as to whether and under what circumstances market makers should be allowed to piggyback on quotations in non-U.S. markets when they initiate quotations in U.S. markets.

V. Areas of Inquiry

The Commission solicits comment on the costs and benefits associated with the Rule. Since the costs and benefits discussed in this release may not be exclusive, commentators are encouraged to identify, and to the extent feasible, quantify any other costs or benefits.

The Commission also seeks comments on deregulatory alternatives, *i.e.*, whether there is a continuing need for some or all of the Rule's provisions, whether there are alternative ways of regulating this sector of the over-the-counter market which would result in greater benefits and/or lower costs, or whether the Rule should be rescinded. The Commission solicited comment from the public on these topics in the 1983 Proposing Release. While none of the commentators on the proposed amendments explicitly supported rescinding the Rule, a few raised questions about the Rule's usefulness. Since that time, the Commission has also learned of new technological developments which may impact upon

[19] The Rule may impose other costs, such as those relating to ascertaining whether a particular quotation is exempt, and the costs to broker-dealers of completing NQB Form 211.

[20] Paragraph (a)(5) of the Rule specifies 16 fundamental items of information pertaining to the issuer and the quoted security, including recent balance sheet and profit and loss and retained earnings statements, that a broker-dealer must have in its records before initiating or resuming a quotation.

[21] Rule 15c2–11(f)(3)(ii). The piggyback exception presumes that regular and frequent quotations are an appropriate substitute for the information the Rule otherwise requires to be obtained. *See* Securities Act Release No. 21470 (November 8, 1984), 31 SEC Docket at 1045 (November 20, 1984), 49 FR at 45121 (November 15, 1984).

[22] Rule 15c2–11(f)(3)(i). The 1984 Amendments also revised the piggyback exception to accommodate market makers piggybacking on the quotations of a firm that thereafter ceases entering quotations in the quotation system. *See* Rule 15c2–11(f)(3)(iii).

the Rule. For instance, one new development involves creation of an integrated database concerning over-the-counter issuers and their securities which, if successful and made available to securities firms through inhouse computer terminals, could replace the firms' internal files.[23]

Commentators are also invited to respond to the following questions, presenting relevant quantification whenever possible.

1. The Information Function of the Rule

(a) Does the Rule encourage a market maker to review available information about an issuer before it initiates or resumes a quotation of a covered security?

(b) What information does a dealer need in order to make a market in a security? Does the information that the Rule requires to be in the possession of a market maker have any effect on its quotation? Please explain.

(c) Is the Rule effective, directly or indirectly, in assuring that information about a non-reporting issuer is available to the marketplace before trading in its securities can be commenced? Is this an appropriate function of the Rule? What information is otherwise publicly available regarding these issuers?

(d) How often do investors or securities analysts request information that the Rule requires market makers to obtain?

2. The Surveillance Function of the Rule

(a) Are the current procedures for supplying the Commission with copies of NQB Form 211 an efficient mechanism for overseeing the non-NASDAQ over-the-counter market?

(b) Are there more effective procedures, such as requiring a broker-dealer to furnish NQB Form 211 (or a similar form) directly to the Commission? Rather than requiring a broker-dealer to furnish the form directly to the Commission, would it be sufficient for a broker-dealer to notify the Commission whenever it initiates a quotation for a security of a reporting company, since the requisite information will already be on file with the Commission?

3. The Deterrence Function of the Rule

(a) Has the Rule had a deterrent effect on fraudulent or manipulative trading schemes such as those involving trading in the securities of shell companies or the setting of arbitrary quotations for thinly traded securities?

(b) Absent the Rule, are existing antifraud and antimanipulation restrictions sufficient to insure that market makers do not enter quotations that further fraudulent or manipulative trading schemes?

4. The Effect of the Rule on Market Makers

(a) Is the information required by the Rule of the type that broker-dealers would obtain anyway to satisfy the requirement that they have a reasonable basis for any recommendation of securities to retail customers or to maintain due diligence files? What if the firm does a wholesale business only?

(b) What are the costs to market makers of obtaining and maintaining the information required by the Rule?

(c) What are other costs of the Rule to market makers, such as completing and forwarding NQB Form 211 or determining if a quotation is exempt?

(d) Does the Rule have other effects on market makers?

(e) Are these costs or other effects significant in light of the benefits of the Rule?

5. The Effect of the Rule on Issuers

(a) What are the costs to issuers of preparing the information required by the Rule and providing it to requesting broker-dealers? Are these costs different for non-reporting and reporting companies? How should these costs be weighed against the Rule's purposes?

(b) Can some portion of the information requirement of the Rule be rescinded with little additional risk to investors but substantial savings to issuers? If so, please explain.

(c) Can some portion of the information requirement of the Rule be expanded with little additional cost to issuers while providing market makers with beneficial information that they do not receive under the current formulation of the Rule? If so, please explain.

6. The Effect of the Rule on Liquidity

(a) Does the Rule reduce liquidity in non-NASDAQ over-the-counter securities?

(b) Do some non-reporting companies choose not to furnish the specified information to market makers? If so, how often does this occur and what is the impact on the liquidity of these securities? What is the effect on shareholders?

(c) Have some broker-dealers ceased market making in securities subject to the Rule rather than comply with its provisions as amended, and, if so, has this significantly reduced liquidity in these securities?

(d) Are any reductions in liquidity alleviated by the recent amendment exempting unsolicited customer indications of interest from the Rule?

7. Other Benefits and Costs

(a) Does the Rule provide any other benefits or impose any other costs?

(b) How substantial are these benefits or costs?

8. Piggyback Exception

(a) Is the piggyback exception of the Rule effective as currently formulated in light of the purposes of the Rule? Is there an alternative regulatory approach that would be more efficient?

(b) Do you believe that there are any circumstances under which market makers in foreign issues should be allowed to piggyback on quotes in the foreign market? If so, please explain.

9. Alternative Regulatory Approaches

(a) Is there an alternative regulatory approach that would provide benefits that the Rule does not currently provide? Would such an approach involve additional costs? Would the additional benefits outweigh the additional costs? Is there an alternative approach that would provide the same benefits at lower costs?

(b) Are there any technological developments which limit or eliminate the Rule's usefulness?

(c) Does the Rule as currently formulated significantly inhibit technological innovation? Please explain. If the Rule inhibits technological innovation can it be modified to allow beneficial innovation to proceed?

List of subjects in 17 CFR Part 240

Brokers, Fraud, Reporting and recordkeeping requirements, Securities.

By the Commission.

John Wheeler,

Secretary.

April 1, 1985.

[FR Doc. 85-8488 Filed 4-9-85; 8:45 am]

BILLING CODE 8010-01-M

[23] Among the information to be contained in the database would be a four-year income statement; two-year balance sheet; and information on the issuer's earnings during the past year, market price as of a specified date, and price/earnings ratio.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 158

[OPP-250062; FRL-2813-4]

Submission of Pesticide Data; Notification to the Secretary of Agriculture of a Proposed Regulation on the Flagging of Studies for Potential Effects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Transmittal of a proposed rule.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation that would establish criteria to identify data demonstrating potential adverse effects when they are first submitted to the Agency. Registrants and applicants for registration who submit certain types of toxicological, environmental fate, or ecological effects data would be required to include a statement identifying ("or flagging") a study if it demonstrated effects or characteristics defined in the proposal. Flagging by the data submitter would enable the Agency to give priority review to pesticides that may potentially pose unreasonable risks to man or the environment, thereby focusing EPA's regulatory actions on pesticides of greatest concern. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

Jean Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW. Washington, D.C. 20460. Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-0592).

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

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

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

Dated: March 11, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-8334 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 300

[SW-FRL-2814-2]

Amendment to National Oil and Hazardous Substances Contingency Plan; the National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the third update to the National Priorities List ("NPL"). This update contains 26 new sites. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the third such revision.

DATES: Comments may be submitted on or before June 10, 1985. May 10, 1985 for the Lansdowne, Pennsylvania site.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The Headquarters public docket for the third update to the NPL will contain: Hazard Ranking System (HRS) score sheets for each proposed site and each Federal facility site listed in Section IV of this notice; a Documentation Record for each site describing the information used to compute the scores; and a list of document references. The Headquarters public docket is located in EPA Headquarters, Room S325 of Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to the EPA Headquarters docket office. The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in the appropriate Regional Offices upon publication of this notice. These Regional dockets will also contain documents containing the background data relied upon by the Agency in calculating or evaluating the HRS scores. Copies of these background documents may be viewed in the appropriate Regional Offices and copies may be obtained upon request. A third category of documents with some relevance to the scoring of each site also may be viewed and copied by arrangement with the appropriate EPA Regional Office. An informal written request, rather than a formal request, should be the ordinary procedure for requesting copies of any of these documents. Requests for HRS score sheets and Documentation Record should be directed to the appropriate Regional Office docket (see addresses below). Requests for background documents should be directed to the appropriate Regional Superfund Branch office.

Copies of comments mailed to Headquarters during the 60-day public comment period (30-day public comment period for Lansdowne, Pennsylvania) may be viewed only in the Headquarters docket during the comment period. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week following the close of the comment period. Comments received after the close of comment period will be available at Headquarters and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal, request should be the ordinary procedure for requesting copies of these comments. Addresses for the Headquarters and Regional Office dockets are:

Denise Sines, Headquarters, U.S. EPA CERCLA Docket Office, Room S325, 401 M Street, SW., Washington, D.C. 20460, 202/382-3046

Peg Nelson, Region I, U.S. EPA Library, Room E121, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791

Audrey Thomas, Region II, U.S. EPA Library, 26 Federal Plaza, 7th Floor,

Room 734, New York, NY 10278, 212/264-2881
Diane McCreary, Region III, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19106, 215/597-0580
Gayle Alston, Region IV, U.S. EPA Library, Room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/881-4216
Lou Tilley, Region V, U.S. EPA Library, Room 1420, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022
Nita House, Region VI, U.S. EPA Library, Room 2876, InterFirst II Building, 1201 Elm Street, Dallas, TX 75270, 214/767-7341
Connie McKenzie, Region VII, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828
Dolores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/844-2560
Jean Circiello, Region IX, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076
Joan McNamee, Region X, U.S. EPA, 11th Floor, 1200 6th Avenue, Seattle, WA 98101, 206/442-4903.

FOR FURTHER INFORMATION CONTACT:
C. Scott Parrish, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

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I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable, at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing the addition of 26 sites to the NPL. This brings the number of proposed sites to 272 in addition to the 540 currently promulgated.

EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, or of any "pollutant or contaminant." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environmental and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification for a site on the NPL is intended primarily to guide EPA is determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of an private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions or of actions brought pursuant to sections 106 and 107 of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potential responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. Also, it is possible that EPA will conclude after further analysis that no action is needed at a site because the site does not present a significant threat to public health, welfare, or the environment.

III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP for responding to releases of hazardous substances, a NPL of sites of such

releases. The principal purpose of this notice is to propose the addition to the NPL of 26 new sites. All of these sites except one have HRS scores of 28.50 or above. The Lansdowne Radiation site, Lansdowne, Pennsylvania, as described in section V, is being proposed on the basis of § 300.66(b)(4) of the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985).

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA published the first NPL (48 FR 40658) in September 1983, containing 406 sites. In May 1984, EPA recognized that a serious problem required immediate remedial action and therefore added 4 sites to the NPL (49 FR 19480). In September 1984, EPA added 128 sites to the NPL (49 FR 37030). An additional 244 new sites were proposed for inclusion as the second update to the NPL on October 15, 1984 (49 FR 40320). On February 14, 1985, EPA added two sites in New Jersey to the NPL (50 FR 6320). For each proposed NPL update, EPA informs the States of the closing dates for submission of candidate sites to EPA. This proposed update is the second within one year and initiates EPA's plan to increase the frequency of updating of the NPL. In addition to these periodic updates, EPA believes it may be desirable in rare instances to propose or promulgate separately individual sites on the NPL because of the apparent need for expedited remedial action. This occurred in the case of the proposed listing of Times Beach, Missouri (48 FR 9311, March 4, 1983), the promulgation of four San Gabriel Valley, California, sites (49 FR 19480, May 8, 1984) and the promulgation of two New Jersey radium sites (February 14, 1985, 50 FR 6320).

As with the establishment of the initial NPL and subsequent revisions, States have the primary responsibility for selecting and scoring sites that are candidates and submitting the candidate sites to the EPA Regional Offices. States may also designate a site as the State priority site. The EPA Regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

In this **Federal Register** notice, the sites listed consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. These additions are contained in the list immediately following this preamble.

Public Comment Period

EPA requests public comment on these 26 proposed sites. Comments on the Lansdowne, Pennsylvania, Health Advisory site only will be accepted for 30 days following the date of publication of this notice in the **Federal Register**. Comments on the remaining proposed sites will be accepted for 60 days following publication of this notice in the **Federal Register**. EPA is also soliciting comments on 6 Federal facilities that have HRS scores of 28.50 or higher and that may be added to the NPL in the future. The following section of this preamble identifies these sites and discusses EPA's Federal facility approach. See the "ADDRESSES" portion of this notice for information on where to obtain documents relating to the scoring of the 26 non-Federal and 6 Federal sites. After considering the relevant comments received during the comment period and determining the final score for each site, the Agency will add to the current NPL all proposed sites that meet EPA's criteria for listing. EPA may add the 6 Federal facility sites contingent upon the outcome of proposed changes to the NCP (50 FR 5862, February 12, 1985). This is discussed in greater detail in the following section.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. Preambles to previous NPL rulemakings have discussed examples of these policies. See, e.g., 48 FR 40658 (September 8, 1983); 49 FR 37074 (September 21, 1984); and 49 FR 40320 (October 15, 1984). Generally, this proposed update continues these past eligibility policies; however, changes in the RCRA sites policy are proposed, and the Agency's policy of listing Federal Facilities is discussed. In addition, the Agency has evaluated one mining site for this update that is not being proposed for listing at this time. The Agency intends to initiate discussions with the Department of Interior (DOI) to determine whether DOI will take appropriate action under the Surface Mining Control and Reclamation Act to protect public health and the environment at this site if it appears to the Agency that remedial action will be necessary.

RCRA Sites

In 1976, Subtitle C of the Resource Conservation and Recovery Act (RCRA) mandated a Federal program to provide a "cradle-to-grave" management system for hazardous wastes that exhibit certain characteristics or are listed under section 3001 of the Act. Persons who generate, transport or treat, store or dispose of listed wastes or wastes of certain characteristics must comply with management standards promulgated by EPA. CERCLA also has authorities that can be used to address problems associated with wastes covered by the RCRA regulatory program, as well as other hazardous wastes and materials.

The Agency has considered eligible for listing on the NPL those RCRA facilities where a significant portion of the release appeared to come from a "non-regulated land disposal unit" of the facility. Non-regulated land disposal units are defined as portions of the facility that ceased receiving hazardous waste prior to January 26, 1983, the effective date of EPA's permitting standards for Land Disposal facilities (47 FR 32349, July 26, 1982). Regulated land disposal units of RCRA facilities generally have not been included on the NPL, except where the facility is abandoned or lacks sufficient resources and RCRA corrective action could not be enforced (49 FR 37074, September 21, 1984).

The Hazardous and Solid Waste Amendments of 1984 have expanded the Agency's authority to require corrective measures under RCRA. Owners or operators of RCRA treatment and storage facilities are now required to clean up releases of hazardous wastes and hazardous constituents (constituents listed in Appendix VIII of 40 CFR Part 261) from all solid waste management units at the facility. New corrective action authorities include the following:

- EPA can issue an administrative order to or initiate a civil referral against the site owner or operator to compel corrective action or any other response necessary to protect human health or the environment at interim status facilities where there is or has been a release of hazardous waste [section 3008(h)].
- A facility to which a RCRA permit is issued after November 8, 1984, must address all releases of hazardous waste or hazardous constituents from any hazardous or solid waste management unit, regardless of the time at which

waste was placed in the unit [section 3004(u)].

• EPA can require the owners or operators of some facilities subject to RCRA requirements to take corrective action beyond the facility boundary unless the adjoining property owner refuses permission [section 3004(v)].

The Agency intends to use the expanded provisions of RCRA to the extent practicable to effect cleanup of releases from units that can be reached under those authorities.

In light of the new RCRA authorities, and the Agency's intention to use them, where practical, to effect cleanup, the Agency is reconsidering the current policy (49 FR 40324, October 15, 1984) of listing RCRA-related sites that have HRS scores of 28.50 or above on the NPL. Specifically, the Agency is considering deferring listing RCRA-related sites that score 28.50 or higher on the NPL until the Agency determines that RCRA corrective measures are not likely to succeed due to factors such as: (1) The inability or unwillingness of the owner/operator to pay for such actions; (2) the inadequacies of the financial responsibility guarantees to pay for such costs; or (3) the Agency or State priorities for addressing the sites under RCRA. This proposed deferred listing policy would be applicable only to sites with releases subject to RCRA Subtitle C regulatory or enforcement authorities.

The following are examples of RCA-related sites for which the Agency is reconsidering its present listing policy:

• Sites at which a RCRA permit addresses releases of hazardous waste or hazardous constituents from hazardous waste or solid waste management units. Permit conditions will specify corrective measures and those conditions can be enforced through a compliance order or court action. Action may also be taken under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment.

• Operating hazardous waste units that have RCRA interim status. There are no regulatory requirements for corrective action applicable to interim status units. EPA can compel corrective action at its discretion under the enforcement authority of section 3008(h) if the Agency has inforation that there is or has been a release of hazardous waste, under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment.

• Solid waste management units (activie or inactive) or closed RCRA hazardous waste management units at an operating interim status facility. EPA can use the interim status corrective action authority of section 3008(b) to address releases from those units or a RCRA permit compelling corrective measures can be issued. Action may also be taken under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment. Hazardous waste units that ceased receiving hazardous waste before January 26, 1983, and solid waste management units are eligible for the NPL under the current policy.

• Closed hazardous waste management units or active or inactive solid waste management units at a facility that has ceased treating, storing, or disposing of RCRA hazardous waste. The interim status corrective action authority may be applicable to these units. Hazardous waste land disposal units that closed after January 26, 1983, are required to have a post-closure permit. In addition, RCRA section 7003 or CERCLA section 106 may be used if there is an imminent and substantial endangerment. Hazardous waste land disposal units that are closed before January 26, 1983 and solid waste management units are eligible for the NPL under the current policy.

The Agency solicits comments on the appropriateness of revising its present RCRA listing policy by deferring listing of RCRA-related sites until the Agency determines that RCRA corrective measures are not likely to succeed due to factors such as: (1) The inability or unwillingness of the owner/operator to pay for such activities; (2) the inadequacies of the financial responsibility guarantees to pay for such costs; and (3) EPA or State priorities for addressing the sites under RCRA. Commenters should address this suggested revision to the listing policy with respect to the examples of RCRA-related sites mentioned above and are asked to suggest other examples of RCRA-related sites that may be appropriate for deferred listing. The Agency also solicits comments on appropriate criteria to determine when RCRA corrective measures are not likely to succeed and listing is appropriate (e.g., inability or unwillingness of owner/operator to pay for such actions and EPA and State priorities). Listing would only be considered for those sites which score 28.50 or above.

In addition, the Agency intends to apply any revised RCRA-related site listing policy to RCRA-related sites that are currently proposed or promulgated on the NPL, and, in appropriate cases, delete sites from the NPL. For example, such sites could be removed from the proposed or final NPL if the Agency determines that: (1) All necessary corrective measures are likely to be completed under RCRA authorities; and (2) CERCLA Fund-financed activities, such as remedial investigation/feasibility studies, remedial design, or remedial action, or CERCLA enforcement action have not been initiated. If such a policy were applied to currently proposed and promulgated sites on the NPL and it is determined that such sites should be removed from the proposed or final NPL, these sites could be relisted if Agency later determines that RCRA corrective measures at these sites are not likely to succeed.

Four RCRA-related sites with HRS scores of 28.50 or above were submitted for consideration for Update #3. The Agency applied the current RCRA listing policy to these sites and has include them in today's proposed listing. The sites are: Love's Container Services Landfill, Buckingham County, Virginia; Conservation Chemical Compay, Kansas City, Missouri; Frit Industries, Humboldt, Iowa; and Union Chemical Company, Inc., South Hope, Maine. The Agency may elect to defer a final rulemaking decision on these four sites until the Agency determines the appropriateness of a revised RCRA listing policy.

Release From Federal Facilities Sites

CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities, and § 300.66(e)(2) of the NCP prevents including Federal facilities on the NPL. Prior to proposal of NPL Update #2 (49 FR 40320, October 15, 1984), EPA did not list any sites on the NPL where the release resulted solely from a Federal facility regardless of whether contamination remained on site or had migrated off-site. However, based on public comments received from previous NPL announcements, EPA proposed 36 Federal facilities for NPL Update #2. As discussed in the preamble to Update #2, EPA did not intend to promulgate any of these sites until after amendments to § 300.66(e)(2) of the NCP and been promulgated.

On February 12, 1985, EPA proposed amendments to § 300.66(e)(2) of the NCP (50 FR 5862), and requested public comment on whether to list Federal facilities on the NPL. For this update, EPA has decided to not propose the listing of any additional Federal facilities until public comments have been received and considered by the Agency. The Agency has, however, applied the HRS to Federal facility sites and has determined that the following Federal facilities would have qualified for listing:

NPL group	State	Site name	City or county	Response category[1]	Cleanup status[2]
3	MD	Aberdeen Proving Ground-Edgewood	Edgewood	R	
6	OK	Tinker AFB (Soldier Creek/Bldg 3001)	Oklahoma City	R	
8	PA	Letterkenny Army Depot (PDO Area)	Franklin County		
9	IL	Joliet Army Ammunition Plant (LAP Area)	Joliet	R	
10	CA	Moffett Naval Air Station	Sunnyvale	R	
	MD	Aberdeen Proving Ground-Michaelsville Landfill	Aberdeen	R	

[1] V = Voluntary or negotiated response; F = Federal enforcement; D = Actions to be determined; R = Federal and State Response; S = State enforcement.
[2] I = Implementation activity underway, one or more operable units; O = One or more operable units completed, others may be underway; C = Implementation activity completed for all operable units.

The Agency is soliciting comments on the scoring of these sites and may promulgate the sites without soliciting further comments if the Agency decides to amend the NCP and include Federal facilities in future NPL listings.

V. Contents of the Proposed Third NPL Update

All of the sites, except one, included in today's proposed revision to the NPL meet the Agency's criteria for listing of an HRS score of 28.50 or above. The Lansdowne Radiation site, Lansdowne, Pennsylvania is being proposed on the basis of § 300.66(b)(4) of the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985).

Section 300.66(b)(4) provides that "in addition to those releases identified by their HRS scores as candidates for the NPL, EPA may identify for inclusion on the NPL any other release that the Agency determines is a significant threat to public health, welfare or the environment. EPA may make such a determination when the Department of Health and Human Services has issued a health advisory as a consequence of the release."

The Lansdowne Radiation site consists of a residential duplex in Lansdowne, Pennsylvania. For approximately 20 years, beginning in the 1930's, the basement of the duplex was used by a radio-chemist to manufacture radium sources for radiotherapy. In 1964, the property was decontaminated by the Pennsylvania Department of Health and the U.S. Public Health Service and the property was certified safe for residential use.

In 1984, measurements of radon and radon daughters in the indoor atmosphere of the property indicated elevated levels of radiation. The study, conducted by the Argonne National Laboratory concluded that many measurements of radon daughters exceed EPA recommended action levels and many measurements of external gamma radiation exceed the EPA remedial action guideline of 20 microroentgens per hour.

In light of this information, the Department of Health and Human Services (HHS) issued a health advisory on March 5, 1985, citing that the entire duplex structure should be considered to pose a significant health risk to long-term occupants. With the issuance of the health advisory and the apparent need for remedial action, the Agency is proposing the addition of the Lansdowne Radiation site to the NPL. Upon promulgation of § 300.66(b)(4) of the NCP, the Agency may add the Lansdowne site to the final NPL.

Each entry on the proposed third NPL update contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. A site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL. For example, sites in group 3 of the proposed update have scores that fall within the range of scores covered by the third group of 50 sites on the final NPL. Each entry on this proposed update and at sites already on the NPL is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared. This site status and cleanup information is described briefly below.

EPA categorizes the NPL sites based on the type of response at each site (Fund-financed, State enforcement, Federal enforcement, and/or voluntary action). In addition, codes indicating the general status of site cleanup activities are provided. EPA is including the cleanup status codes to identify sites where significant response activities are underway or completed. The cleanup status codes on this NPL update are included in response to public requests for information regarding actual site cleanup activities and to acknowledge situations where EPA, States, or responsible parties have undertaken response actions. The status codes for these proposed sites and all final NPL sites will be updated each time EPA promulgates additional sites to the NPL.

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties have started or completed response actions pursuant to settlement agreements or consent decrees to which EPA or the State is a party. This category includes privately-financed remedial planning, removal actions, initial remedial measures and/or remedial actions.

Federal and/or State Response (R). The Federal and/or State Response category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, nonenforcement remedial planning, initial remedial measures, and/or remedial actions under CERCLA [NCP, § 300.66(f)–(i) 47 FR 31217, July 16, 1982]. For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal Enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order. It also includes sites at which a Federal court has mandated some form of response action following a judicial proceeding. All sites at which enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

A number of sites on the NPL are the subject of investigations or have been referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites are not included in this category, but are included under "Category To Be Determined."

State Enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where State enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

It is assumed that State policy precludes the release of information concerning possible enforcement action until such action has been formally taken. Accordingly, sites subject to possible State legal action are not included in this category, but are included under "Category To Be Determined."

Category To Be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or an enforcement case may be under consideration. Responsible parties may be undertaking cleanup actions that are not covered by a consent decree or an administrative order.

Cleanup Status Codes

EPA has decided to indicate the status of Fund-financed or private party cleanup activities underway or completed at proposed and final NPL sites. Fund-financed response activities which are coded include: significant removal actions, initial remedial measures, source control remedial actions, and off-site remedial actions. The status of cleanup activities conducted by responsible parties under a consent decree, court order, or an administrative order also is coded. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites listed on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include removal actions taken to stabilize deteriorating site conditions, initial remedial measures, and remedial actions. A simple removal action (constructing fences or berms or lowering free-board) that does not eliminate a significant release, threat of release, or pathway of exposure is not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes (and definitions) are used to designate the status of cleanup activities at proposed and final sites on the NPL. Only one code is used to denote the status of actual cleanup activity at each site since the code are mutually exclusive.

Implementation Activities Are Underway for One or More Operable Units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation Activities Are Completed for One or More (But Not All) Operable Units. Implementation Activities May be Underway For Additional Operable Units (O). Field work has been completed for one or more operable units, but additional site cleanup actions are necessary.

Implementation Activities Are Completed for All Operable Units (C). All actions agreed upon for remedial action at the site have been completed, and performance monitoring has commenced. The site will be considered for deletion from the NPL subsequent to completion of the performance monitoring and preparation of a deletion recommendation. Further site activities could occur if EPA considers such activities necessary.

VI. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. The EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. The EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revision to the NCP pursuant to section 105 of CERCLA (40 FR 31180) and the economic analysis prepared for the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of 26 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

Costs

The EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a proposed rulemaking. This action was submitted to the Office of Management and Budget (OMB) for review.

The major events that follow the proposed listing of a site on the NPL are a responsible party search and a remedial investigation/feasibility study (RI/FS) which determines whether remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of State-owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of cost recovery actions where such actions are brought.

Cost category	Average total cost per site[1]
RI/FS	$800,000
Remedial design	440,000
Remedial action	7,200,000
Initial remedial measures (IRM) at 10% of sites	80,000
Net present value of O&M[2]	3,770,000

[1] 1984 U.S. dollars.
[2] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

SOURCE: "Extent of the Hazardous Release Problem and Future Funding Needs-CERCLA section 301(a)(1)(c) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA.

Costs to States associated with today's proposed amendments arise from the required State cost-share of: (1) 10 percent of remedial implementation (remedial action and IRM) and first year O&M costs at privately-owned sites; and (2) 50 percent of the remedial planning (RI/FS and remedial design), remedial implementation and first year O&M costs at State or locally-owned sites. States will assume all the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, we can assume that 90 percent of the 26 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 26 sites would be $118 million, of which $89 million is attributable to the State O&M cost.

The act of listing a hazardous waste site on the final NPL does not necessarily cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers such factors as: the volume and nature of the wastes at the site to the parties; ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's proposed amendment to list additional sites are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generates employment, directly or indirectly (through purchased materials).

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The proposed listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate a number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these 26 sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost recovery actions which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by proposing to add the following sites to the National Priorities List.

Authority: 42 U.S.C. 9601–9657

Dated: March 28, 1985.

Lee M. Thomas,

Administrator.

NATIONAL PRIORITIES LIST, PROPOSED UPDATE 3 SITES

EPA RG, State, site, and name	City or county	Response category [1]	Cleanup status [2]
Group 3			
05 MI Rockwell International (Allegan)	Allegan	D	
03 DE Cokers Sanitation Service Lfs	Kent County	D	
07 IA Frit Industries (Humboldt Plant)	Humboldt	S	
Group 4			
05 IN Waste, Inc., Landfill	Michigan City	S	
03 PA Rohm and Haas Co. Landfill	Bristol Township	D	
02 NJ Dayco Corp./L.E. Carpenter Co	Wharton Borough	V	O
Group 6			
02 NJ Monitor Devices/Intercircuits Inc	Wall Township	S	
01 NH Tibbets Road	Barrington	R	O
Group 7			
03 PA York County Solid Waste/Refuse Lf	Hopewell Township	V	I
03 VA Love's Container Services Lf	Buckingham County	D	
01 NH Mottolo Pig Farm	Raymond	R, F, S	O
06 TX Texarkana Wood Preserving Co	Texarkana	D	
04 FL Petroleum Products Corp	Pembroke Park	S	
05 MI H. Brown Co., Inc	Grand Rapids	D	
01 RI Davis (GSR) Landfill	Glocester	S	
03 DE NCR Corp. (Millsboro)	Millsboro	D	
Group 8			
03 VA First Piedmont Corp. Rock Quarry	Pittsylvania County	D	
04 FL Harris Corp./General Develop Util	Palm Bay	S	I
07 MO Valley Park TCE	Valley park	D	
Group 10			
03 PA Keystone Sanitation landfill	Union Township	D	I

NATIONAL PRIORITIES LIST, PROPOSED UPDATE 3 SITES—Continued

EPA RG, State, site, and name	City or county	Response category [1]	Cleanup status [2]
04 NC National Starch & Chemical Corp	Salisbury	D	
01 ME Union Chemical Co., Inc	South Hope	R, S	O
Group 11			
03 PA Roeser's Landfill	Upper Macungie Twp	D	
07 MO Conservation Chemical Co	Kansas City	R, F	
05 WI Wausau Ground Water Contamination	Wausau	R	O
03 PA Lansdowne Radiation Site	Lansdowne	R	

[1] V=Voluntary or negotiated response; F=Federal enforcement; D=Actions to be determined; R=Federal and State Response; S=State enforcement.
[2] I=Implementation activity underway, one or more operable units; O=One or more operable units completed, others may be underway; C=Implementation activity completed for all operable units.

[FR Doc. 85-8587 Filed 4-9-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 85-6]

Inquiry Concerning Interpretation of Section 8(a) and Section 8(c) of the Shipping Act of 1984; Excepted Commodities; Extension of Time To File Comments

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to comment.

SUMMARY: Three separate groups of conferences and one interested group of shippers have requested an extension of time to comment in this proceeding, which was initiated by Federal Register notice of March 18, 1985 (50 FR 10807-10810). The Commission originally allowed comments to be filed on or before April 17, 1985, and the requests seek enlargements of time ranging from May 17, 1985, to June 3, 1985. The parties variously point to the fact that four Commission proceedings of general industry interest currently require comments to be filed within a short space of time, cite the importance of this proceeding and the need for detailed industry input, and describe the time necessary to coordinate the views of the various member lines of a conference. Grounds for an extension having been established, an enlargement of time until May 17, 1985, is granted.

DATE: Comments due on or before May 17, 1985.

ADDRESS: Send comments (original and 15 copies) to: Bruce A. Dombrowski, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5740.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8588 Filed 4-9-85; 8:45 am]
BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR Notice No. 5-86]

Subcontracting with Small Business and Small Disadvantaged Business Concerns; Proposed Change to Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) Chapter 5, concerning subcontracting with small business and small disadvantaged business concerns. The change will add section 519.705-4 to provide a checklist for use in reviewing subcontracting plans, section 519.705-5 to require the contracting officer to send copies of the appropriate reporting forms to the contractor at the time of award, section 519.770-1 to provide information on the report forms and procedures to be used under the subcontractor report forms and procedures to be used under the subcontractor assistance program, and section 519.770-2 to outline the responsibilities and procedures related to subcontracting under the subcontracting assistance program. In addition, section 519.705-6 will be revised to require that small business technical advisors be notified of contract awards that contain subcontracting plans and to identify the officials that the contracting officer is to send copies of subcontracting plans and checklists. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

DATES: Comments are due in writing not later than May 10, 1985.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Mr. Bill Davison, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, 18th and F Sts., NW, Room 4027, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Frank Padula, Office of GSA Acquisition Policy and Regulations on (202) 523-3823.

SUPPLEMENTARY INFORMATION:

Impact:

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempt certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subject in 48 CFR Part 519.

Government procurement.

Dated: April 3, 1985.

Ida M. Ustad,

Acting Director, Office of GSA Acquisition, Policy and Regulations.

[FR Doc. 85-8558 Filed 4-9-85; 8:45 am]
BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 387 (Sub-No. 958)]

Exemption From Regulation; Shipments Subsequently Made Subject to a Contract Rate

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: The Commission proposes to grant an exemption from the statutory provisions requiring railroads to charge only their published tariff rates. The exemption would allow a railroad to

charge a purchaser of rail service a contract rate rather than the otherwise applicable published tariff rate, and, when appropriate, pay reparations or waive undercharges when certain conditions are met.

DATE: Comments are due on May 10, 1985.

ADDRESS: An original and 15 copies of any comments, referring to Ex Parte No. 387 (Sub-No. 958), should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: The text of the proposed exemption follows as an appendix to this notice.

Additional information is contained in the Commission's full decision. To obtain a copy of the full decision, write to office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275–7428.

This action will not significantly affect the quality of the human environment, energy conservation, or a substantial number of small entities.

List of Subjects in 49 CFR Part 1039

Railroads.

Authority: 5 U.S.C. 553; 49 U.S.C. 10321 and 10505.

Decided: March 25, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Simmons, joined by Chairman Taylor and Commissioner Lamboley, concurred with a separate expression.

James H. Bayne,
Secretary.

Appendix

PART 1039—[AMENDED]

Title 49 is proposed to be amended by adding new § 1039.19 to read as follows:

§ 1039.19 Transportation of shipments subsequently made subject to a contract rate.

Railroad transportation is exempt from the provisions of 49 U.S.C. 10761, 11902, 11903, and 11904 to the extent a railroad may apply a contract rate rather than an otherwise applicable tariff rate, and accordingly, pay reparations or waive undercharges, under the following conditions:

(a) A transportation contract under 49 U.S.C. 10713 has been filed with the Commission and has become effective;

(b) The shipment at issue falls within the terms of the contract; and

(c) The shipment was transported before the contract could be implemented at the Commission, but after the parties agreed upon the rate to be charged, and they either (1) agreed to be bound by the contract or intended the movement(s) to be covered by it, or (2) signed the contract.

(1) The names and addresses of the carriers involved in the exemption;

(2) A statement certifying that all carriers to the contract and the shipper concur in the action;

(3) The number of the contract involved; and

(4) A statement certifying that this action complies with paragraph (a)–(c) of this section.

[FR Doc. 85-8706 Filed 4-9-85; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of the Status of the Ivory-Billed Woodpecker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service is reviewing the status of the ivory-billed woodpecker (*Campephilus principalis*) to determine if this species is extinct and should therefore be proposed for removal from the Federal list of endangered and threatened wildlife. The Service invites additional data on the status of this bird.

DATE: Information regarding the status of the ivory-billed woodpecker should be submitted on or before August 8, 1985.

ADDRESSES: Comments and data should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials related to this notice are available for inspection, by appointment, during normal business hours at 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Ms. Alisa M. Shull, Biologist, Endangered Species Staff (505/766–3971 or FTS 474–3972), at the above address.

SUPPLEMENTARY INFORMATION:

Background

The ivory-billed woodpecker (*Campephilus principalis*) was listed as endangered on March 11, 1967 (32 FR 4001), and June 2, 1970 (35 FR 8495). No critical habitat has been designated. The lack of confirmed sightings in recent years may indicate that the ivory-bill is extinct and, if so, it should be removed from the list of endangered and threatened wildlife (50 CFR 17.11). The Service is publishing this notice of review to solicit biological information on the status of the ivory-billed woodpecker. We encourage submission of information that will clarify the status of this species. This notice does not commit the Service to subsequently proposing this species for delisting.

The ivory-billed woodpecker is the largest North American woodpecker, averaging 20 inches in length. The plumage is shiny black with a white stripe down the neck from the cheek to the back. The outer halves of the secondaries are white and form a large, triangular patch across the lower back when the bird is perched. Females have a black crest; males have a red crest. The bill is the distinctive color of ivory. The ivory-billed woodpecker's call sounds somewhat like a tin trumpet.

The ivory-bill is often confused with the smaller pileated woodpecker (*Dryocopus pileatus*), which is about 17 inches long. Pileated woodpeckers, however, show no white on their back when resting. In flight, pileated woodpeckers show white on the forward rather than the rear portion of the wing, as in the ivory-bill. Both male and female pileated woodpeckers have a red crest (male's is more extensive) and a black bill.

Two subspecies are recognized (American Ornithologists' Union, 1983): the American ivory-billed woodpecker (*Campephilus principalis principalis*) and the Cuban ivory-billed woodpecker (*Campephilus principalis bairdii*). Both subspecies may be extinct and are considered under this notice of status review. The identification of the two subspecies cannot be made in the field as the differences are minute and can only be seen in the hand. The Cuban subspecies was last reported from the pine forests of the eastern mountains of Cuba but was known to occur historically over most of Cuba, including the Isle of Pines.

The American ivory-billed woodpecker formerly occupied bottomland and swamp forests from northeastern Texas, southeastern Oklahoma, northeastern Arkansas, southeastern Illinois, southern Indiana, and southeastern North Carolina, southward to southern Florida, and west through the Gulf States to the Brazos River, Texas (Tanner, 1942). Early accounts gave no accurate or definite

statements of abundance, but indicated that the ivory-bill was never common (Aldrich, 1980). Their numbers and distribution began to decrease in the latter half of the nineteenth century. The period of greatest range reduction outside of Florida appears to be between 1885 to 1900, and between 1900 and 1915 in Florida (Tanner, 1942). Arthur T. Wayne (1910—cited in Aldrich, 1980) stated that he saw 200 ivory-bills in Florida during the years 1892 to 1894. Tanner (1942) estimated that there were approximately 24 American ivory-billed woodpeckers left in 1939. Louisiana, Florida, Texas, and possibly South Carolina supported birds. Since Tanner's study, there have not been comparable status surveys. The Service has not received any reports of the Cuban birds for many years.

The primary reason for the decrease in ivory-bill numbers appears to be a reduction in suitable habitat due to logging. Limited study of the ivory-bill's habitat has been conducted. Tanner (1942) studied this woodpecker for 3 years and suggested the bird's primary habitat included cypress swamps and bottomland forests where gum and oak trees predominate in largely virgin stands of many miles in extent. This habitat was found in the large, hardwood bottomlands and swamps of the coastal plain and Mississippi Delta, and the cypress swamps of Florida. According to Tanner (1942), "In many cases their [ivory-billed woodpeckers] disappearance almost coincided with logging operations. In others there was no close correlation, but there are no records of ivory-bills inhabiting areas for any length of time after those have been cut over." In one small area, however, (the Suwanee River region of Florida) ivory-bills are believed to have been reduced by excessive collecting rather than as a result of logging. Tanner (1956) believed, though, that the main cause of decline in ivory-billed woodpecker numbers was probably the indirect destruction of their food supply because "the young trees left in a cut-over forest provide much less food for woodpeckers than do the mature trees of a virgin or old forest." The home range of a pair of this species was estimated to be from 6 to 17 square miles (Tanner, 1942).

The most important food of the ivory-bill is wood-boring larvae (Tanner, 1942). Ivory-billed woodpeckers do most of their feeding by scaling off the bark of trees dead 2 to 4 years to get at the borers that live between the bark and sapwood (Tanner, 1942). Only stands of very old forest appear to be capable of providing the large numbers of dead trees needed by a pair of this species.

There has been little, solid evidence over the last 30 years to support the existence of the ivory-billed woodpecker. One problem, as mentioned earlier, is the misidentification of the pileated woodpecker as an ivory-bill. From time to time, the Service has received reports of sightings of the latter species. Some photographs and a tape recording have also come to the attention of the Service. Virtually every report has left some chance that it was not of a live ivory-billed woodpecker. However, some of these reports could not be conclusively shown not to be of an ivory-bill. Most reports were clearly of the common pileated woodpecker. Others seemed to indicate the possibility that one or more ivory-bills were extant in the southeastern United States during the 1950's and, perhaps, later decades.

The last, most conclusive observation of the American subspecies has never been determined. Of the hundreds of reports in the Service's files covering the past 3 decades, none can be unequivocally stated to be of an American ivory-billed woodpecker. Several appear to be probable. Verification of visual observations is difficult, at best. Observers rarely are carrying photographic equipment to adequately capture the event. Cuban ivory-billed woodpeckers appear to have been nesting as recently as about 1960, so there is a greater probability that this subspecies may still survive.

Public Comments Solicited

The regulation at 50 CFR 424.11(d) (revision published October 1, 1984; 49 FR 38900–38912) states that a species may be delisted if it: (1) Becomes extinct, (2) recovers, or (3) if the original classification was in error. A "sufficient period of time" must be allowed to clearly ensure that a species has become extinct.

In the past, data on possible ivory-billed woodpecker sightings have been withheld by some individuals on the assumption that the birds would be better protected if no one learned of their presence. While there is some validity in this approach, it also results in a lack of knowledge for those agencies that would manage the habitat to benefit the species. To the knowledge of the Service, there has been no totally accepted confirmation of live ivory-billed woodpeckers since the early 1950's. While confirmation is best provided by specimens in hand, this method could destroy the last individuals; confirmation may also be supported by adequate photographs or tape recordings. Multiple sightings by different observers or one observation made simultaneously by a number of observers may lead to the conclusion of probable existence.

With this notice of status review, the Service is requesting anyone who may have information on these two subspecies to contact the Regional Director (see **ADDRESSES**). The Service has particular interest in receiving information on any recent sightings or evidence that the ivory-billed woodpecker may still exist. Photographs and other confirming materials are especially solicited; however, all reports are welcome. Visual observations without supporting descriptions of the bird(s), its behavior, the habitat, and general locale would be of little value to the Service.

The Service will consider all data that it now has, as well as any new information obtained as a result of this review. Depending upon what is indicated by the data, further surveys could be initiated, a workshop held to discuss the findings, or a rulemaking prepared to delist one or both subspecies because of extinction.

Literature Cited

Aldrich, J.W. 1980. Selected vertebrate endangered species of the seacoast of the United States—ivory-billed woodpecker. U.S. Fish and Wildlife Service. 12 pp.

American Ornithologists' Union. 1983. Check-list of North American birds. Sixth edition. Lawrence, Kansas, 877 pp.

Tanner, J.T. 1942. The ivory-billed woodpecker. National Audubon Society Research Report, No. 1, New York. 111 pp.

Tanner, J.T. 1956. The ivory-billed woodpecker. Texas Game and Fish. July. p. 15.

Author

The primary author of this notice is Alisa M. Shull (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 7, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–8519 Filed 4–9–85; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 69
Wednesday, April 10, 1985

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 5, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250 (202) 447–2118

Comments on any of the items listed should be submitted directly to:

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

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Office of Finance and Management

Debt Collection
On occasion
Farms; Businesses or other for-profit; Non-profit institutions; 5,992 responses; 5,992 hours; not applicable under 3504(h)
Peter Ben Ezra (202) 447–7557

Extension

- Agricultural Stabilization and Conservation Service

Rural Clean Water Program (RCWP) Regulation—Request for Cost Sharing RCWP–1
On occasion
Individuals or Households; Farms; 500 responses; 250 hours; not applicable under 3504(h)
Charles W. Sims (202) 447–7334

Revision

- Agricultural Stabilization and Conservation Service Fees for Services—Cotton Warehouses

WA–137
Annually
Small businesses or organizations; 400 responses; 100 hours; not applicable under 3504(h)
Harry J. Wishmire (202) 475–4028

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85–8551 Filed 4–9–85; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Montana; Beaverhead National Forest Plan Draft Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Extension of public review period for the Beaverhead National Forest Plan Draft Environmental Impact Statement.

SUMMARY: The period of public review for the Beaverhead National Forest Draft Environmental Impact Statement has been extended until June 1, 1985.

ADDRESS: Requests for further information should be addressed to: Joseph J. Wagenfehr, Supervisor, Beaverhead National Forest, P.O. Box 1258 Dillon, MT 59725.

Tom Coston,
Regional Forester.

[FR Doc. 85–8561 Filed 4–9–85; 8:45 am]
BILLING CODE 3410–01–M

Decision to Grant Easement for Power Line Construction Through the San Jacinto Wilderness

The Regional Forester for the Pacific Southwest Region of the United States Forest Service, Department of Agriculture, has issued a decision to grant an easement to the Southern California Edison Company (SEC) across National Forest lands on the Southern Corridor (Morongo Bypass option) for the purpose of constructing, operating, and maintaining a 500 KV power transmission line from Devers substation near North Palm Springs California to Valley Substation near Perris, California.

As authorized in the California Wilderness Act of 1984 (Pub. L. 98–425, Section 101(24)), this easement will occupy a designated corridor through the San Jacinto Wilderness. This easement shall be confined to that area depicted as "potential power line corridor" on the map entitled San Jacinto Wilderness Additions—Proposed.

As specified in the Act, if the power line is constructed the corridor shall cease to be part of the San Jacinto Wilderness. Notice of this change in designation shall be published in the **Federal Register** at the time of the power line construction.

Zane G. Smith, Jr.,
Regional Forester, Pacific Southwest Region.

[FR Doc. 85–8562 Filed 4–9–85; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

DEM South Coast Dune Stabilization Critical Area Treatment RC&D Measure, Rhode Island

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Richard N. Duncan, State

Conservationist, Soil Conservation Service, 46 Quaker Lane, West Warwick, Rhode Island 02893, telephone (401) 828-1300.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the DEM South Coast Dune Stabilization Critical Area Treatment RC&D Measure, Washington County, Rhode Island.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard N. Duncan, State Conservationist, has determined the preparation and review of an Environmental Impact Statement are not needed for this project.

The measure concerns a plan to stabilize fragile dune areas along Rhode Island's south coast. The planned action includes limited dune redistribution, beachgrass planting, sand fence installation and fertilizing. Work is proposed at five sites along state owned and operated beach areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Richard N. Duncan. The Environmental Assessment has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the Environmental Assessment are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 27, 1985.

Richard N. Duncan,

State Conservationist.

[FR Doc. 85-8520 Filed 4-9-85; 8:45 am]

BILLING CODE 3410-16-M

Animal and Plant Health Inspection Service

Forest Service

[Docket No. 85-322]

Availability of Final Supplement to Gypsy Moth Environmental Impact Statement; Correction

AGENCY: Animal and Plant Health Inspection Service and Forest Service, USDA.

ACTION: Correction.

SUMMARY: A document published in the **Federal Register** on March 29, 1985 (captioned "Availability of Final Supplement to Gypsy Moth Environmental Impact Statement" and set forth at 50 CFR 12593-12594) provided notice of the availability of the final supplement to the Environmental Impact Statement on Gypsy Moth Suppression and Eradication Projects. The document also stated that:

In accordance with the Council of Environmental Quality's regulations in 40 CFR 1506.10 implementing NEPA, no decision with regards to the EIS, shall be made until after April 15, 1985, concerning what, if any, actions to be taken under the gypsy moth suppression and eradication projects.

It was intended that the date quoted above be April 14, 1985. Therefore, this document corrects the last sentence, in the third column on page 12593 of the notice published in the **Federal Register** on March 29, 1985 (50 FR 12593-12594) by changing the date "April 15, 1985" to "April 14, 1985".

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295; or Thomas N. Schenarts, Area Director, Insect and Disease Managgement Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461-3158.

Accordingly, the last sentence in the third column, on page 12593, of the **Federal Register** document published on March 29, 1985 (50 FR 12593-12594) is being corrected to read as follows:

"In accordance with the Council of Environmental Quality's regualtions in 40 CFR 1506.10 implementing NEPA, no decision with regards to the EIS shall be made until after April 14, 1985, concerning what, if any, actions to be taken under the gypsy moth suppression and eradication projects."

Done at Washington, D.C., this 9th day of April, 1985

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

Done at Washington, D.C., this 9th day of April, 1985.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 85-8794 Filed 4-9-85; 12:05 pm]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

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

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

Agency: NOAA

Title: Application for a Federal Fisheries Permit—Amendment E

Form No.: Agency—N/A; OMB—0648-0097

Type of Request: Revision of a currently approved collection

Burden: 114 new respondents; 23 new reporting hours

Needs and uses: The information requested is to implement a provision of the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region requiring that fish traps and trap buoys to be identified with the boat or vessel fishing the traps. It will prevent trap poaching and theft and will enhance enforcement of fish trap restrictions. Reducton in trap loss and poaching of fish will result in substantial savings to trap fishermen

Affected public: Individuals or households, businesses or other for profit, small businesses or organizations

Frequency: Annually

Respondent's obligation: Mandatory

OMB desk officer: Sheri Fox, 395-3785

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

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

Dated: April 5, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85-8636 Filed 4-9-85; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on April 23, 1985 at 10:00 a.m., in the Commodore Room, New York Yacht Club, 37 West 44th Street, New York, New York. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel.

Agenda: Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Helen LaGrande (202/377-3737).

Dated: April 4, 1985.

Ronald I. Levin,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 85-8637 Filed 4-9-8:45 am]

BILLING CODE 3510-OR-M

Computer Systems Technical Advisory Committee; Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Electronic Instrumentation Technical Advisory Committee; Automated Manufacturing Equipment Technical Advisory Committee; and Telecommunications Equipment Technical Advisory Committee; Rescheduling of Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register citation of previous announcement: 50 FR 13643 April 5, 1985.

Previously announced time and date of the meeting: 3:00 p.m., April 25, 1985.

Changes in the meeting: 1:00 p.m., April 26, 1985.

Dated: April 5, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85-8642 Filed 4-9-85; 8:45 am]

BILLING CODE 3510-DT-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than (insert date 20 days after publication in the **Federal Register**) to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 85-00007."

Applicant: Henny Penny Corporation, 1219 U.S. Rt. 35 West, P.O. Box 60, Eaton, Ohio 45320, Telephone: 513-456-4171, Contact: Alan Fredette, International Sales Manager

Application No.: 85-0007

Date Received: March 20, 1985

Date Deemed Submitted: March 26, 1985.

Members in Addition to Applicant: Lincoln Manufacturing Co., Inc. of Fort Wayne, Indiana

Controlling Entity: None

Summary of the Application

A. Export Trade

In conjunction with its own export activities, the Henny Penny Corporation ("HPC"), a manufacturer of commercial food service equipment and accessories, intends to act as an export trade facilitator for its clients, including its Member, to assist them in the exportation of commercial food service equipment, accessories, and spare parts. HPC intends to provide its clients with Export Trade Services that include: (1) Identifying and establishing export sales distribution contacts; (2) establishing export distribution and sales networks; (3) providing guidance on export sales distribution coordination, the establishment of exclusive distributorships, export marketing strategies, technical service coordination, qualification of equipment for use in export markets, advertising, and export credit parameters; and (4) providing a full range of training procedures for the day to day execution of export department duties. HPC intends to assist its clients in exporting worldwide.

B. Export Trade Activities and Methods of Operation

The Applicant seeks certification to enter into individual agreements with clients, including its member, whereby HPC agrees to provide Export Trade Services only for its clients, and the clients agree (a) not to appoint any person or company other than HPC to obtain Export Trade Services and (b) to export commercial food service equipment, accessories, and parts only through distributors approved by HPC. Such agreements may include terms that require the clients to (a) compensate HPC for its marketing efforts and for all export sales of the clients' commercial food service equipment, accessories, and parts, whether or not sales are made through distributors or by the clients directly; and (b) provide HPC with monthly export sales reports. The agreements may be specific as to Export Markets. Distributorship agreements developed by HPC for its clients will not include HPC as a party.

Dated: April 5, 1985.

Richard H. Shay,

Acting General Counsel.

[FR Doc. 85-8647 Filed 4-9-85; 8:45 am]

BILLING CODE 3510-OR-M

National Bureau of Standards

[Docket No. 41044-4144]

Proposed Federal Information Processing Standard; Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Proposed Federal Information Processing Standard.

SUMMARY: The purpose of this notice is to annouce a proposed Federal Information Processing Standard (FIPS) entitled "Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)." This proposed standard adopts in whole American National Standard X3.110–1983, which is identical to Canadian Standard T500–1983.

Prior to the submission of this proposal to the Secretary for reviw and approval, it is essential to assure that consideration is given to the views of manufacturers, the public, and State and local governments. The pupose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the proposal is provided in this notice. Interested parties may obtain a copy of the technical specifications from the American National Standards Institude, 1430 Broadway, New York, New York 10018, (212) 354–3473.

The proposed announcement section includes a provision that redesignates the head of agency as the authority to review and approve requests for waivers to the standard. This change in waiver authority from the Secretary of Commerce to the head of agency is in accordance with recent changes in Federal program administration that strengthen the agency's role in managing information resources. The proposed provision for a *Commerce Business Daily* notice will help to assure that the waiver process is open to public review. Comments are invited on this proposed waiver procedure, as well as on the technical and other implementation requirements of the standard.

DATE: Comments and proposals must be submitted on or before July 9, 1985.

ADDRESS: Written comments on this proposed standard or any alternative proposals should be submitted to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Proposed standard on Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS).

Written comments and proposals received in response to this notice will be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Little, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–3723.

Dated: April 4, 1985.

Ernest Ambler,

Director.

Proposed Federal Information Processing Standards Publication———

(date)

Announcing the Standard for Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

Name of Standard. Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS) (FIPS———).

Category of Standard. Hardware and Software Standard, Interchange Codes.

Explanation. This standard describes the formats, rules, and procedures for the encoding of alphanumeric text and pictorial information for videotex and teletext applications. This standard is based upon the architecture defined in the multilayered reference model of open systems interconnection (OSI), under development by the International Organization for Standardization (IOS), but this standard does not define the OSI Standard presentation layer protocol itself. This standard defines a specific data syntax for use by OSI presentation layer protocols and some specific semantics for use at the application layer in videotex and teletext applications. This standard is based upon the Federal Standard Code for Information Interchange (ASCII) and its extentions (FIPS 1–2). It is intended to be used in Federal information processing systems, communications systems, and associated videotex and teletext equipment.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard X3.110–1983, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS).

Related Documents.

a. FIPS PUB 1–2, Code for Information Interchange, Its Representations, Subsets and Extensions (adopts three ANSI standards: X3.4–1977, X3.32–1973, X3.41–1974 and also has further specifications).

b. FPBS PUB 16–1, Bit Sequencing of the Code for Information Interchange in Serial-by-Bit Data Transmission (adopts ANSI X3.15–1976).

c. FIPS PUB 17–1, Character Structure and Character Parity Sense for Serial-by-Serial-Bit Data Communication in the Code for Information Interchange (adopts ANSI X3.16–1976).

d. FIPS PUB 18–1, Character Structure and Character Parity Sense for Parallel-by-Bit Data Communication in the Code for Information Interchange (adopts ANSI X3.25–1976).

e. FIPS PUB 86, Additional Controls for Use with American National Standard Code for Information Interchange (adopts ANSI X3.64–1979).

f. American National Standard X3.4–1977, Code for Information Interchange (ASCII).

g. American National Standard X3.41–1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange.

h. American National Standard X3.64–1979, Additional Controls for Use with American National Standard Code for Information Interchange.

i. International Standard ISO 646–1983, Information Processing—ISO 7-Bit Coded Character Set for Information Interchange.

j. International Standard ISO 2022–1982, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Code Extension Techniques.

k. International Standard ISO 2375–1974, Data Processing—Procedure for Registration of Escape Sequences.

l. International Standard ISO 4873–1979, Information Processing—8-Bit

Coded Character Set for Information Interchange.

m. International Standard ISO 6429–1983, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Additional Control Functions for Character Imaging Devices.

n. International Standard ISO 6937/1–1982, Information Processing—Coded Character Sets for Text Communication, Part 1: General Introduction.

o. International Standard ISO 6937/2–1982, Information Processing—Coded Character Sets for Text Communication, Part 2: Latin Alphabetic and Non-Alphabetic Graphic Characters.

p. International Standard ISO 7498–1983, Data Processing—Open Systems Interconnection Basic Reference Model.

q. CCITT Recommendation V.3, 1972, International Alphabet No. 5.

r. CCITT Recommendation F.300–1980, Videotex Service.

s. CCITT Recommendation S.100–1980, International Information Exchange for Interactive Videotex.

Applicability. This standard is applicable to Federal acquisition and use of data processing and communication systems, data systems, system components, and related equipment that may be required to accept, process, store, transmit or interchange character coded information representing alphanumeric text or pictorial information to be displayed or printed on videotex or teletext terminals. This standard is applicable to the representation of alphanumeric text and pictoral information at the interface between host computers and videotex terminals or between teletext data and teletext decoders.

Implementation. All equipment and data systems to which this standard is applicable that are brought into the Federal Government inventory on or after the date of this FIPS PUB must be in conformace with this standard unless a waiver has been obtained in accordance with the waiver provisions given below.

Specifications. This standard adopts in whole American National Standard X3.100–1983, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS).

Waivers. Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which could warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers on an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

[FR Doc. 85–8541 Filed 4–9–85; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committee will convene public meetings at the Hilton, 3580 West Beach Boulevard, Biloxi, MS, to review swordfish stock assessment; revisions to the spiny lobster regulations; consideration of continued development of the Billfish Fishery Management Plan (FMP); consideration of approval of the work plan for the Data Collection FMP, as well as discuss personnel matters.

The Council meeting will convene at 8 a.m., May 15, 1985; recess at approximately 5 p.m.; reconvene on May 16 at 8 a.m., and adjourn at approximately noon. Committee meetings of the Council will be held May 13–14, 1985. Discussion of personnel matters will be closed to the public during both Council and Committee sessions. For further information contact Wayne E. Swingle, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609; telephone: (813) 228–2815.

Dated: April 4, 1985.

Richard B. Roe,

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

[FR Doc. 85–8552 Filed 4–9–85; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the National Advisory Council on Women's Educational Programs of a Briefing entitled "Federal Agencies and Women's Education Resources" conducted by the Executive Committee. An Executive Committee Meeting will also be held. The agenda of the Briefing will include discussion for Education Associations on Resource of Women's Programs in the Executive Branch of Government, and the Executive Committee will include discussions on the Council's FY 1985 Budget, and the Council Annual Report. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: April 17, 1985: 9:00 a.m. to 12:00 p.m. (Briefing); 12:00 p.m. to 1:30 p.m. (Executive Committee); and 1:30 p.m. to 3:30 p.m. (continuation of Briefing).

ADDRESS: Both meetings will be held at the Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202; Room 3000 for the Briefing, and Room 4079 for the Executive Committee Meeting.

FOR FURTHER INFORMATION CONTACT: Patricia Weber, Deputy Director, National Advisory Council on Women's Educational Programs, 2000 L Street, NW., Suite 500, Washington, D.C., 20036, (202) 634–6105.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to (a) advise the Secretary

on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The Briefing, *Federal Agencies and Women's Educational Resources*, will take place on April 17, 1985, from 9:00 a.m. to 12:00 p.m.; and 1:30 p.m. to 3:30 p.m.

The meeting of the Executive Committee will take place on April 17, 1985, from 12:00 p.m. to 1:30 p.m. The agenda will include discussion of the Council's FY 1985 budget and 1984 Annual Report.

The public is being given less than fifteen-days' notice of this meeting because of the relocation of the Council office.

The meeting of the Council is open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 2000 L Street, NW., Suite 500, Washington, D.C. 20036.

Signed at Washington, D.C. on April 5, 1985.

Sally A. Todd,

Executive Director.

FR Doc. 85-8598 Filed 3-9-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Application Notice Establishing the Closing Date for Transmittal of Fiscal Year 1985 Applications for New Cooperative Agreements; Services for Deaf-Blind Children and Youth

Applications are invited for new projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in Section 622 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1422)

Applications may be submitted by public or nonprofit private agencies, institutions, or organizations to enter into cooperative agreements with the Secretary to conduct projects in the States of Mississippi and Louisiana that enhance services to deaf-blind children and youth.

Closing Date for Transmittal of Applications: An application for a new project must be mailed or hand delivered on or before May 28, 1985.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.025A, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information: This program supports projects, as described under 34 CFR 307.11, that provide:

(a)(1) Special education and related services, as well as vocational and transitional services, to deaf-blind children and youth to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is not providing those services under some other authority.

These services may include the following:

(i) Diagnosis and educational evaluation of children and youth at risk of being identified as deaf-blind.

(ii) Programs of adjustment, education, and orientation for deaf-blind children and youth.

(iii) Consultative, counseling, and training services for families of those deaf-blind children and youth being served under this part.

(2) Technical assistance to State educational agencies so that they may more effectively—

(i) Provide special education and related services, as well as vocational and transitional services, to those deaf-blind children and youth to whom they are obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act or some other authority;

(ii) Provide preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth;

(iii) Replicate successful, innovative approaches to providing educational or related services to deaf-blind children and youth;

(iv) Facilitate parental involvement in the education of their deaf-blind children and youth; and

(v) Provide consultative and counseling services for professionals, paraprofessionals, parents, and others who play a direct role in the lives of deaf-blind children and youth, to enable them to understand the special problems of those children and youth, and to assist in the provision of appropriate services to those children and youth.

(3) The services described in paragraph (a)(1) to deaf-blind children and youth to whom a State is obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is providing those services under some other authority.

Projects assisted under this program must be designed to:

(i) Give first priority in the use of project funds to the provision of services described in paragraph (a)(1); and

(ii) Give second priority in the use of project funds to the provision of technical assistance to State educational agencies, as described in paragraph (a)(2).

Any remaining funds may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

Each grantee under this secton shall:

(1) Develop and implement procedures to evaluate the effectiveness of services to deaf-blind children and youth which it provides under paragraph (a)(1) of this section; and

(2) Provide technical assistance to the State educational agencies served under paragraph (a)(2) of this section in the development and implementation of procedures for evaluating the effectiveness of services provide by those agencies to deaf-blind children and youth.

Certain projects under this program received awards in fiscal year 1984 for a three year period. Among these awards was one issued for three years to a multi-State project to provide services to the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, and Oklahoma. The program regulations provide that any State may elect to participate independently from any present multi-State group *(see* 34 CFR 307.11(e) and 307.20(a)(1)). The Secretary has determined that the most appropriate time for a State to exercise an option to withdraw from a multi-State project would be at the time an application for continuation is required of a multi-State project. The Department of Education has received official notification that the States of Louisiana and Mississippi wish to exercise this option beginning in fiscal year 1985. Therefore, this announcement pertains only to applications proposing to provide services under single State projects in the States of Mississippi and Louisiana, through cooperative agreements.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs". The regulations took effect on September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an inter-governmental 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.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated: and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maine	Virginia
Massachusetts	Washington
Michigan	West Virginia
Missouri	Wisconsin
Montana	Guam
Nebraska	Trust Territory
Nevada	The Northern Mariana Islands
New Hampshire	Virgin Islands
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by July 27, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA Number 84.025A), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its application. Do not send applications to the above address.

Available Funds: It is estimated that approximately $235,000 will be available for two new projects under 84.025A, Services for Deaf-Blind Children and Youth for fiscal year 1985. These estimates of funding level do not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Awards will be for up to a two year period (*see* 34 CFR 75.253). Funding for awards will be based on the extent to which applicants address the two priorities described under "Program Information." However, funds not used for these two priorities may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

Application Forms: Application forms and program information packages are expected to be ready for mailing on April 12, 1985. These materials may be obtained by writing to the Special Needs Section, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested. (Approved by the Office of Management and Budget under control number 1820–0028).

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR Part 307). Final regulations for this program were published on July 11, 1984 (49 FR 28360).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For Further Information Contact: Charles W. Freeman, Special Needs Section, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1165.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance Number 84.025; Services for Deaf-Blind Children and Youth)

Dated: April 3, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-8640 Filed 4-9-85; 8:45 am]

BILLING CODE 4000-01-M

Rehabilitation Long-Term Training; Project Applications

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Certain New Rehabilitation Long-Term Training Project Applications for Fiscal Year 1985.

Applications are invited for new Rehabilitation Long-Term Training projects for Fiscal Year 1985 in the long-term training fields of Rehabilitation Administration, Rehabilitation Facility Administration and Workshop Personnel, and Rehabilitation Psychology.

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended.

(29 U.S.C. 774)

Closing Date for Transmittal of Applications: Applications for grant awards must be mailed or hand delivered on or before June 17, 1985.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.129, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new award will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal Holidays.

Program Information: Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Historically Black colleges and universities are encouraged to participate in this program.

All applications submitted for new projects under this notice must propose training in one of the Rehabilitation Long-Term Training fields covered under this notice. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(1), the Secretary especially urges the submission of Fiscal Year 1985 applications for new projects that respond to invitational priorities designated below for the long-term training fields of Rehabilitation Administration, Rehabilitation Facility Administration and Workshop Personnel, and Rehabilitation Psychology. However, an application submitted in one of the rehabilitation long-term training fields covered under this notice that meets an invitational priority will not be given preference over other applications that do not meet the priority in that field.

All applications will be evaluated according to selection criteria which appear in program regulations in 34 CFR 386.30.

Invitational Priorities

1. Rehabilitation Administration

Applications submitted under Rehabilitation Administration should address managerial training needs of employed upper and mid-level managers and first-line supervisors of State vocational rehabilitation units. The training for upper and mid-level managers should focus on developing and upgrading their management skills to develop and expand cooperative programming between State vocational rehabilitation units and other service delivery systems, such as school systems. Training for first-line supervisors should focus on developing and upgrading their skills to monitor the client casework activities of subordinate rehabilitation service delivery personnel and to effect subordinate personnel familiarization with and use of new and innovative techniques to provide improved vocational training and job coaching for and placement of severely physically and mentally disabled individuals into competitive employment.

2. Rehabilitation Facility Administration and Workshop Personnel

Applications submitted under Rehabilitation Facility Administration and Workshop Personnel should address: (a) The training needs of upper and mid-level managers employed in vocationally oriented rehabilitation facilities which cooperate closely with State vocational rehabilitation units; or (b) the training needs of direct rehabilitation service delivery providers employed in vocationally oriented facilities.

The training for upper and mid-level rehabilitation facility personnel should focus on the development and upgrading of skills to improve their ability to manage a vocationally oriented rehabilitation facility engaged in production and work adjustment activities for severely physically and mentally disabled individuals.

The training for direct rehabilitation service delivery personnel employed in vocationally oriented facilities should focus on the development and upgrading of skills of such categorical types of facilities personnel as vocational

instructors, production supervisors, and resident supervisors. The training should focus on skills development and upgrading that will increase their knowledge about and capacity to use new and innovative methods and techniques in the vocational training and placement of physically and mentally disabled individuals into competitive employment. The training should include content to increase the skills of such direct service delivery personnel to provide transitional employment and supported work services to disabled individuals.

3. Rehabilitation Psychology

Applications submitted in Rehabilitation Psychology should propose training for psychologists currently employed or used by State vocational rehabilitation units or rehabilitation facilities to provide diagnostic services or psychological consultation. The purpose of the training should be to improve services to learning disabled individuals by upgrading the skills of these personnel to diagnose, treat, and plan rehabilitation services programs for learning disabled individuals and to facilitate the transition of learning disabled individuals from school to employment.

Available Funds: The total amount of funds available under the Rehabilitation Training Program in Fiscal Year 1985 is $22,000,000, including an estimated $7,820,000 for new rehabilitation long-term training projects. Of this amount, it is estimated that $1,915,000 will be available for new projects in the rehabilitation long-term training fields covered by this notice as follows: $550,000 for Rehabilitation Administration; $450,000 for Rehabilitation Facility Administration and $730,000 for Workshop Personnel; and $185,000 for Rehabilitation Psychology. The range of funded projects is expected to be from $48,000 to $300,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

An announcement for new projects in the Rehabilitation Long-Term Training Program fields of Rehabilitation Medicine, Prosthetics Orthotics, Vocational Evaluation and Work Adjustment, Rehabilitation Nursing, Physical Therapy, Occupational Therapy, Rehabilitation of the Deaf, Rehabilitation of the Blind, Job Placement and Job Development, Rehabilitation of the Mentally Ill, Undergraduate Education in the Rehabilitation Services and Other was published in the **Federal Register** on February 27, 1985 at 50 FR 7949.

Application Forms: Application forms and program information packages for new awards are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration U.S. Department of Education, 400 Maryland Avenue, SW. (Mary E. Switzer Building, Room 3030–M/S 2312), Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are completing long-term training projects during the 1984–1985 academic year in fields covered under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

(Approved by the Office of Management and Budget under control number 1820–0018)

Applicable regulations: Regulations applicable to this program include the following:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78); and

(b) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., (Mary E. Switzer Building, Room 3319–M/S 2312), Washington, D.C. Telephone: (202) 732–1352.

(29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training)

Dated: April 3, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–8639 Filed 4–9–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

International Energy Agency Report

AGENCY: Department of Energy.

ACTION: Extension of date for request for comments.

SUMMARY: The Department requested comments on the International Energy Agency's (IEA) Coal Industry Advisory Board recently completed technical study on the effect of coal quality and ash characteristics on boiler operations. The request for comments was contained in the **Federal Register** on March 8, 1985, (50 FR 9492). The Department now wishes to extend the date for comments on this report.

DATES: Comments should be received on or before May 10, 1985.

ADDRESS: Copies of the IEA report are available from the Office of the Assistant Secretary for Fossil Energy (FE–1), Department of Energy, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ms. Margie Biggerstaff, Office of the Assistant Secretary for Fossil Energy, Department of Energy, Washington, D.C. 20585.

Issued in Washington, D.C., April 3, 1985.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 85–8570 Filed 4–9–85; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 82–11–NG]

Northern Natural Gas Co., Division of Internorth, Inc. Order Amending Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order amending authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on March 29, 1985, the ERA Administrator issued an opinion and order extending the term of Northern Natural Gas Company's Division of InterNorth, Inc. (Northern), existing import authorization for two years from November 1, 1987, through October 31, 1989. During that period Northern is authorized to import from Consolidated Natural Gas Limited (Consolidated) up to 135,000 Mcf per day and 49,275 MMcf per year of Canadian

natural gas at Emerson, Manitoba, minus the volumes Northern elects to import, up to a daily maximum of 67,500 Mcf, at Monchy, Saskatchewan, through the prebuilt facilities of the Alaska Natural Gas Transportation System. The order also amends Northern's existing import authorization to incorporate recent pricing and minimum purchase revisions to its gas purchase contract with Consolidated.

The text of the opinion and order follows.

FOR FURTHER INFORMATION CONTACT:
Olga T. Ronkovich (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9482
Diane Stubbs (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC. 20585

Issued in Washington, DC. on April 3, 1985.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[ERA Docket No. 82-11-NG; DOE/ERA Opinion and Order No. 76]

Northern Natural Gas Company, Division of InterNorth, Inc.

Order Amending Authorization To Import Natural Gas From Canada

March 29, 1985.

I. Background

A. Original Application

On August 9, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, to extend the term of its existing import authorization issued August 29, 1980,[1] for an additional two years from November 1, 1987, through October 31, 1989. Concurrently, Northern filed an application with the Federal Energy Regulatory Commission (FERC) in Docket No. CP80-22-003 to similarly extend a related authorization issued June 27, 1980.[2] [3]

Under the ERA August 29, 1980, authorization, Northern may import from Consolidated Natural Gas Limited (Consolidated) up to approximately 200,000 Mcf per day and up to 73,000 MMcf per year through October 31, 1987, at a point on the U.S.-Canadian border near Emerson, Manitoba, minus whatever volumes it elects to import through the Eastern Leg of the Alaska Natural Gas Transportation System (ANGTS) at Monchy, Saskatchewan.[4] The Eastern Leg facilities of the ANGTS "prebuild" are owned and operated by the Northern Border Pipeline Company (Northern Border). Pursuant to the import authority granted by the FERC on June 27, 1980, Northern is authorized to import over the same term up to 100,000 Mcf per day of this gas through Northern Border's facilities.

On May 13, 1982, Northern and Consolidated executed an amending agreement that established the basis for the original applications in this and the related FERC docket. Among other changes, this contract amendment extended the term of the original contract for two years, through October 31, 1989. In light of the May 13, 1982, contract amendment, Northern requested authority to extend the term of the import through October 31, 1989. Specifically, the application filed with the ERA requested authority to import near Emerson up to 135,000 Mcf per day and up to 49,275 MMcf per year during the additional two-year term minus the volumes Northern elects to import at Monchy. Northern requested that FERC authorize Northern to import at Monchy up to 67,500 Mcf per day over the same two-year term.

Northern proposed that the price for the gas would be the international border price set from time to time by the National Energy Board of Canada (NEB), which was $4.94 (U.S.) per MMBtu at the time of application.

Previously, under DOE Delegation Order No. 0204-8, the FERC had jurisdiction under Section 3 of the Natural Gas Act to approve imports of gas from Canada for transportation through the Eastern Leg and Western Leg prebuilt segments of the ANGTS. That jurisdiction has since been vested in the ERA by DOE Delegation Order No. 0204-11, issued in conjunction with the Secretary of Energy's new policy guidelines governing the import of natural gas.[5] On April 3, 1984, the ERA consolidated Northern's application that had been pending at the FERC with the ERA proceeding in Docket No. 82-11-NG.[6]

B. Amended Application

On February 16, 1984, the ERA requested that all applicants with natural gas import applications pending before the ERA file supplements to their existing applications and explain whether their applications met or would require modification to meet the new policy guidelines.[7] On April 16, 1984, Northern filed a supplement to its application in this consolidated docket requesting ERA to defer action on its proposal while it renegotiated its natural gas purchase contract with Consolidated. Those negotiations resulted in amendments to the gas purchase agreement which were executed November 1, 1984. Subsequently, on December 10, 1984, Northern filed a second supplemental application[8] requesting that the ERA (1) find the Northren and Consolidated gas purchase agreement, as amended, consistent with the policy guidelines; (2) grant the requested extension; and (3) take expedited action on this application because Northern would otherwise be restricted to 150,000 Mcf per day (the limit previously established by the NEB) and the increased supply was needed in Northern's temperature sensitive markets.[9]

On December 24, 1984, Northern filed a third supplement requesting an interim emergency order to amend its current import authorization to permit it immediately to increase its imports from 150,000 Mcf per day to 200,000 Mcf per day until the ERA issued a final decision on the December 10, 1984, supplement to its application.

By letter dated December 29, 1984, the ERA notified Northern that an emergency interim amendment was unnecessary because the FERC and ERA orders issued June 27, 1980, and August

[1] *Northern Natural Gas Company*, DOE/ERA Opinion and Order 19 (1 ERA ¶ 70,518).

[2] Docket No. CP80-22, 11 FERC ¶ 61,340.

[3] Notices of Northern's ERA and FERC applications were published in the **Federal Register** on September 22, 1982 (47 FR 41846), and October 4, 1982 (47 FR 43775), respectively.

[4] Consolidated's export license granted by the Canadian National Energy Board in December 1979 permits the sale to Northern of a maximum of 200,000 Mcf per day at Monchy through October 31, 1984, after which daily quantities are phased down in the final three years of the license to provide for exports of 150,000 Mcf, 100,000 Mcf, and 50,000 Mcf, respectively.

[5] 49 FR 6648, February 22, 1984.

[6] 1 ERA ¶ 70,562, *Federal Energy Guidelines*.

[7] 49 FR 6692, February 22, 1984.

[8] Notice of Northern's filing was published in the **Federal Register** on December 21, 1984 (49 FR 49709). It limited the period for new interventions and comments on the supplement to 20 days to accommodate Northern's request for expedited action.

[9] The NEB issued an order to Consolidated in January 1983 which increased the maximum daily export quantities for sale to Northern in the three contract years November 1, 1984 through October 31, 1987, to 200,000 Mcf, 160,000 Mcf and 135,000 Mcf, respectively, and extended the duration of the exports for two years. It was conditioned upon the ERA's approval of Northern's application in this docket by January 31, 1985.

29, 1980, respectively, granted Northern authority to import a maximum daily volume of 200,000 Mcf over the entire term of the authorization. On January 4, 1985, the ERA issued a **Federal Register** notice which amended its previous notice of Northern's December 10, supplement to extend the public comment period 10 days to January 21, 1985, to allow a full 30 days for comments on the requested extension.

Under the November 1, 1984, amended contract, commencing with U.S. and Canadian regulatory approvals, the purchase price in effect during the 1984–85 contract year will be $3.50 (U.S.) per MMBtu for all imported volumes up to 27.375 Bcf. For all volumes taken above that level the price will be $2.70 (U.S.) per MMBtu provided Northern has satisfied its minimum annual take-and-pay obligation of 40.15 Bcf.[10] In future years, the price of the gas is to be renegotiated annually. Future take-and-pay volumes will also be subjected to annual renegotiation. The revised agreement provides that negotiations among the parties concerning price and volume obligations will be based on the objective of achieving levels which would enable Northern to resell the gas in its markets and provide Consolidated with a fair price and reasonable level of sales. If the parties are unable to reach an agreement by September 15 of a particular year, the matter will be submitted to arbitration. The amendment further requires that not less than 50 percent of the volumes imported during the 1984–85 contract year shall be delivered at Emerson.

In support of its application, Northern states the renegotiated provisions ensure an arrangement that is sufficiently flexible to permit pricing and volume adjustments as required by market conditions and available competing fuels, and is therefore consistent with the Secretary of Energy's gas import policy.

II. Intervenors

The ERA and the FERC received 34 motions to intervene and notices of intervention in response to their September 22, and October 4, 1982, **Federal Register** notices of Northern's initial application. These are identified in Appendix A. Two of those who filed for intervention, Valero Transmission Company (Valero) and Delhi Gas Pipeline Coporation (Delhi), opposed the application. In addition, Valero requested a trial-type hearing.

Valero is an intrastate pipeline engaged in the transmission and sale of natural gas for resale within the State of Texas. Delhi is an intrastate pipeline which operates primarily in Texas and Oklahoma. In their peitions, Varlero and Delhi raised a number of issues related to need for the gas, to the applicant's petition for blanket authorization from the FERC to make off-system sales in 1982 and 1983, and to the impact of off-system sales on intrastate pipelines.

Algonquin Gas Transmission Company (Algonquin), an interestate pipeline serving the northeast United States, did not oppose the application but indicted concern that the arrangement might have an impact on Algonquin's import project pending before the ERA in Docket No. 81–02–NG. At the time Algonquin expressed this concern, the NEB was conducting proceedings to determine the amount of surplus Canadian gas avaiable for export to the year 2000 in order to make decisions concerning applications for export licenses before it, including one filed by Algonquin's supplier, Pan-Alberta Gas Ltd. (Pan-Alberta). Algonquin observed that its import project might be adversely affected if the levels of exportable surplus gas were not adequate to satisfy all export license requests. This issue is now moot since the NEB in its January 1983 omnibus export decision approved Pan-Alberta's proposed export to Algonquin.

In its December 21, 1984, notice of Northern's second supplement to its application, the ERA invited comments, protests and additional motions to intervene to be filed by January 12, 1985. The ERA's January 11, 1985, notice extended the filing period to January 21, 1985. The December 21 notice requested that previous intervenors review their positions and update their earlier filings to indicate whether the issues raised at that time were still germane to Northern's renegotiated contract. Parties that wanted additional proceedings, even if a previous request had been made, were instructed to include the request for the particular proceeding in their response to the notices.

Five previous intervenors and one new intervenor submitted comments to the December 21, 1984, and January 11, 1985, notices.[11] All support Northern's revised import proposal. No further motions to intervene, notices of intervention or protests to the granting of the application were filed. The ERA did not receive any requests for additional procedures.

In the absence of any additional comments or requests for additional procedures from Valero or Delhi, the ERA concludes that the issues they raised are no longer relevant in this proceeding. The ERA assumes, therefore, that the only comments presently relevant to this proceeding are those received in response to the December 21, 1984, notice. Those comments support the application.

III. Decision

Northern's application has been reviewed to determine if it conforms with Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that the import "will not be consistent with the public interest."[12] In making this finding, the Administrator is guided by the Secretary of Energy's natural gas import policy.[13] Under this policy, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

All intervenours responding to the notice of Northern's November 1, 1984, contract amendment support it. The amended purchase agreement provides that the price of the gas and the take-and-pay volumes will be subject to annual renegotiation after the 1984–85 contract year. One of the expressed objectives of the annual renegotiations is to achieve prices and volume obligations that enable Northern to resell the gas in its markets. Provision for these adjustments demonstrates that this import arrangement is reasonable, flexible, and will be market-competitive over the proposed term of the autorization.

The question of the need for an import is answered by its competitiveness. The amended arrangement has been found to be competitive, and no intervenor has callenged the need for the gas. The security of this import is not a major issue because natural gas from Canada has been imported into a wide range of domestic markets for many years and no

[10] The NEB, in its December 1984 decision on Consolidated's request to amend its export licenses GL–61 and GL–75 for sale to Northern, consistent with the terms of the November 1, 1984 Amending Agreement between the parties, approved the new two-tiered export price for the contract year November 1, 1984 through October 31, 1985, on condition that the average annual price not be less than the current Toronto city-gate wholesale price of $3.15 (U.S.) per MMBtu. All non-pricing provisions in the agreement were approved by the NEB.

[11] The previous intervenors who responded are: (1) Inter-City Gas Corporation; (2) Iowa Public Service Co; (3) Minnesota Gas Company; (4) Northern States Power Co. (Minnesota); and (5) Northern States Power Co. (Wisocnsin). Lake Superior District Power Co. filed a petition to intervene for the first time.

[12] 15 U.S.C. 717b.

[13] 49 FR 6684, February 22, 1984.

issue concerning Canada's reliability as a supplier has been raised.

Northern's proposed arrangement for the continued and extended importation of natural gas conforms with the Secretary's policy guidelines. After taking into consideration all information in the record of this proceeding, I find that the amended authorization requested by Northern is not inconsistent with the public interest and should be granted.[14]

Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is ordered that:

A. The import authorizations previously granted to Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) by the ERA in DOE/ERA Opinion and Order No. 19 issued August 24, 1980, in Docket No. 79-24-NG, and by the FERC in its order issued July 27, 1980, in Docket No. CP80-22, which permit the importation of a combined total of up to 200,000 Mcf per day of natural gas at Emerson, Manitoba, and Monchy, Saskatchewan, through October 31, 1987, are hereby amended to extend the term of the import authorizations, now consolidated, from November 1, 1987, through October 31, 1989, in accordance with the amended application submitted December 10, 1984, in this docket.

B. During the period November 1, 1987, through October 31, 1989, Northern is authorized to import up to 135,000 Mcf per day and 49,275 MMcf per year at Emerson, minus the volumes it elects to import, up to a daily maximum of 67,500 Mcf, at Monchy through the prebuilt facilities of the Alaska Natural Gas Transportation System, in accordance with the volumes Northern has contracted to purchase.

C. The above-referenced orders are further amended to incorporate Northern's November 1, 1984, revisions, to its gas purchase contract with Consolidated for previously authorized volumes.

D. With respect to the natural gas authorized by this Order, Northern shall file with the ERA in the month following each calendar quarter, quarterly reports showing, by month, the quantities of gas imported at points on the International boundary near Emerson, Manitoba, and Monchy, Saskatchewan, respectively, and the average price, on an MMBtu basis, paid for such gas.

E. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., March 29, 1985.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

Appendix A

Algonquin Gas Transmission Co.
Boundary Gas Co.
Delhi Gas Pipeline Corp.
Great Lakes Gas Transmission Co.
Inter-City Gas Corporation
Interstate Power Co.
Iowa Electric Light & Power Co.
Iowa Illinois Gas and Electric
Iowa Public Service Company
Iowa Southern Utilities Co.
Iowa State Commerce Commission
Metropolitan Utilities District of Omaha
Michigan Power Company
Michigan-Wisconsin Pipeline Co.
Minnesota Gas Company
Minnesota Public Service Commission
Minnesota Municipal Utilities Association
Natural Gas Pipeline Co. of America
Northern Border Pipeline Company
Northern Illinois Gas Co.
Northern States Power Company (Minnesota)
Northern States Power Company (Wisconsin)
Northwest Alaskan Pipeline Co.
Northwestern Public Service Co.
Process Gas Consumers Group
Panhandle Eastern Pipeline Co.
Public Service Commission of Wisconsin
South Dakota Public Utilities Commission
Terra Chemicals International, Inc.
Transcontinental Gas Pipeline Corp.
Trans-Canada Pipeline Ltd.
Valero Transmission Company
Wisconsin Gas Company
Wisconsin Power & Light Company

[FR Doc. 85-8831 Filed 4-9-85; 8:45 am]

BILLING CODE 6450-01-M

[14] Because existing pipeline facilities will be used the DOE has determined that granting this application is not a federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et. seq.) and therefore an environmental impact statement of environmental assessment is not required.

Federal Energy Regulatory Commission

[Docket No. RP85-8-001]

Canyon Creek Compression Co.; Motion To Make Suspended Tariff Sheet Effective

April 5, 1985.

Take notice that on April 1, 1985, Canyon Creek Compression Company (Canyon) filed with the Federal Energy Regulatory Commission (Commission) a Motion To Make Suspended Tariff Sheet Effective. Canyon moved to make effective on April 1, 1985, a tariff sheet filed on October 19, 1984, in this proceeding. The rates and changes on the tariff sheet to be effective April 19, 1985, reflect the revision required to comply with conditions set out in Commission's order issued November 15, 1984.

Canyon states that copies of the Motion, together with the tariff sheet, have been served on all of Canyon's customers and all parties to this proceeding.

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 §§ 385.214 and 385.211. All such motions or protests must be filed on or before April 12, 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. 85-8609 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-311-000, et al]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Cogeneration National Corp. et al.

April 4, 1985.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

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

1. Cogeneration National Corp.

[Docket No. QF85-311-000]

On March 21, 1985, Congeneration National Corporation (Applicant), of 1355 Willow Way, Suite 222, Concord, California 94520 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping cycle cogeration facility will be located at the intersection of Road 23 and West Washington Street in Stockton, California. The facility will consist, in part, of two extraction condensing steam turbine/generators and two coal fueled circulating fluidized bed combustor steam generators. The electric power production capacity of the facility will be 40 MW excluding station use. The primary source of energy will be coal. Construction will begin in November 1985.

2. Inter-Power of New York, Inc.

[Docket No. QF85-312-000]

On March 22, 1985, Inter-Power of New York, Inc., (Applicant) c/o Inter-Power Technologie GmbH, Neumarkt 15, D-6600 Saarbrucken, Federal Republic of Germany, with alternate address of Energy Resources Development Corp., 163 Delaware Avenue, Delmar, New York 12054, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Saratoga County, New York. The facility will utilize condensing-extraction steam turbines to produce steam for industrial use in Waterford. The electric power production capacity of the facility will be 200 MW. The primary energy source will be coal with pelletized municipal solid waste as a supplemental fuel. Construction of the facility is scheduled to begin on May 1, 1987.

3. Modular Generating System, Inc.

[Docket No. QF85-319-000]

On March 25, 1985, Modular Generating System, Inc., (Applicant) of 5200 South Quebec Street, Suite 506, Englewood, Colorado 80111, submitted for filing an application for certification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Buffalo, New York. It will consist of a combination of gas fired reciprocating engines, from which, waste heat will be collected and sold to Rick's Nursery for commercial greenhouse operation. The electric power production capacity of the facility will be 19.9 MW. The primary energy source will be natural gas. The installation of the facility will begin in 1985.

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, 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. 85-8629 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-375-000 et al.]

Natural gas certificate filings; Columbia Gas Transmission Corporation et al.

April 4, 1985.

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

1. Columbia Gas Transmission Corp.

[Docket No. CP85-375-000]

Take notice that on March 6, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP85-342-000 a request pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Kal Kan Foods, Inc. (Kal Kan), 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 transport up to 660 million Btu of natural gas per day, less retainage, for Kal Kan through June 30, 1985. Columbia states that the gas to be transported hereunder would be used as boiler fuel in Kal Kan's Columbus, Ohio plant.

Columbia indicates that the gas to be purchased involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of sections 103 and 107 of the Natural Gas Policy Act of 1978. It is further stated that Columbia would receive the gas from Ohio Gas Marketing and redeliver such gas to Columbia Gas of Ohio, Inc. (distribution Company), which in turn redelivers the gas to Kal Kan.

Columbia states that it would charge its current rate of 29.93 cents per dt equivalent of volumes that are within the distribution company's total daily entitlement, or its current rate of 41.27 cents per dt equivalent of volumes that are in excess of distribution company's total daily entitlement, exclusive of company-use and unaccounted-for gas. It is further stated that Columbia would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in Columbia's rate filings; this percentage is currently 2.43 percent.

Columbia 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. Columbia 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.

Commment date: May 20, 1985, in accordance with Standard Paragarph G at the end of this notice.

2. K N Energy, Inc.

[Docket No. CP85-378-000]

Take notice that on March 20, 1985, K N Energy, Inc. (K N), P.O. Box 15625, Lakewood, Colorado 80215, filed in Docket No. CP85-378-000 a request to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point to Northern Utilities, Inc. (Northern), under the certificate issued in Docket Nos. CP83-140-000 and CP83-140-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

K N proposes to add a new delivery point to the already existing four delivery points under Northern's present contract demand of 9,300 Mcf of natural gas per day and winter period demand of 1,000 Mcf per day. K N states that the proposed delivery point would be

located where K N and Northern's pipeline facilities interconnect in Frement County, Wyoming.

K N states that the total contract demand to be delivered to Northern would not change under the subject proposal and that K N's existing tariff does not prohibit the addition of delivery points. It is further stated that the proposal would be accomplished without detriment or disadvantage to K N's other customers and that it would have no impact on K N's peak day or annual deliveries.

K N indicates that the proposed existing point of interconnection was authorized in Docket No. ST85-003-000 and that no new facilities would be required for this proposal.

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

3. Niagara Interstate Pipeline System

[Docket No. CP83-170-002]

Take notice that on March 12, 1985, Niagara Interstate Pipeline System (NIPS), Tenneco Building, 1010 Milam, Houston, Texas 77001, filed in Docket No. CP83-170-002 a second amendment to its pending application filed in Docket No. CP83-170-000 pursuant to section 7(c) of the Natural Gas Act so as to reflect, *inter alia*, an increase in the volumes of natural gas to be transported and resulting modifications of the facilities to be constructed and operated, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

NIPS states that its application, filed on January 25, 1983, requested authority to construct and operate a large diameter natural gas pipeline and related facilities extending from the United States-Canadian border near Niagara Falls, New York, to a point in the vicinity of the Leidy storage field near Tamarack, Pennsylvania, and to transport natural gas through such facilities for four shippers, Algonquin Gas Transmission Company (Algonquin), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Texas Eastern Transmission Corporation (Texas Eastern), and Transcontinental Gas Pipe Line Corporation (Transco). It is stated that these proposed services and facilities were designed to accommodate the transportation of volumes of natural gas which the shippers and others sought to import from Canada.

NIPS states that its application was amended on March 25, 1983, to reflect modifications of its proposed services and facilities consistent with the decision of the National Energy Board of Canada (NEB) authorizing the export of lesser volumes of natural gas at Niagara Falls than had been requested and was supplemented on July 25, 1983, with the submission of executed agreements with each of the shippers regarding the transportation services to be provided.

NIPS states that the second amendment to its application is being filed to accommodate Transco's request that NIPS transport an additional 150,000 Mcf of imported gas per day. NIPS now seeks authority to transport maximum daily volumes of up to 50,979 Mcf for Algonquin, up to 500,000 Mcf for Tennessee, up to 151,105 Mcf for Texas Eastern, and up to 764,822 Mcf for Transco.

To accommodate the increased volumes to be transported, NIPS states that it now proposes to construct a compressor station of approximately 17,000 horsepower at the southern terminus of its system near Tamarack, Pennsylvania, in lieu of the 11,600 horsepower station that was previously proposed. It is stated that the estimated total capital cost of NIPS' proposed facilities is now $327,102,000. NIPS states that it continues to believe that its project is vastly superior to proposed alternatives and will best serve the public interest.

By virtue of the Commission orders of July 5, 1983, 24 FERC ¶ 61,003, and October 2, 1984, 29 FERC ¶ 61,006, this amended application is consolidated in the ongoing hearing proceedings in Docket No. CP81-107, *et al.*

Comment date: April 25, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP85-74-001]

Take notice that on March 13, 1985, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP85-74-001 an amendment to its pending application in Docket No. CP85-74-000 pursuant to Section 7 of the Natural Gas Act so as to reflect a new transportation agreement between Texas Gas and ANR Pipeline Company (ANR) dated February 7, 1985, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

As stated in the application, pursuant to a gas purchase contract dated June 29, 1984, between Texas Gas and Amoco Production Company (Amoco), Amoco has the right to retain each day, for a term extending until July 1, 1987, up to 25 percent of the daily contract quantity for sale to Florida Gas Transmission Company (Florida Gas) to fulfill Amoco's obligations to Florida Gas under a warranty contract dated November 20, 1964.

It is stated that in order for it to fulfill its obligations to Amoco, Texas Gas entered into a gas transportation agreement with Amoco dated June 29, 1984, whereby Texas Gas would transport such retained gas for Amoco in its system and in its capacity in a portion of ANR's system under an existing agreement with ANR. This proposed amendment is to reflect a new agreement between Texas Gas and ANR under which gas for both Texas Gas and Amoco would be transported by ANR and to delete any reference to the existing agreement between Texas Gas and ANR.

Comment date: April 26, 1985, in accordance with the first subparagraph of 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 protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

required, further notice of such hearing will be duly given.

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

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8630 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-125-000]

Distrigas of Massachusetts Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1985.

Take notice that on March 29, 1985, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR § 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until April 1, 1985. The proposed changes are based on the twelve-month period ending December 31, 1985 as adjusted, and would increase jurisdictional terminalling service revenues by $11,391,170 per year. DOMAC also proposes a change in rate form from its straight commodity tiered rates to three-part rates reflecting the modified fixed/variable method.

DOMAC states that the proposed increased rate is necessary to permit it to recover its costs of service for the test period of twelve months ended December 31, 1984, as adjusted.

DOMAC indicates that copies of the filing have been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 12, 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. 85-8610 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1267-000]

Greenwood County, South Carolina; Issuance of Annual License

April 5, 1985.

On February 7, 1985, the Commission issued a notice of issuance of annual license for Project No. 1267. The February 7, 1985 notice incorrectly stated that the licensee of Project No. 1267 was the Duke Power company. The actual licensee of Project No. 1267 is Greenwood County, South Carolina. The Project No. 1267 project works are leased by the County to the Duke Power Company. This renotice corrects the February 7, 1985 notice.

Therefore, take notice that on February 3, 1982, Greenwood County, South Carolina (County), Licensee for the Buzzard's Roost Project No. 1267 filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder. Project No. 1267 is located on the Saluda River in Greenwood, Laurens, and Newberry Counties, South Carolina.

The license for Project No. 1267 was issued for a period ending February 10, 1985. In order to authorize the continued operation and maintenance of the project, pending Commission action on the Licensee's application, it is appropriate and in the public interest to issue an annual license to the County.

Take notice that an annual license was issued to Greenwood County, South Carolina for a period effective February 11, 1985, to February 10, 1986, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 1267 subject to the terms and conditions of the original license.

Take further notice that if issuance of a new license does not take place on or before February 10, 1986, an annual license will be issued each year thereafter, effective February 11 of each year, until such time as a new license is issued, without further notice being given, by the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8611 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-126-000]

Northern Border Pipeline Co.; Filing of Proposed Changes of FERC Gas Tariff

April 5, 1985.

Take notice that Northern Border Pipeline Company (Northern Border) on March 29, 1985 tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1.

Northern Border states that the purpose of this filing is to establish the interruptible transportation rate to be in effect for the period from May 1, 1985, through October 31, 1985, under Rate Schedule IT-1 set forth in Original Volume No. 1 of its FERC Gas Tariff. Northern Border proposes to charge IT-1 Shippers, who enter into Service Agreements during the above period, 8.054 cents per 100 Dekatherm-Miles for the term of such Service Agreements.

Northern Border has based its proposed charge on the billing determinants in its cost of service during the six month period from July 1984 through December 1984. The proposed rate for each Dekatherm-Mile of gas transported stated as a rate per 100 Dekatherm-Miles is based on Northern Border's operating expenses, ad valorem taxes and debt service. Northern Border states that the method used to arrive at the proposed rate is consistent with the method used to establish the initial interruptible transportation rate filed in the instant docket.

Any person desiring to be heard or to protest said filing should file on or before April 12, 1985, a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC. 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such 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. 85-8812 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-387-000, et al.]

Public Service Company of Oklahoma et al.; Electric Rate and Corporate Regulation Filings

April 4, 1985.

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

1. Public Service Company of Oklahoma

[Docket No. ER85-387-000]

Take notice that on March 25, 1985, Public Service Company of Oklahoma (PSO) tendered for filing an Interconnection and Power Supply Agreement, dated March 15, 1985 (the "Agreement"), between PSO and the Oklahoma Municipal Power Authority ("OMPA"). The Agreement provides that PSO will supply OMPA with transmission services and with capacity and energy to supplement OMPA's own power resources. PSO requests that the Agreement and rates determined thereunder be made effective as of May 1, 1985, and accordingly requests waiver of notice requirements under the Federal Power Act.

Copies of the filing have been served on OMPA and the Oklahoma Corporation Commission.

Comment date: April 16, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER85-392-000]

Take notice that on March 27, 1985, Pacific Gas and Electric (PGandE) tendered for filing a proposed change under electric service Rate Schedule FERC Nos. R-2, 53, 72, 84, 85 and 86. This change is a downward adjustment to base rates resulting from the net effect of four adjustments to the Company's Base Revenue Amount authorized by the California Public Utilities Commission. These adjustments are proposed pursuant to rate settlement agreements with the affected customers. The estimated total adjustment for the year 1984 is a reduction of $305,400 for FERC jurisdictional customers.

This rate schedule change is proposed to become effective as of January 1, 1984, in accord with the terms of the rate settlement agreements. The following customers have approved the proposed change: the City and County of San Francisco, the City of Santa Clara, CP National Corporation, Northern California Power Agency, Shasta Dam Area PUD and Sierra Pacific Power Company.

Copies of this filing were served upon the affected customers and the California Public Utilities Commission.

Comment date: April 16, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Vermont Electric Power Company, Inc.

[Docket No. ER85-379-000]

Take notice that on March 18, 1985, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a change in rate under FERC Rate Schedule No. 236.

VELCO states that these rate changes are provided for in Paragraph 5 of FERC Rate Schedule No. 10 and Article IV of FERC Rate Schedule No. 236.

VELCO further states that the percentage rate used in computing monthly charges changed from 17.98% to 16.70%.

VELCO requests that the effective date for the proposed change in rate be January 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: April 16, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power and Light Company

[Docket No. ER85-184-001]

Take notice that on February 27, 1985, Carolina Power and Light Company (CP&L) submitted for filing a compliance report pursuant to the Commission's order dated January 30, 1985.

CP&L states that the submitted copies of the revised Phase I and Phase II fuel clauses, reflect the changes ordered by the Commission and fully comply with the Commission's Regulations.

Comment date: April 16, 1985, in accordance with Standard Paragraph H at the end of this notice.

5. Delmarva Power & Light Company

[Docket No. ER81-504-007]

Take notice that on March 25, 1985, Delmarva Power and Light Company (Delmarva) submitted for filing a refund compliance report pursuant to the Commission's Order dated February 21, 1985.

Pursuant to such Order, Delmarva has previously filed with this Commission the respective revised tariff sheets and rate schedules as concerns the Delaware Municipalities of Clayton, Middletown, Milford, Newark, New Castle and Smyrna in compliance with the Commission Letter Order dated February 2, 1983.

Delmarva states it has refunded the excess revenues collected with interest through March 8, 1985. Interest was refunded in accordance with Section 35.19a of the Commission's Regulations.

Delmarva further states that the exhibits submitted details the affected resale Customers the monthly billing determinants and revenues under prior, interim settlement and compliance rates, the monthly revenue refund and the monthly interest computed, with a summary of such information for the total refund period. Such refund was made on March 8, 1985 with interest calculated through that date.

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

6. Kansas Gas and Electric Company

[Docket No. EC85-11-000]

Take notice that on March 25, 1985, Kansas Gas and Electric Company submitted for filing an application, pursuant to Section 203 of the Federal Power Act, for approval of its participation in a Lease Agreement respecting certain transmission facilities ("Lease Agreement") which provides for the lease of certain 345 kV transmission facilities located in eastern Kansas to Kansas City Power and Light Company ("KCP&L").

Under the Lease Agreement, KCP&L obtains a transmission path to move its share of power and energy from the Wolf Creek Generating Station to its service territory.

Comment date: April 17, 1985, in accordance 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, 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 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, on or before the comment date. 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. 85-8616 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-29-000 and TA85-3-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on March 29, 1985, the following tariff sheets to Second Revised Volume No. 1 of its FERC gas tariff:

Proposed Tariff Sheets

Thirty-Fifth Revised Sheet No. 12
Thirty-Fifth Revised Sheet No. 15
First Revised Sheet No. 15-A
Thirteenth Revised Sheet No. 18

Alternate Tariff Sheets

Alternate Thirty-Fifth Revised Sheet No. 12
Alternate Thirty-Fifth Revised Sheet No. 15
Alternate First Revised Sheet No. 15-A
Alternate Thirteenth Revised Sheet No. 18

The above-listed "Proposed Tariff Sheets" reflect an overall rate reduction of 32.8¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, S-2, ACQ, and PS rate schedules. This reduction is composed of a 17.0¢ per dt decrease in the current gas cost portion of commodity rates, an 11.3¢ per dt net decrease in the Deferred Adjustment, and a 4.5¢ per dt decrease to reflect elimination of the special surcharge which was contained in Transco's latest PGA filing (TA85-1-29, effective November 1, 1984) related to recovery of certain retroactive Order No. 94 payments.

Transco states that although its regularly scheduled effective date for this PGA would be May 1, 1985, Transco prefers to place the instant rate reduction in effect one month early, *i.e.*, on April 1, 1985, and Transco therefore requests a waiver of the Commission's regulations in order to place into effect the "Proposed Tariff Sheets" on April 1, 1985. In support of the requested April 1, 1985 effective date, Transco states that the latest available data show that Transco's average gas cost excluding demand charges for gas purchases during the last PGA period have been below the cost projected in that PGA. Transco further indicates that during this period Transco's gas costs have approached, if not actually reached, the projected level of $3.01 for the prospective PGA period. Transco states that to delay the benefits of such efforts on the part of Transco and its producer-suppliers until May 1, 1985 would hamper Transco's ability to compete as well as its customers' ability to acquire least cost supplies at the earliest possible time.

Transco has filed the "Alternate Tariff Sheets" with a proposed effective date of May 1, 1985, in the event that such requested waiver is not granted. In that event, the Deferred Adjustment would be collected over a six month period under the "Alternate Tariff Sheets" rather than the seven-month period under the "Proposed Tariff Sheets." As a result of spreading the balance over six months rather than seven months, the decrease in the Deferred Adjustment under the "Alternate Tariff Sheets" is 10.8¢ per dt rather than 11.3¢ per dt, and the overall rate reduction under the "Alternate Tariff Sheets" is 32.3¢ per dt rather than the 32.8¢ per dt under the "Proposed Tariff Sheets."

Transco's filing reflects the following particulars:

A. Order No. 94 Payments

Transco has eliminated the special surcharge of 4.5¢ per dt related to certain retroactive Order No. 94 payments. In addition, Transco has not reflected in the instant filing certain amounts relating to Order No. 94 payments not reflected in the special surcharge and not previously contained in the appropriate subaccount of Account No. 191. Transco intends in the near future to propose in a separate filing a direct billing procedure for collection of past Order No. 94 payments, such procedure to include provision for credit to customers for amounts already paid, including amounts paid through the special 4.5¢ surcharge.

B. Sales Estimate

Pursuant to the Stipulation and Agreement dated November 30, 1983 in Transco Docket No. TA83-1-29, *et al.*, Transco has included in Appendix C, Schedule D to the instant filing an explanation of the increased sales estimate utilized to project Transco's cost of gas for this filing as compared to actual sales made to the corresponding PGA period last year. The last corresponding PGA period was an unusually low sales period for Transco, and Transco states that the Commission's approval of Transco's settlement in Docket No. RP83-137, *et al.* (Order issued March 27, 1985) should revert Transco's sales to more normal levels, as more fully explained in the filing.

C. Transco's MMP and MRP Programs

In the Commission's Order of February 1, 1985, in Transco's PGA proceeding in Docket Nos. TA85-1-29 *et al.*, Transco was directed to provide a detailed breakdown, by producer and NGPA category, of actual purchases under its Market Maintenance Program (MMP) and Market Retention Program (MRP). Included in the instant filing in Appendix C, Schedule C, are such data as are available for the period November 1, 1984 through February 18, 1985, the latest available date for the data.

D. Sulpetro Issue

In its order of October 31, 1984 in Docket No. TA85-1-29, *et al.*, the Commission set for hearing the issue of the manner in which Transco reflects its purchased gas costs from Sulpetro Limited. In the instant filing, Transco has reflected gas costs attributable to purchases from Sulpetro in the same manner as in the TA85-1-29 proceeding. Transco undertakes to be bound in the instant proceeding by the final resolution of this issue which is presently pending in the Docket No. TA85-1-29 proceeding.

Transco states that copies of the filing are being mailed to each of 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, 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 April 12, 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. 85-8613 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-49-000 and TA65-3-49-001

Williston Basin Interstate Pipeline Co.; Purchased Gas Cost Adjustment Filing

April 5, 1985.

Take notice that on March 29, 1985, Williston Basin Interstate Pipeline Company (Williston) tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 1

First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
Alternate First Revised Sheet No. 10
Alternate First Revised Sheet No. 11

Original Volume No. 2

First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
Alternate First Revised Sheet No. 10
Alternate First Revised Sheet No. 11

The proposed effective date of the tariff sheets is May 1, 1985.

Williston states that the filing consists of two separate computations. First Revised Sheet Nos. 10, 11 and 12 (Original Volume No. 1) and First Revised Sheet Nos. 10, 11 and 12 (Original Volume No. 2) and the schedules in support thereof were computed in strict adherence to Williston's PGA clause, Commission Rules and Regulations and NGPA guidelines. The changes herein reflect a cumulative gas cost adjustment for Rate Schedules G-1, PR-1, I-1, and X-1 of a negative 16.789 cents per Mcf. The surcharge adjustment for Rate Schedules G-1, PR-1 and I-1 is a negative 36.962 cents per Mcf. These changes represent a net decrease in rates for Rate Schedules G-1, PR-1 and I-1 of 87.468 cents per Mcf and a net decrease of 87.468 cents per Mcf for Rate Schedule X-1, from currently effective rates. Rate Schedule X-5 reflects a cumulative gas cost adjustment of 16.859 cents per Mcf, a decrease of 5.746 cents per Mcf. Rate Option A for Rate Schedule T-4 will be reduced by 1.108 cents per Mcf for Service Class I and by 2.215 cents per Mcf for Service Class II.

Alternate First Revised Sheet No. 10 and 11 (Original Volume No. 1) and Alternate First Revised Sheet Nos. 10 and 11 (Original Volume No. 2) and supporting alternate schedules represent the results of calculations, pursuant to special and significant facts and circumstances, and therefore warrant special commission consideration. As such, Williston has requested waiver to vary from normal PGA procedures. It is these alternate tariff sheets, along with First Revised Sheet No. 12 (Original Volume No. 1) and First Revised Sheet No. 12 (Original volume No. 2) which Williston respectfully requests the Commission to accept as part of its FERC Gas Tariff. The changes contained herein reflect a cumulative gas cost adjustment for Rate Schedules G-1, PR-1, I-1 and X-1 of a negative 60.900 cents per Mcf. The surcharge is a negative 27.436 cents per Mcf to Rate Schedules G-1, PR-1 and I-1. These changes represent a net decrease in rates to Rate Schedules G-1, PR-1 and I-1 of 122.053 cents per Mcf, and a net decrease for Rate Schedule X-1 of 46.970 cents per Mcf, from currently effective rates. Rate Schedule X-5 reflects a cumulative gas cost adjustment of a negative 96.957 cents per Mcf, a decrease of 119.562 cents per Mcf. For Rate Schedule T-4, Rate Option A, the rate will be reduced by 1.652 cents per Mcf for Service Class I and by 3.303 cents per Mcf for Service Class II.

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 Stree NE., Washington, DC 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 12, 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. 85-8614 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

Revised Emergency Action Plan Guidelines

April 5, 1985

Pursuant to the authority in § 12.22(a)(1) of the Commission's Regulations, the Director, Office of Hydropower Licensing, has revised the guidelines for the preparation of emergency action plans (EAP). The guidelines have been revised to facilitate the preparation, annual review and updating of EAP's to ensure their effectiveness and workability. The guidelines should be used in conjunction with the instructions contained in Part 12, Subpart C of the Commission's Regulations.

Owners/developers (herein referred to as owners) of all dams under Commission jurisdication must develop and file an EAP with the Regional Engineer unless an exemption is obtained pursuant to § 12.21 of the Regulations. All required EAP's developed subsequent to the date of this notice must follow the format established in the revised guidelines. Owners are not required to rewrite and refile existing EAP's in accordance with the established format. However, as part of the annual review and updating process, owners should determine whether their EAP's can be enhanced based on the information in the revised guidelines and are, therefore, urged to consider reorganizing their EAP's in the format described therein.

Copies of the revised guidelines are available from the Director, Division of Inspections or the Regional Engineer.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8615 Filed 4-9-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 18 Through March 22, 1985

During the week of March 18 through March 22, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other 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.

L.B. Carter Heating, March 19, 1985 HEE-0107

On November 14, 1984, L.B. Carter Heating (Carter) filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that Carter had failed to show that the burden imposed on the firm by the reporting requirement outweighs the public benefits of access to the requested information. Accordingly, exception relief was denied.

Zoubek Oil Co., March 19, 1985, HEE-0106

On November 6, 1984, Zoubek Oil Company (Zoubek) filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sale Report." In considering the request, the DOE found that Zoubek had failed to show that the burden imposed on the firm by the reporting requirement outweighs the public benefits of access to the requested information. Accordingly, exception relief was denied.

Appeal

John T. O'Rourke & Associates, March 22, 1985, HFA-0272

John T. O'Rourke & Associates filed an Appeal from a partial denial by the DOE Western Area Power Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain portions of the document which was initially withheld under FOIA exemption four (4) should be released to the public, another portion should be remanded, and certain portions were properly withheld. Important issues that were considered in the Decision and Order were (i) the confidentiality of cost data, (ii) the status of personnel resumes, and (iii) the potential competitive harm which might be caused by the release of various types of information.

Requests for Exception

Abajo Petroleum, Inc., March 20, 1985, HEE-0108

On November 29, 1984, Abajo Petroleum, Inc. (Abajo) filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that Abajo had failed to show that the burden imposed on the firm by the reporting requirement outweighs the public benefits of access to the requested information. Accordingly, exception relief was denied.

Implementation of Special Refund Procedures

The Charter Company, March 20, 1985, HQF-0480

The Office of Hearings and Appeals (OHA) established procedures for distributing $4,986,730 in consent order funds and accrued interest which remained after the conclusion of the first stage of the Charter Company refund proceeding. The consent order fund was remitted to DOE by The Charter Company in settlement of alleged regulatory violations regarding Charter's sales of No. 2-D diesel fuel. The OHA concluded that state governments are the appropriate bodies to formulate refund plans in this proceeding because they are in a position to provide effective and efficient restitution to diesel resellers and consumers in the 11 states where Charter marketed No. 2-D diesel fuel. The OHA apportioned the Charter consent order fund among those 11 states according to the amount of Charter No. 2-D diesel fuel sold in each jurisdiction during the period covered by the Charter consent order. In this manner, refund shares would be proportional to the probable level of injury sustained by resellers and consumers within each state. Upon approval by OHA of a state's plan that will provide restitutionary benefits to Charter No. 2-D diesel fuel resellers and consumers within that jurisdiction, the refund amount apportioned to the state———

Perry Gas Processors, March 20, 1985, HQF-0021

The Office of Hearings and Appeals (OHA) established procedures for distributing $57,376 in consent order funds and accrued interest which remained after the conclusion of the first stage of the Perry Gas Processors refund proceeding. The consent order fund was remitted to DOE by Perry Gas Processors in settlement of alleged regulatory violations regarding Perry's sales of natural gasoline. The OHA found that Perry sold the natural gasoline covered by the consent order to Shell Oil Company, which used it as a blend stock to produce motor gasoline. The OHA concluded that state governments are the appropriate bodies to formulate refund plans in this proceeding because they are in a position to provide effective and efficient restitution to resellers and consumers in the 27 states where Shell motor gasoline was primarily marketed. OHA apportioned the Perry consent order fund among those 27 states according to the amount of Shell motor gasoline sold in each jurisdiction during the period covered by the Perry consent order. In this manner, refund shares would be proportional to the probable level of injury sustained by resellers and consumers within each state. Upon approval by OHA of a state's plan that will provide restitutionary benefits to Shell motor gasoline resellers and consumers within that jurisdiction, the refund amount apportioned to the state will be disbursed.

Riverside Oil, Inc., March 21, 1985, HEF-0494

The DOE issued a Decision and Order implementing a plan for the distribution of $19,000 received as a result of a consent order entered into by Riverside Oil, Inc. and the DOE on August 30, 1980. The DOE determined that the consent order funds should be distributed in two stages. In the first stage, the DOE stated that the funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by Riverside's alleged pricing violations. In the event that money remains after all first stage claims have been disposed of, the DOE determined that it would formulate a plan for distributing these funds.

Webco Southern Oil, Inc., March 20, 1985, HEF-0194

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 fund obtained as the result of a consent order with Webco Southern Oil Company, Inc. on April 7, 1981. Under the terms of the consent order, Webco agreed to remit $14,561.57 to the DOE. The funds will be available to injured purchasers of motor gasoline from Webco during the period March 1, 1979 through July 31, 1979. The information which must be included in refund applications is specified in the Decision.

Refund Applications

Pennzoil Company/Paul L. Strycula, March 22, 1985, RF10-62

A Decision and Order was issued to Paul L. Strycula (Strycula) concerning an Application for Refund filed by Strycula, a reseller-retailer of Pennzoil products. The firm elected to apply for a refund based upon the presumption of injury and the volumetric allocation formula outlined in *Office of Special Counsel*, 9 DOE ¶82,545 (1982). In considering this application, the DOE concluded that Strycula should receive a refund of $944 plus interest, based on volumes of Pennzoil products contracted for during 1976 and 1977.

Standard Oil Co. (Indiana)/Kentucky; Belridge Oil Co./Kentucky, March 20, 1985, RQ21-147, RQ9-146

The Commonwealth of Kentucky filed a proposed second-stage refund plan for using $72,589 in unclaimed funds from the Standard Oil Company (Indiana) (Amoco) and Belridge Oil Company (Belridge) special refund proceedings. Kentucky proposed to spend $12,477 ($9,838 of the Amoco fund and $2,639 of the Balridge fund) to promote greater participation in the Solar Energy Conservation Bank program. The OHA found that the promotional program would benefit injured consumers of middle distillates and approved funding for the program. Kentucky also proposed to spend the remaining funds on an electric vehicle research and testing program. The OHA found that any possible benefits from the electric vehicle program to injured motor gasoline consumers were too remote and denied approval of the program. The OHA allowed Kentucky to resubmit another plan for use of the balance of the funds.

Standard Oil Co. (Indiana)/Klaers Oil Co., March 18, 1985, RF21-12377

Klaers Oil Company, a wholesaler of Amoco motor gasoline, filed duplicate Applications for Refund and received duplicate refunds in the Amoco special refund proceeding. The DOE determined that the second refund plus accrued interest should immediately be remitted to the DOE. The DOE also directed Klaers to explain the reason for the duplicate submissions and to submit purchase verification for the volumes of motor gasoline claimed in its application within 30 days. The DOE stated that failure to provide this additional information would result in the total rescission of Klaer's refund.

Standard Oil Co. (Indiana)/Schneider Oil Co., March 18, 1985, RF21-12368

Schneider Oil Company, a wholesaler of Amoco motor gasoline, filed duplicate Applications for Refund and received duplicate refunds in the Amoco special refund proceeding. The DOE determined that the second refund plus accrued interest should immediately be remitted to the DOE. The DOE also directed Schneider to explain the reason for the duplicate submissions and to submit purchase verification for the volumes of motor gasoline claimed in its application within 30 days. The DOE stated that failure to provide this additional information would result in the total rescission of Schneider's fund.

Standard Oil Co. (Indiana)/Tredelhorn & Assoc., March 18, 1985, RF21-12373, RF21-12374

Tredelhorn and Associates, wholesaler of Amoco motor gasoline and middle distillates, filed duplicate Applications for Refund and received duplicate refunds in the Amoco special refund proceeding. The DOE determined that the second refund plus accrued interest should immediately be remitted to the DOE. The DOE also directed Tredelhorn to explain the reason for the

duplicate submissions and to submit purchase verification for the volumes of motor gasoline and middle distillates claimed in its application within 30 days. The DOE stated that failure to provide this additional information would result in the total rescission of Tredelhorn's refund.

Dismissals

The following submissions were dismissed:

Name	Case No.
Commonwealth Petroleum Co	RF21-11334
Yukon Energy Corp	RF21-12370 HEE-0091

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.

April 2, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-8571 Filed 4-9-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $7,500 and $7,853.08 obtained as result of Consent Orders that the DOE entered into with Kiesel Company and L.P. Rech Distributing Company, both reseller-retailers of motor gasoline. Kiesel is located in St. Louis, Missouri; Rech is in Roundup, Montana.

DATE AND ADDRESS: Applications for refund of a portion of the Kiesel or Rech consent order funds must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case Number HEF-0107 or HEF-0161 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Amy Resner, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to two consent orders entered into by Kiesel Company (Kiesel) and L.P. Rech Distributing Company (Rech). The Kiesel consent order settled possible pricing violations in the firm's sales of motor gasoline to customers during the period March 1, 1979 through July 31, 1979; the Rech consent order settled alleged pricing violations in the firm's sale of motor gasoline to its customers during the period of September 1, 1979 through November 30, 1979. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Kiesel and Rech consent order funds was issued on January 10, 1985. 50 FR 4779 (February 1, 1985).

Today's Decision sets forth final procedures and standards that the DOE formulated to distribute the contents of two escrow accounts funded by Kiesel and Rech pursuant to the respective consent orders. In the case of Kiesel, the DOE has decided that the consent order funds should be distributed to fifty-two first purchasers after each has filed an application for refund. In the case of Rech, the DOE has decided that the consent order funds should be distributed to one customer, if the customer's application for refund clearly demonstrates that it is entitled to these funds. The purchasers in both of these cases were identified by DOE audits and were allotted funds based on presumptions of injury which the DOE has utilized in past proceedings. In both cases, however, applications for refund will be accepted from purchasers not identified by the DOE audits.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased motor gasoline from Kiesel or Rech during the audit periods. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: April 2, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 2, 1985.

Decision and Order of the Department of Energy

Special Refund Procedures

Names of Firms: Kiesel Company; L.P. Rech Distributing Company

Date of Filing: October 13, 1983

Case Numbers: HEF-0107, HEF-0161

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, on October 13, 1983, the Economic Regulatory Administration (ERA) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). The petition requests that the OHA formulate and implement procedures for the distribution of funds received in connection with consent orders that ERA entered into with Kiesel Company (Kiesel) and L.P. Rech Distributing Company (Rech).

I. Background

Each of these firms is a "reseller" of "covered products" as those terms were defined in 10 CFR 212.31. Kiesel's main office is in St. Louis, Missouri; Rech is located in Roundup, Montana. A DOE audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. Subsequently, each firm entered into a consent order with DOE. Each consent order refers to ERA's allegations of overcharges, but notes that no findings of violation were made. Each consent order also states that the subject firm does not admit that it committed any such violations. A brief discussion of other pertinent matters covered by each consent order follows:

The Kiesel consent order covers the period March 1, 1979, through July 31, 1979. The DOE audit alleged that during that period, the firm committed possible pricing violations amounting to $42,100.08 with respect to its sales of motor gasoline. In order to settle all claims and disputes between Kiesel and DOE regarding the firm's sales of motor gasoline during the audit period, Kiesel and the DOE entered into the consent order on January 13, 1981. According to the Kiesel consent order, the firm agreed to deposit $7,500 (plus interest for late payment) into an interest bearing escrow account for ultimate distribution by DOE. The consent order funds were paid in full on February 2, 1981, without any interest being due.

The Rech consent order covers the period September 1, 1979, through November 30, 1979. The DOE audit revealed possible pricing violations amounting to $14,111.65 with respect to sales of motor gasoline during the audit

period. In order to settle all claims and disputes between Rech and DOE regarding the firm's sales of motor gasoline during the audit period, Rech and the DOE entered into the consent order on September 15, 1980, in which the firm agreed to make refunds amounting to $15,621.72 (including interest). According to the Rech consent order, the alleged overcharges affected two classes of customers. Separate processes were established by which Rech would make refunds to its customers. Initially, Rech agreed to refund $7,768.64, including interest, directly to its retail customers, on or before September 30, 1980. In addition, on September 16, 1980, the firm placed $7,853.08, including interest, in an escrow account for DOE to distribute to wholesale purchasers.

On January 10, 1985, a Proposed Decision and Order (PD&O) was issued which set forth a tentative plan for the distribution of the Kiesel and Rech consent order funds. 50 FR 4779 (February 1, 1985). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely, in part, on the information contained in the ERA audit files. The PD&O states that this approach is warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file, *see, e.g., Marion Corp.*, 12 DOE ¶85,014 (1984) (*Marion*). Under such circumstances, a more precise determination with respect to the identity of the parties allegedly overcharged in the first instance was possible. A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to each purchaser identified in the ERA audit file.[1]

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶82,508 (1981), *and Office of Enforcement*, 8 DOE ¶82,597 (1981).

In the PD&O we stated that during the Kiesel audit, seventy-five first purchasers wre identified as having allegedly been overcharged. The Rech audit shows that all of the alleged overcharges settled by its consent order were attributable to purchases made by a single firm. We know that the DOE audit files do not necessarily provide conclusive evidence as to the identity of possible refund recipients or the refund that may be appropriate. However, the information contained in the audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶85,050 at 88,259 (1983). In *Marion* we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced thatn would a distribution plan based solely on a volumetric approach. *Marion* at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned either among the customers identified by the audit or to their downstream purchasers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶85,024 (1984); *Brown Oil Co.*, 12 DOE ¶85,028 (1984). The first purchasers identified by the audit, along with the share of settlement funds allotted to each by ERA, are listed in the Appendices A, B, and C.

Identification of first purchasers is only the initial step in the distribution process. We must also determine whether these first purchasers were actually injured, or whether any or part of the alleged overcharges were passed on. As we stated in the PD&O, we will adopt certain presumptions in order to determine a purchaser's level of injury and thereby distribute the escrow accounts in these cases. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). We will adopt presumptions in this case in order to permit claimants to participate in the refund process without disproportionate expense, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund procedures, in these cases we propose to adopt a presumption that claimants seeking small refunds were injured by Kiesel and Rech's pricing practices.

There are a variety of reasons for adopting this presumption. *See e.g., Uban Oil Co.*, 9 DOE ¶82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure certainly can be time-consuming and expensive. In the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to OHA) of analyzing it, may exceed the expected refund amount. Failure to adopt simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Kiesel and Rech and were in the chain of distribution where the alleged overcharges occurred. Therefore, they were affected by the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact.

Under the small claim presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim involves a level of purchases below a threshold level. Other refund decisions have expressed the threshold either in terms of purchase volumes or dollar amounts. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶85,069 (1984), we noted that describing the threshold in terms of a

[1] Some of the copies of the PD&O which were mailed to the identified purchasers were returned unclaimed. We attempted to contact these purchasers, but we were unable to do so. As a result, copies of this Final Decision and Order cannot be sent to these purchasers. However, each may still submit an application for refund.

dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In these cases, where the consent order fund is small, the refund amount is fairly low, and the time period of the consent order is many years past, establishing a threshold of $5,000 would be reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶85,226 (1984), and cases cited therein. In the PD&O we stated that after analysis of the information in the record, it appears that all seventy-five of Kiesel's customers listed on the Appendix made small purchases of Kiesel's products. However, as we stated in the PD&O, the refund authorized for Rech's single customer, Main Street Conoco (Main Street), is larger than the amount which a firm may be entitled to receive under the small claims presumption we have adopted.

On the basis of the considerations discussed above, we propose to distribute a portion of the escrow funds to the first purchasers listed in Appendices A and B, in the amounts specified, plus accrued interest to date. The share of the escrow fund which the listed purchasers in Appendix A may receive represents 17.8% of the amount each was allegedly overcharged, and is consistent with the terms of the Kiesel consent order which settled for 17.8% of the total amount of alleged overcharges identified by the audit. L.P. Rech, however, agreed in the Rech Consent order to refund the entire amount it had allegedly overcharged its one identified customer. Therefore, the portion of the escrow account which the purchaser listed in Appendix B is to receive, represents 100 percent of the amount it was allegedly overcharged. In order to actually receive a refund each customer will still be required to file an application for refund. (*See* discussion *infra*).

However, as we stated in the PD&O, since the refund allotted to Main Street is larger than $5,000—and therefore larger than a "small claim"—the firm will be required to make a specific demonstration of injury prior to its receiving the full refund allotted to it in Appendix V. As in previous special refund cases, Main Street will be required to show that it did not pass the effects of Rech's alleged regulatory violations through to its own customers. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). While there are a variety of means by which the firm could make this showing, Main Street should generally demonstrate that at the time it purchased Rech's products, market conditions would not permit it to pass the alleged overcharges on to its own customers in the form of higher prices. In addition, the firm must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The maintenance of bank will not, however, automatically establish injury. *See Tenneco Oil Co./ Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).[2]

There may also have been first purchasers other than those identified by the ERA audit, as well as subsequent repurchasers, who may have been injured by the alleged overcharges and who therefore could be entitled to a portion of the consent order funds. If these or other additional meritorious claims are filed, the figures set forth in the Appendices will be adjusted accordingly. Actual refunds will be determined only after analyzing all appropriate claims.[3]

Finally, we are not prepared, based on the information now available to us, to distribute any of the Kiesel consent order funds to the purchasers identified in Appendix C. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweights the modest benefits of restitution in those situations. *See, e.g., Ubon Oil Co.*, 9 DOE ¶ 82,541 at 88,225 (1982). *See also* 10 CFR 205.286(b). Each of the firms listed in Appendix C purchased less than 2,700 gallons of motor gasoline in total. Some involve purchase as small as 66 gallons. While refunds based on purchases levels of this order of magnitude may be appropriate in other Subpart V proceedings, especially where they can be aggregated in some manner with other claims made by the firm in order to reduce administrative costs, in this case they are simply too small to merit individual consideration.

III. Applications for Refund

We have concluded that the procedures described in the PD&O represent the best means available for distributing the Kiesel and Rech consent order funds. No comments were received objecting to the refund procedures proposed in the PD&O.[4] Accordingly, for the reasons stated in the PD&O we will implement these proposals. We shall now accept applications for refunds from customers who purchased petroleum product from Kiesel and Rech during the audit period. As proposed, the consent order funds will be distributed to the firms that the ERA alleged in its audit were overcharged by Kiesel or Rech, provided each files an application, as well as to other eligible customers of Kiesel or Rech who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases of petroleum products from Kiesel or Rech or a statement verifying that it purchased petroleum products from Kiesel or Rech

[2] We have determined in previous special refund cases that a purchaser who was in a position to be injured by a supplier's alleged overcharges may be eligible to receive the full refund allotted to it in the DOE audit, even if this amount slightly exceeds $5,000. *See* Reinhard Distributors Inc., 12 DOE ¶ 85,137 (1984). In that case we found that one of Reinhard's purchasers was a partial end-user, had a small sales volume, and was situated in a small community and lacked alternative suppliers. We therefore determind that this customer was likely injured by the alleged overcharges and, accordingly, was entitled to a refund of over $5,000, as set forth in the DOE audit. The refund authorized for Main Street also only exceeds $5,000 by a small amount. Therefore, if Main Street can submit information which would demonstrate that it was in a similar position to Reinhard's customer, we may consider granting it the full refund as set forth in Appendix B. If Main Street does not choose to make a demonstration of injury, it may be able to rely on our records and receive a refund of up to $5,000 under the small claims threshold we have proposed in this case (*see* Footnote 5, infra).

[3] Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they should receive refunds larger than those indicated in the appendices.

[4] On February 11, 1985 we received a letter from Rech stating that the firm intends to file a refund application for the Rech consent order funds, because it contends that in owned and operated Main Street during the entire audit period. However, since this decision's purpose is limited to establishing procedures to be used for filing and processing claims in the first stage of the Rech refund proceeding, it would be premature for us to determine at this time the refund due to an individual applicant. While we do intend to consider the fact that Rech owned Main Street during the audit period when we determine whether or not Rech is entitled to receive any refund, we will reserve judgment on Rech's claim until it has filed its refund application.

and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding.

Purchasers not identified by the ERA audit will be required to provide specific information as to the date, place, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the Kiesel or Rech product, *i.e.*, whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF–0107 (Kiesel) and HEF–0161 (Rech) and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

It is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Kiesel Company pursuant to the consent order executed on January 13, 1981, may now be filed.

(2) Applications for refunds from the funds remitted to the Department of Energy by L.P. Rech Distributing Company pursuant to the consent order executed on September 15, 1980, may now be filed.

(3) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

(4) This is a final order of the Department of Energy.

Dated: April 2, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix A

KIESEL COMPANY

First purchasers	Portion of settlement amount [1]
Taylor Excavating, 3917 Reavis Barracks Rd., St. Louis, Mo. 63132	$40.23
Security Armored Car, 1022 S. 9th St., St. Louis, Mo. 63104	273.61
Grey Eagle Distributing, 2340 Mill Park Dr., St. Louis, Mo.	204.80
Kirchner Ind., Inc., 2346 Palm, St. Louis, Mo. 63107	28.39
Gould, Inc., 940 West Port Plaza, St. Louis, Mo. 63141	36.65
Tully Equipment, 3900 Green Park Road, St. Louis, Mo. 63125	16.22
Mt. Lebanon Guardian Cemetery, 11101 St. Charles-Rock Rd., St. Louis, Mo. 63114	20.41
C. Rollo Construction, 5000 Kemper Ave., St. Louis, Mo. 63139	94.08
Cent. & Mech. Ind., Inc., 146 President St., St. Louis, Mo. 63118	27.58
Chemlawn 11422 Schenk, St. Louis, Mo.	28.42
Biggs Properties, Timberlake Apts., 1177 Timberbrook Dr., St. Louis, Mo. 63122	16.14
Bussen Quarries, 5000 Bussen Rd., St. Louis, Mo. 63129	18.16
St. Louis Ship. Div., Pott Inc., 501 N. 7th Street, St. Louis, Mo. 63101	16.96
Catholic Cemeteries of St. Louis, 7301 Watson Road, St. Louis, Mo. 63119	44.80
Voallmer Bros., Contr., 911 N. Grand Blvd., St. Louis, Mo. 63106	18.15
I-55 Service Center, 4553 S. Broadway St., St. Louis, Mo. 63111	149.34
Tonsing Sales & Svc., 4011 Bayless Ave., St. Louis, Mo. 63125	524.57
Baker Mobil Svc., 2812 Moravec Dr., High Ridge, Mo. 63049	94.52
B & W Auto Svc., 8025 Alabama Ave., St. Louis, Mo. 63111	503.78
Erma Jackson, B.J. Petroleum, 9149 Coral, St. Louis, Mo. 63125	251.00
Southwest Service, 5301 Arsenal St., St. Louis, Mo. 63139	184.88
Allen Cab, 1414 N. Sarah St., St. Louis, Mo. 63113	60.90
Missouri Petroleum, 1620 Woodson Rd., St. Louis, Mo. 63114	62.46
Missouri State Hyw. Comm., 329 S. Kirkwood Rd., St. Louis, Mo. 63122	497.86
City of Ferguson, 110 Church St., Ferguson, Mo. 63135	289.01
Bi-State Development Agency, 701 N. 1st St., St. Louis, Mo. 63101	350.49
St. Louis Board of Education, 3418 Cook Ave., St. Louis, Mo. 63106	679.04
Jefferson Barracks, Nat'l Cemetery, 101 Memorial Dr., St. Louis, Mo. 63125	40.69
V.A. Hospital, 1520 Market St., St. Louis, Mo. 63103	21.19
Rockwood School Dist., 111 East North St., Eureka, Mo. 63025	157.59
Budrouch Excavation, 2520 Lemay Ferry Road St. Louis, Mo. 63125	76.14
Branch Metals, 620 Saint Cyr Road St. Louis, Mo. 63137	59.25
Fenster & Sons Iron, 9620 N. Broadway, St. Louis, Mo. 63137	22.83
ACF Industries, 9666 Olive St. Rd., St. Louis, Mo. 63132	53.74
Union Electric 316 N. 12th St., St. Louis, Mo. 63101	954.75

KIESEL COMPANY—Continued

First purchasers	Portion of settlement amount [1]
Biebel Bros. Roofing, 1600 N. Lindbergh Blvd., St. Louis, Mo. 63132	146.90
Service Rental Co., 8601 New Hampshire Ave., St. Louis, Mo. 63123	30.58
Jay's Texaco, 2115 Redman Rd., St. Louis, Mo. 63136	392.38
Monsanto, 800 N. Lindbergh, St. Louis, Mo. 63141	30.39
City of Valley Park, Valley Park, Mo. 63088	67.71
Lindy's Auto Service, 4390 Telegraph Road, St. Louis, Mo. 63129	12.00
Grebe Oldsmobile, 3400 S. Kingshighway, St. Louis, Mo. 63139	29.41
Jenkin, Guerin, Inc., 4480 Hunt Avenue, St. Louis, Mo. 63110	46.74
U.S.P.F.O. For Missouri, 1715 Industrial Drive, Jefferson City, Mo. 65101	19.69
Turley Martin, #1 Mercantile Center, St. Louis, Mo. 63101	23.97
Ace Scrap Metal, 5900 Manchester, St. Louis, Mo. 63110	173.74
St. Louis Air National Guard, 10800 Natural Bridge, Bridgeton, Mo. 63044, Bldg 235 (LG) C	88.64
St. Louis Bulk Mail Ctr., 5800 Phantom Drive Hazelwood, Mo. 63042	432.70
St. Lucas Park Hill Cemetery, 11825 Denny Road, St. Louis, Mo. 63126	15.43
King Motor Service, 3601 S. Broadway, St. Louis, Mo. 63118	35.55
St. Louis Interagency Car Pool, GSA Motor Pool, 4300 Goodfellow, Bldg 115, St. Louis, Mo. 63120	83.03
Bommarito Oldsmobile	[2] 113.85

[1] Does not include interest. Actual refunds will include the interest which has accrued on these amounts since DOE received the Kiesel consent order funds on February 2, 1981.

[2] Purchaser with no available address.

Appendix B

RECH DISTRIBUTING COMPANY

First purchaser	Portion of settlement amount [1]
John L. Pratt, Esq. (Main Street Conoco), Post Office Box 665 Roundup, Montana 59072	$7,853.08

[1] Includes principal and interest through June 20, 1980. The actual refund will also include the additional interest which has accrued on this amount since DOE received the Rech consent order funds on September 16, 1980.

Appendix C

KIESEL COMPANY

[Claims under $15]

First purchaser	Portion of settlement amount
A. Spiritas Wrecking	$.46
Morris Linen & Towel	9.61
Ralston Purina	3.03
Newgar Materials	.30
General American Ins.	2.77
St. Louis Wood Products	6.79
New Picker Cemetery	.69
Arrowhead Golf Club	7.98
Benco Bommarita Construction	8.80
Host International	9.51
Lakeside Center for Boys	5.64
U.S. Coast Guard, 2nd Dist	6.36
St. Louis Community College	1.66
Federal Barge Lines	1.02
Mercy Center	3.47
LaSalle Iron Works	2.27
Afton Fire Protection Dist	9.08
Norfolk & Western R.R.	7.83
Kirchner Enterprises	4.00

[FR Doc. 85–8572 Filed 4–9–85; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $36,116 ultimately to be obtained as the result of a consent order which the DOE entered into with Red Triangle Oil Company, a reseller of petroleum products located in Fresno, California. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC. 20585. All comments should conspicuously display a reference to case number HEF-0162.

FOR FURTHER INFORMATION CONTACT: Douglas Friedman, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $36,116 plus accrued interest ultimately to be obtained by the DOE under the terms of a consent order entered into with Red Triangle Oil Company. The funds are being provided to the DOE by Red Triangle to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of refined petroleum products during the period November 1, 1973, through December 31, 1978.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to 46 first purchasers who may have been overcharged. In order to obtain a refund, each claimant will be requird either to submit a schedule of its monthly purchases from Red Triangle or to submit a statement verifying that it purchased petroleum products from Red Triangle and is willing to rely on the data in the audit files. Certain firms will also be required to made specific demonstrations of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHS invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to sumbit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in these proceedings will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: April 2, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 2, 1985.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Red Triangle Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0162.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 C.F.R Part 205, Subpart V. In accordence with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Red Triangle Oil Company (Red Triangle).

I. Background

Red Triangle is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Fresno, California. A DOE audit of Red Triangle's records revealed possible violations of the Mandatory Petroleum Price Regulation, 10 CFR Part 212, Subpart F. The audit alleged that between November 1, 1973, and December 31, 1978, Red Triangle committed possible pricing violations amounting to $91,345.68 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Red Triangle and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Red Triangle and the DOE entered into a consent order on March 24, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Red Triangle does not admit that it violated the regulations.

Under the terms of the consent order, Red Triangle agreed to make refunds amounting to $59,993. Separate processes were established by which Red Triangle would refund money to injured parties. First, $2,043, representing alleged overcharges on sales to Red Triangle's Bulk Retailer class of purchasers, was to be refunded directly to those purchasers. Second, Red Triangle was to refund $21,834, representing alleged overcharges on sales of motor gasoline at company-owned service stations, by reducing the price of gasoline at those stations by two cents per gallon until the full amount had been refunded. Finally, Red Triangle was to deposit $36,116, representing alleged overcharges to service stations, into an interest-bearing escrow account for ultimate distribution by the DOE. After paying $9,238.76 on January 23, 1982, Red Triangle became delinquent in its payments. However, on December 5, 1984, the firm remitted $10,000 to the DOE and agreed to pay $2,000 per month until it has discharged its liability. *See* Momorandum of Telephone Conversation of December 26, 1984, between Eugene Guziewicz of ERA's Settlements Division and Douglas Friedman, OHA Staff Analyst. Thus far, the firm has remained current in its

payments. This decision concerns the $36,116 plus interest that should ultimately be available for distribution.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Based on our experience with Subpart V cases, we believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of refined petroleum products who may have been injured by Red Triangle's pricing practices during the period November 1, 1973 through December 31, 1978. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

The basic purpose of a special refund proceeding is to recompense parties who were injured as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we have decided to rely in part on the information contained in the DOE's audit files. Our experience with similar cases supports the use of this approach in Subpart V cases where all or most of the purchasers of a firm's products are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under these circumstances, a reasonably precise determination can be made regarding the identity of the allegedly overcharged parties and the amount of alleged overcharges each party suffered.

During the DOE's audit of Red Triangle, 46 service-station first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit files do not necessarily provide conclusive evidence regarding the identity of all possible refund recipients or the appropriate refund for a particular firm. However, the information contained in those audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the customers identified by the audit and/or their downstream customers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Company*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, with the share of the settlement allotted to each by ERA, are listed in Appendices 1 and 2.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether the first purchasers were injured or were able to pass through the alleged overcharges. Besides considering the information which the audit file provides, we also propose the adoption of a presumption in order to determine the level of a purchaser's injury and thereby distribute funds in the escrow account in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumption we plan to adopt in this case is used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, we intend to adopt a presumption that claimants seeking small refunds were injured by Red Triangle's pricing practices.

There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. Failure to allow simplified procedures could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small-claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Other refund decisions have expressed this threshold in terms of either purchase volumes or refund dollar amounts. In *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursement to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchases. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.; Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*) and cases cited therein. The record indicates that 45 of the 46 identified customers made small purchases. The one firm whose potential refund falls above the threshold bought

[1] Once we have analyzed all applications for refund, we will authorize disbursement of whatever funds are in escrow. In the event that valid claims exceed the amount in escrow at the time, each successful claimant will receive a pro rata share and will receive the remainder of its refund if and when additional funds are received by the DOE.

almost four times as much fuel as the second-largest purchaser.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and to show that market conditions would not permit it to pass through those increased costs.[2]

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies there.

On the basis of the information in the record at this time, we proposed to distribute a portion of the escrow funds to those firms listed in Appendices 1 and 2. Refunds will be authorized for those firms in the amounts indicated, plus accrued interest to the date they receive refunds, provided they make any necessary showing of injury.[3] However, no addresses are available for the firms listed in Appendix 2 and we are therefore unable to contact those firms directly. In order to locate these firms, we will provide Red Triangle and various petroleum dealers' associations in California with copies of this Proposed Decision and will publish a notice in the **Federal Register.** Information regarding the identity and location of each of these firms will be accepted for a period of 90 days from the date of publication of notice of a final Decision and Order in this proceeding in the **Federal Register.**[4]

There may also have been other first purchasers not identified by the ERA audit, as well as subsequent repurchasers, who may have been injured as a result of Red Triangle's pricing practices during the audit period and who would therefore be entitled to a portion of the consent order funds.[5] If additional meritorious claims are filed, the figures set forth in the Appendices will be adjusted accordingly. Actual refunds will be determined only after analyzing all appropriate claims.[6]

In order to receive a refund, each claimant will be required to submit either a schedule of its monthly purchases of motor gasoline from Red Triangle or a statement verifying that it purchased motor gasoline from Red Triangle and is willing to rely on the data in the audit file. A claimant must also indicate whether it has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information as to the date, place, price, and volume of motor gasoline purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private, § 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

B. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Red Triangle Oil Company pursuant to the consent order executed on March 24, 1980, will be distributed in accordance with the foregoing decision.

APENDIX 1—FIRST PURCHASERS

First purchaser	Share of settlement[1]
James W. Askew, Huck and Jim's, 4685 North Kavanaugh, Fresno, California 93705	$1,325.46
William Aubuchon, Bill's Service, 2510 Whitson, P.O. Box 232, Selma, California 93662	1,466.31
Black's Gulf, 3551 East Lowe, Fresno, California 93702	72.23
H. Bohannon, 959 Clovis Avenue, Clovis, California 93612	884.84
Clore Gulf, 4520 East Redlands, Fresno, California 93726	626.42
J.F. Crowell, c/o Rose & Connolly, Certified Public Accountants, Fresno, California 93704	66.68
D. Davis, 4010 North West Avenue, Fresno, California 93705	137.24
Ben Farmer, 2102 Vine Street, Sanger, California 93657	516.46
Fresno, A.N.G., 5425 East McKinley Fresno, California 93705	50.56
Louis J. Gennuso, Sr., Gennuso's Service, Fresno and E. Streets, Fresno, California 93706	1,173.77
Elbert A. Hendrix, 317 South Peach, Fresno, California 93727	1,357.96
Bill Hensley, P.O. 607, Madera, California 93637	1,932.20
Louie Hernandez, 2559 South Chestnut Avenue, Fresno, California 93725	325.05
Herring, 373 West North Avenue, Fresno, California 93706	426.17
Jesse's Gulf, P.O. Box 489, Firebaugh, California 93622	1,155.71
Liberty Auto, 1008 C Street, Fresno, California 93702	707.87
Paul Lindsay, 420 West Shaw Avenue, Clovis, California 93612	310.60
Alfred G. Marmolejo, 3827 East Liberty, Fresno, California 93706	964.30
J. McBee, 2937 D Street, Selma, California 93662	617.58
Herbert R. McCarty, 788 West Bullard, Fresno, California 93705	130.02
L. McDonnell, 3893 Arden Drive South, Fresno, California 93703	809.00
Horst Pakorra, General Delivery, Oakhurst, California 93644	196.03
John Patterson, 2240 Tuolumne, Fresno, California 93721	7,544.41
William W. Perry, 3770 West McKinley, Fresno, California 93711	111.96
Ruth Reese, Lane's Gulf, 1107 Lincoln, Madera, California 93637	505.82
Vincent Rio Frio, 38440 Sough Highway 99, Kingsburg, California 93631	671.76
Udom Ruengsorn, C & N Service, 6753 Blackstone, Fresno, California 93710	877.62
J. Salazar, 7011 North Van Buren Avenue, Herndon, California 93721	61.40

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to prove their injury. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,125 (1982) (Ada).

[3] The share of the escrow fund allocated to each firm listed in Appendices 1 and 2 represents 60 percent of the amount each was allegedly overcharged. This is consistent with the terms of the consent order, which settled for 80 percent of the total amount of alleged overcharges to service stations.

[4] If we are unable to locate any firm listed in Appendix 2, we will reserve any funds allocated to that firm for distribution in a subsequent proceeding.

[5] We are aware of one claimant who was not identified by ERA. Mr. Raul Marmolejo of Fresno, California notified ERA that he was a first purchaser. If he, or any other similarly situated person or firm, submits the information required from purchasers not identified by the audit, we will modify this decision and authorize a refund for him.

[6] Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they should receive refunds larger than those indicated.

APPENDIX 1—FIRST PURCHASERS—Continued

First purchaser	Share of settlement[1]
Stone's Gulf, 215 East Estate, Tulare, California 93274	1,014.86
Sunset Gulf, 1703 West Olive, Fresno, California 93705	1,238.78
Ted and Lil, 16614 West Gettysberg, Kerman, California 93930	552.57
Judith Ann Tweedy, c/o Robert J. Cook, Esq., 9805 Main Street, Lamont, California 93241	155.30
Ben Vales, 1210 Academy, Sanger, California 93657	393.66
Dan Vargas, P.O. Box 932, San Joaquin, California 93660	848.73
Ralph Waldrum, Senior Citizens, 1917 South Chestnut, Building 15E, Fresno, California 93702	379.22
Glenn N. Ward, 215 West Shaw, Clovis, California 93612	906.51
Williams Gulf, 12650 Second Drive, Cutler, California 93615	906.51
Zip and Go, 485 Barstow Avenue, Fresno, California 93706	715.19

[1] Does not include accrued interest.

APPENDIX 2—FIRST PURCHASERS, NO ADDRESS AVAILABLE

First purchaser	Share of settlement
Twain Bankston	144.66
R. Brown	985.97
Don's Gulf	61.40
B. Malthrop	137.24
D. McComas	50.56
Schultz Gulf	812.61
W.W. Gulf	169.75
P. Walker	494.79

[FR Doc. 85-8573 Filed 4-9-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/46; FRL-2813-5]

Special Review of Certain Pesticide Products; Cyanazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces that EPA is initiating a Special Review of all pesticide products containing the active ingredient cyanazine. EPA has determined that cyanazine, a registered herbicide, produces teratogenic effects in laboratory rats and that sufficient exposure to mixer/loaders and applicators exists so that cyanazine meets or exceeds a risk criterion described in 40 CFR 162.11. Accordingly, a Special Review of products containing cyanazine has been initiated to determine whether registration of these products should be permitted to continue and, if so, under what terms and conditions. During the Special Review process, EPA will carefully examine the risks and benefits of using cyanazine and will determine whether additional regulatory actions are required.

DATE: Comments, evidence to rebut the presumptions in this Notice, and other relevant information must be received no later than 45 days from the date this notice is received or until **Federal Register** May 28, 1985, (whichever is later).

ADDRESS: Three copies of written comments identified as (OPP-30000/46) should be sent by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comments that do not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All non-CBI written comments will be available for public inspection in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Spencer L. Duffy, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 728, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7421).

SUPPLEMENTARY INFORMATION: The term "Special Review" is the name now being used by EPA for the process previously called the Rebuttable Presumption Against Registration (RPAR) process. Modifications to the process have recently been proposed in the **Federal Register**. The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any final notice of intent to cancel pesticide registrations which may be issued under FIFRA section 6(b). The Special Review process is described at 40 CFR 162.11 and is usually initiated because one or more of the risk criteria identified in that section have been exceeded, as revealed by testing of the pesticide's active ingredient.

EPA has determined that a Special Review will be conducted for all pesticide products containing cyanazine as an active ingredient. EPA has also determined that data necessary to conduct the Agency's risk assessment must be developed on an accelerated basis, and that precautionary labeling is required to reduce risk during the Special Review process.

Issuance of this Notice means that potential hazards associated with the use of cyanazine have been identified. These hazards will be examined further to determine the nature and extent of the risk, and considering the benefits of cyanazine, whether such risks cause unreasonable adverse effects on the environment.

A document entitled "Guidance for the Interim Registration of Pesticide Products Containing Cyanazine" (Guidance Document) has been issued. (The Guidance Document is also referred to as a Registration Standard). The Guidance Document is available to the public from the contact person named above. This Guidance Document explains the basis for EPA's decision to start a Special Review and also contains references, background information, data requirements, and other information pertinent to the continued registration of pesticides containing cyanazine.

I. Initiation of a Special Review

A. General

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). Before a product can be registered, it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide" (FIFRA section 2(bb)). The burden of proving that a pesticide meets this standard for registration is on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, the Administration may cancel the registrator under section 6 of FIFRA.

The Agency has created an administrative process for fully

evaluating whether a pesticide satisfies or continues to satisfy the statutory standard for registration. This Special Review process provides an informal procedure through which EPA may gather and evaluate information about the risks and benefits of a pesticide's uses. It also provides a means by which interested members of the public may comment on and participate in EPA's decision making process. The regulations governing this process are set forth in 40 CFR 162.11.

A Special Review is begun when EPA determines that a pesticide meets or exceeds one or more of the risk criteria set out in the regulations (40 CFR 162.11(a)(3)). The Agency generally announces the beginning of the Special Review by issuing a Position Document 1 (PD 1) which is published in the **Federal Register.** In addition, registrants of affected products will receive the PD 1 by certified mail. Registrants and other interested persons are invited to scrutinize the basis for the Agency's decision to initiate the Special Review and to submit data and information which rebut or support the Agency's initial determination regarding risk. Commenters may also suggest methods to reduce risks of use of the pesticide. In addition to addressing risk issues, commenters are encouraged to submit evidence and discussions of the biological, economic, social, and environmental costs and benefits of use of the pesticide. The public participation stage is described in more detail in Unit IV. This Notice constitutes Position Document 1 for pesticide products containing cyanazine.

If risk issues are not satisfactorily resolved, EPA will proceed to evaluate the risks and benefits of cyanazine in order to determine whether to propose regulatory actions to reduce the risks. After providing an opportunity for comment by the Scientific Advisory Panel, the Secretary of Agriculture, registrants, and the public on those actions and the reasons for them, EPA will issue an appropriate final notice. If EPA determines that the risks of use exceed the benefits, EPA will issue a notice of intent to cancel the registration of products intended for such use. The notice may state the intention to cancel registrations outright or may require certain changes in the composition, packaging, application methods and/or labeling of the product. These changes would be intended to reduce the risks to levels that when considered against the benefits will not cause unreasonable adverse effects to man or the environment.

A notice initiating a Special Review is not a notice of intent to cancel the registration of a pesticide, and a Special Review may or may not lead to cancellation. This Notice initiating the Special Review for cyanazine products is an announcement of EPA's concern about the safety of the pesticide's use, and only after carefully considering the risks and benefits of cyanazine and determining that it appears to cause unreasonable adverse effects on the environment, would EPA issue a notice of intent to cancel.

B. Presumption

EPA has determined that the use of pesticide products containing cyanazine pose risks which meet or exceed one of the risk criteria in 40 CFR 162.11(a)(3)(ii)(B). This regulation provides that a Special Review shall be conducted if the use of a pesticide "produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." Studies submitted to the Agency have shown that cyanazine produces teratogenic and fetotoxic effects in laboratory animals. Based on these data and on an evaluation of potential exposure of mixer/loaders and applicators to cyanazine, the Agency concluded that cyanazine has exceeded the risk criteria for initiating a Special Review.

1. *Toxicological concerns.* The data base for the continued registration of cyanazine includes two studies submitted by Shell Oil Company. The first study (MRID 0009102) designed to test for teratogenicity was conducted using Fischer 344 rats. In this study, rats were dosed daily by gastric intubation on gestational days 6–15. On the 20th day of gestation rats were sacrificed and necropsies were performed. Results from this test showed increased incidence of anophthalmia (no eyes) and microphthalmia (small eyes), in fetuses at a dose level of 25 mg/kg/day. A no observed effect level (NOEL) was established at 10 mg/kg/day. In addition, cyanazine caused increased incidence of diaphragmatic hernia in fetuses borne by treated rats. It was not clear, however, at the conclusion of the test whether the diaphragmatic hernia effect was a true teratogenic response. The registrant has been asked to submit by 12/31/85 additional data to clarify the diaphragmatic hernia issue.

In another study conducted by Shell Oil Company Laboratory, New Zealand rabbits 3–4 months old were mated at 7–11 months and dosed with cyanazine (orally via gelatin capsules) 6–18 days post coitum (p.c.). The rabbits were sacrificed on the 29th day (p.c.). The results showed cyanazine produced fetotoxic effects at 2 mg/kg/day. A NOEL was established at 1 mg/kg/day. The primary fetotoxic response was low litter weights. No teratogenic effects were observed in this study.

2. *Applicator (non-dietary) risk.* The Agency has determined that the principal group of people exposed to cyanazine is mixer/loader and applicator personnel and that dermal absorption is the primary route of entry for cyanazine. Data from a surrogate study with a pesticide which had similar use patterns were used because adequate exposure data on cyanazine were not available to the Agency. These estimates are based on a completely unprotected agricultural worker and assume 140 acres are treated per day (10 hours) by a 60 kg woman. The estimates of the amount of cyanazine absorbed by mixer/loaders and applicators are presented in the table below.

TABLE 1.—ESTIMATES OF CYANAZINE ABSORBED BY WORKERS

Operation	Exposure/ absorption
Mixing/loading (open system)	1.95 mg/kg/day
Application	5.4 mg/kg/day

These exposure estimates suggest levels of exposure to cyanazine at or near the point where teratogenic and fetotoxic effects were observed in experimental laboratory animals.

A dermal absorption study requested during the development of the Registration Standard has been completed and was submitted to the Agency January 16, 1985. The Agency has determined that this study is unacceptable because of the excessive amounts of cyanazine which were not accounted for at the low (0.5 mg) and intermediate (5.0 mg) dose levels. Cyanazine losses ranged from 13.6–55.0 percent for the low dose level and from 15.3–23.4 percent for the intermediate dose level. These losses made it impossible to quantitate accurately absorption of cyanazine by the skin of the test animals. It also prevented evaluation of the significance of the unusual absorption patterns which occurred during this test.

3. *Dietary Risk.* Dietary exposures to cyanazine result from use on corn and other crops which are used for human food and livestock feed. Ninety six percent of the cyanazine produced in the United States is applied to corn. A

margin of safety (MOS) for dietary exposure to a teratogen is usually determined based on a single serving of a given food commodity. For cyanazine, the single serving for all raw agricultural commodities is very close to the food factor. (The food factor is the portion of the diet, usually expressed as a percentage, which is contributed by a given food based on the annual average consumption of that food.) Therefore the theoretical maximum residue contribution (TMRC) as a result of existing tolerances for each of these commodities can be used as an exposure estimate. Further, residues of cyanazine have not been found on crops and the tolerances were set at the limit of detection of the analytical method. On this basis, the margins of safety for the teratogenic and/or maternal and fetotoxic effects can be calculated according to the following formula:

$$MOS = \frac{\text{No observed effect level (NOEL) (mg/kg)}}{\text{Exposure (mg/kg)}}$$

Based on the above formula, the margins of safety (MOS) were acceptable for all crops. The Agency therefore determined that the dietary risk criterion set forth in 40 CFR 162.11 had not been exceeded.

C. Additional Data

Data considered pivotal to refine the Agency risk assessment have been required on an expedited basis via the Registration Standard. These data are needed to clarify the diaphragmatic hernia issue which may be an additional teratogenic response and to determine the amount of cyanazine absorbed upon contact with exposed skin. These data will be discussed at the time the Agency issues its proposed regulatory decision in the Position Document 2/3 (PD-2/3).

The following table shows the pivotal data requirements and the due dates for data on cyanazine.

TABLE 2.—PIVOTAL DATA

Pivotal data required	Submission date
Teratogenicity study	Dec. 31, 1985.
Dermal absorption study	July 31, 1985 (study submitted 1/16/85 was found to be unacceptable)

D. Additional Concerns

The Agency is concerned about ground and surface water contamination from agricultural uses of cyanazine. Cyanazine has the potential to move (leach) through the soil and contaminate ground water which may be used as drinking water. Cyanzaine has been found in surface and ground water as a result of agricultural use. The Agency does not have the data necessary to assess the health risks associated with consuming drinking water which has been contaminated with cyanazine. However, ground water data have been requested via the Registration Standard and are due in June 1986. In the interim, to address cyanazine's potential to contaminate drinking water, label changes have been imposed which advise users not to apply cyanazine to highly permeable soils or where the water table is close to the surface.

E. Current Regulatory Actions

Because the Agency has determined that cyanazine produces teratogenic effects in laboratory animals at concentrations to which mixer/loaders and applicators may be exposed, the Guidance Document requires that an appropriate warning be added to the pesticide label regarding cyanazine's potential to cause birth defects in laboratory animals. The Guidance Document also requires the registrant to change the label to include the "Restricted Use" classification which limits the use of the pesticide to certified applicators or to persons directly under their supervision. The registrant, however, has not yet committed to implement these requirements. The Agency will take appropriate actions to ensure compliance with these requirements.

All currenly registered cyanazine products will remain registered while the Special Review is in progress. In addition, the Agency is deferring final decisions on the reregistration of any products containing cyanazine as a sole active ingredient until the Special Review is concluded. The Agency is requiring data sufficient to recalculate existing tolerances which will include the combined residues of the parent compound and all metabolites that contain the triazine moiety.

F. Comments on the Initiation of the Special Review

Prior to the initiation of a Special Review, the sole registrant of the active ingredient was given notification of the Agency's determination that one of the criteria to initiate a Special Review may have been met. This notification included information on the toxicity findings, route of exposure and related general information. The registrant was allowed 30 days following receipt of the notification to rebut the Agency's conclusions. The registrant responded to the notification requesting the Special Review be delayed until all teratogenicity data were submitted but failed to rebut the Agency's presumption of teratogenicity for cyanazine.

G. Rebuttal Criteria

All registrants, applicants for registration, and other interested members of the public are invited to submit evidence either to support or to rebut the presumption that cyanazine causes teratogenic effects in rats and may cause such effects in humans. Under 40 CFR 162.11(a)(4)(iii) the presumption initiating a Special Review may be rebutted by proving, in the case of acute and chronic toxicity criteria, "that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

H. Benefits Information

The Agency will conduct a comprehensive benefits review and analysis for cyanazine during the Special Review process and will consider that information in setting forth the Agency's proposed regulatory decision in the Position Document 2/3. A preliminary analysis of the benefits of cyanazine has been performed and is presented here.

Ninety-six percent of the cyanazine produced in the U.S. is used as a herbicide on corn. About 3 percent is used on cotton and less than 1 percent is used on sorghum and wheat. About 14–16 percent of the total U.S. corn acreage was treated with cyanazine in 1982. Most of the cyanazine produced is applied in the corn belt states (IL, IN, IA, MO, OH) and a lesser amount applied in the Northern Plain States (KS, NE, and SD). About 3 percent is used on cotton mainly as a postemergent, directed spray herbicide.

Growers selected cyanazine over other currently available corn herbicides for the following reasons:

(1) Cyanazine has a wide annual broadleaf and grassy type weed control spectrum.

(2) It can be tank-mixed with a number of herbicides (atrazine, butylate, alachlor and metolachlor) to broaden its weed control spectrum.

(3) Because of its relatively short persistance in the soil, cyanazine reduces the carryover effect of other more persistent triazine herbicides on subsequent crops.

(4) Cyanazine, unlike some of its alternatives, has no rotational crop restrictions.

There are several alternatives to cyanazine and data show no significant increase in production cost if they are used. However, the alternative herbicides have a narrower weed

control spectrum than cyanazine and may produce carryover effects when mixed with other more persistent herbicides such as atrazine.

In addition to submitting evidence to rebut the presumptions or risk in the Special Review, 40 CFR 162.11(a)(5)(iii) provides that a registrant or applicant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the presumption of risk is not rebutted, the benefits evidence submitted by registrants, applicants, and other interested persons will be considered by the Agency when determining the appropriate regulatory action.

Registrants, applicants or other interested persons who desire to submit benefits information should consider submitting information on the following subjects along with any other relevant information they desire:

1. Identification of the biological and economic importance of cyanazine uses including market studies and estimated quantities applied for those uses.

2. Identification of alternative chemical and nonchemical methods of control for all registered uses and application techniques including any health effects and potential for water contamination associated with use of the alternatives.

3. Determination of any change in costs to cyanazine users for obtaining equivalent disease control with available substitute products or management techniques.

4. Assessment of the expected changes in the level of efficacy, crop yield, crop quality, crop injury, herbicide-resistant weed species, and environmental impacts associated with the use of alternative control measures.

5. Indentification of increased or reduced risks associated with the mixing, loading, applying and disposing of alternative chemicals, and of other hazards associated with their potential increase in use if cyanazine were not available as well as descriptions of the application equipment types, protective clothing and mixing/loading and disposing procedures for the alternative chemicals.

6. Indentification of cultural and spray application practices, and other factors that affect farmworker exposure to cyanazine.

7. Indenfication of any alternative cultural or integrated pest management practices which are enhanced or limited by use of cyanazine.

II. Rebuttal Submission Procedures

All registranst and applicants for registration are being notified by certified mail of the Special Review being initiated on their products containing cyanazine.

The registrants and applicants for registration will have 45 days from the date this notice is received or until May 28, 1985, (whichever is later) to submit evidence in rebuttal to the Agency's presumption. Other interested parties may submit comments during the same period.

III. Duty To Submit Information on Adverse Effects

Registrants are required by section 6(a)(2) of FIFRA to submit any additional infomation regarding unreasonable adverse effects on man or the environment which comes to their attention at any time. Registrants or cyanazine products must immediately submit any published or unpublished information, studies, reports, analyses, or reanalyses regarding any cyanazine effects in animal species or humans, and claimed or verified accidents to humans, domestic animals, or wildlife which have not been previously submitted to EPA. These data should be submitted with a cover letter specifically identifying the information as being submitted under section 6(a)(2) of FIFRA. Registrants should notify EPA of any studies on cyanazine currently in progress, their purpose, the protocol, the approximate completion date, a summary of all results observed to date, the name and address of the laboratory performing the studies, and a statement as to whether these studies are being conducted in accordance with the Good Laboratory Practices specified in 40 CFR Part 160, published in the **Federal Register** of November 29, 1983 (48 FR 53946).

IV. Public Comment Opportunity

During the time allowed for submission of rebuttal evidence, specific comments are solicited on the presumptions set forth in this Notice and in the Registration Standard. In particular, any documented episodes of adverse effects on humans or domestic animals should be submitted to the Agency as soon as possible. Any information as to any laboratory studies in progress or completed should be submitted to the Agency as soon as possible with a statement as to whether those studies are in compliance with the Good Laboratory Practices specified in 40 CFR Part 160. Specifically, information on any adverse toxicological effects of cyanazine, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of cyanazine is requested. All comments and information and analyses, which come to the attention of EPA, may serve as a basis for final determination of regulatory action following the Special Review.

All comments and information should be sent to the address given above, preferably in triplicate, to facilitate the work of EPA and others interested in inspecting them. The comments and information should bear the identifying notation [OPP-30000/46].

During the comment period, interested members of the public or registrants may request a meeting to discuss the risk issues and methods of reducing risks. Any records pertaining to such meetings, including minutes, agendas, and comments received will be filed under docket number [OPP-30000/46].

Dated: March 29, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-8335 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100020; FRL-2814-4]

Research Triangle Institute and Engineering and Economics Research, Inc.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Research Triangle Institute of Research Triangle Park, NC, and its subcontractor, Engineering and Economics Research, Inc., of Vienna, VA, under Contract No. 68-01-6826. This contractor and subcontractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor and subcontractor has been claimed to be confidential business information (CBI). Information will be made available to the contractor and subcontractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor and subcontractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Research Triangle Institute and Engineering and Economics Research,

Inc., will be given access to these documents no sooner than April 15, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia. (703–557–2613).

SUPPLEMENTARY INFORMATION: Under this contract, Research Triangle Institute and Engineering and Economics Research, Inc., shall perform an evaluation of registration applications and OPP's pesticide registration process.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial or financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such information as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Research Triangle Institute and Engineering and Economics Research, Inc.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Research Triangle Institute and Engineering and Economic Research, Inc., specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor and subcontractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: March 29, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–8330 Filed 4–9–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50635; FRL–2814–5]

Issuance of Experimental Use Permits; American Hoechst Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

8340–EUP–6. Extension. American Hoechst Corporation, Rte. 202–206 North, Somerville, NJ 08876. This experimental use permit allows the use of 1,277 pounds of the insecticide [1R,]1(S*)3(RS*)]]-2,2-dimethyle-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl) methyl ester on cotton to evaluate the control of various insects. A total of 5,600 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from April 27, 1985 to April 27, 1986. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

10182–EUP–30. Renewal. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of 321 pounds of the herbicide 5-[2-chloro-4-(trifluoromethyl) phenoxy]-*N*-(methylsulfonyl)-2-nitrobenzamide on soybeans to evaluate the control of various broadleaf weeds. A total of 1,000 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The experimental use permit was previously effective from November 12, 1982 to November 12, 1984. The permit is now effective from March 8, 1985 to March 31, 1986. This permit is issued with the limitation that all food or feed derived from the experimental use program will be destroyed with the exception of samples collected for research purposes. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

43813–EUP–1. Janssen Pharmaceutica, P.O. Box 344, Bear Tavern Rd., Washington Crossing, NJ 08560. This experimental use permit allows the use of 100 pounds of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole on cucumbers, melons, peppers, and tomatoes to evaluate the control of various fungal diseases. A total of 56,060,000 pounds of fruit are involved; the program is authorized only in the States of California, Florida, New Jersey, New York, Pennsylvania, and Texas. The experimental use permit is effective from January 29, 1985 to December 31, 1986. A temporary tolerance for residues of the active ingredient in or on cucurbit vegetables and fruiting vegetables has been established. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

43813–EUP–2. Janssen Pharmaceutica, P.O. Box 344, Bear Tavern Road, Washington Crossing, NJ 08560. This experimental use permit allows the use of 8,700 pounds of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole on cucurbit vegetables and fruiting vegetables to evaluate the control of various fungal diseases. A total of 8,675 acres are involved; the program is authorized only in the States of California, Maryland, New Jersey, New York, and Texas. The experimental use permit is effective from January 29, 1985 to December 31, 1986. A temporary tolerance for residues of the active ingredient in or on cucurbit vegetables and fruiting vegetables has been established. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

35977–EUP–2. Extension. Maag Agrochemicals Research and Development, 5699 North Kings Highways, P.O. Box X, Vero Beach, FL 32960. This experimental use permit allows the use of 25.5 pounds of the insect growth regulator ethyl [2-(4-phenoxyphenoxy)ethyl[carbamate on non-crop areas to evaluate the control of

fire ants. A total of 1,700 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit is effective from July 13, 1985 to July 13, 1986. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

2792-EUP-1. Issuance. Pennwalt Corporation, 1713 S. California Ave., Monrovia, CA 91016. This experimental use permit allows the use of 200 pounds of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole on melons to evaluate the control of various fungal diseases. A total of 25,000,000 pounds of fruit are involved; the program is authorized only in the States of Arizona California, and Texas. The experimental use permit is effective from January 29, 1985 to March 31, 1986. A temporary tolerance for residues of the active ingredient in or on cucurbit vegetables and fruiting vegetables has been established. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900))

7182-EUP-22. Renewal. 3M Company, Bldg. 223-IN-05, St. Paul, MN 55144. This experimental use permit allows the use of 14,345 pounds of the plant growth regulator mefluidide on pasturegrasses to evaluate forage quality enhancement and animal productivity enhancement. A total of 57,380 acres are involved; the program is authorized only in the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, Nebraska, Ohio, Pennsylvania, Tennessee, Virgina, and Wisconsin. The experimental use permit was previously effective from March 14, 1984 to August 31, 1984. The permit is now effective from February 21, 1985 to August 31, 1986. Temporary tolerances for residues of the active ingredient in or on pasturegrasses; pasturegrass hay; milk; and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purpose from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: March 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-8329 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-408; PH-FRL 2812-4]

Certain Companies Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food/feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-408] and the petition number, attention Product Manager (PM-21), at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS-757C), Environmental Protection Agency, Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any party or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

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

Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and food/feed additive petitions (FAB) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

1. *PP 5F3224.* Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. Proposes to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol and its metabolites as follows:

a. The fungicide and its metabolite 4-(4-chlorophenoxy)-2,2-dimethyl-4-(*H*-1,2,4-triazol-1-y1)-1,3-butanediol in or on the commodities grapes at 0.5 part per million (ppm), wheat, grain at 0.75 ppm; wheat, green forage at 85.0 ppm; and wheat, straw at 17.0 ppm.

b. The fungicide and its metabolite containing chlorophenoxy and triazole moieties in or on the commodities meat, fat, and meat byproducts (mbyp) of cattle, goats, hogs, horses and sheep at 2.5 ppm; meat, fat, and mbyp of poultry and eggs at 0.01 ppm; and milk at 0.1 ppm.

The proposed analytical method of determining residues is gas liquid chromatography.

2. *FAP 5H5458.* Mobay Chemical Corp. Proposes to amend 21 CFR Parts 193 (food) and 561 (feed) by establishing a regulation permitting residues of the above fungicide and its metabolite 4-(4-chlorophenoxy)-2,2-dimethyl-4-(1*H*-1,2,4-triazol-1-y1)-1,3-butanediol in or on the following commodities:

CFR affected	Commodities	Parts per million (ppm)
21 CFR Part 193	Grape juice	0.6
	Wheat, milled fractions (except flour)	3.5
21 CFR Part 561	Grape pomace (wet and dry)	2.5
	Raisin waste	1.6

II. Amended Petition

PP 7E1941. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. EPA issued a notice, published in "the **Federal Register** of September 29, 1982 (47 FR 42805), which announced that ICI Americas Inc. had submitted PP 7E1941 to the Agency proposing to amend 40 CFR Part 180 by establishing tolerances

for the residues of the fungicide 5-butyl-2-(ethylamino)-4-hydroxy-6-methylpyrimidine in or on cantaloupe melons at 0.1 ppm.

ICI Americas Inc. has amended the petition by increasing the tolerance level on cantaloupe melons from 0.1 ppm to 0.2 ppm. The proposed analytical method for determining residues is gas chromatography using a nitrogen detector.

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)); 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))).

Dated: March 28, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-8029 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G3017/T483; PH-FRL 2812-5]

Imazalil; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the fungicide imazalil in or on the raw agricultural commodities group cucurbit vegetables and fruiting vegetables group (except cucurbits). These temporary tolerances were requested by Janssen Pharmacentica and Pennwalt Corp.

DATE: These temporary tolerances expire December 30, 1986.

FOR FURTHER INFORMATION CONTACT:

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

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1900).

SUPPLEMENTARY INFORMATION: Janssen Pharmacentica, P.O. Box 344, Bear Tavern Rd., Washington Crossing, NJ 08560, and Pennwalt Corp., 1713 S. California Ave., Monrovia, CA 91016, requested in pesticide petition PP 4G3017 the establishment of temporary tolerances for residues of the fungicide imazalil (1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy) ethy1]-1*H*-imidazole and its metabolite 1-(2,4-dichlorophenyl)-2-(1*H*-imidazole-1-y1)-1-ethanol in or on the raw agricultural commodities group cucurbit vegetables at 10 parts per million (ppm) and fruiting vegetables group (except cucurbits) at 10.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permits 43813-EUP-1, 43213-EUP-2 and 2792-EUP-1, which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Janssen Pharmacentica and Pennwalt Corp must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 30, 1986. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: March 28, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-8023 Filed 4-9-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-735-DR]

Amendment to Notice of a Major-Disaster Declaration; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-735-DR), dated March 29, 1985, and related determinations.

DATED: April 2, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Illinois, dated March 29, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1985:

Brown, Crawford, Green, Jersey, LaSalle, Marshall, Schuyler, Scott, and Whiteside Counties as adjacent counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83-516, Disaster Assistance. Billing Code 6718-02.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-8542 Filed 4-9-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Form Revision

AGENCY: Federal Financial Institutions Examination Council (Examination Council).

ACTION: Adoption of revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC Form 002).

SUMMARY: The Examination Council has adopted revisions to FFIEC Form 002. The Council's Notice or Request for

Comments on proposed revisions appeared in the **Federal Register** on July 26, 1984. The comment period originally expired on September 10, 1984 but was extended to October 31, 1984. After consideration of all comments and after making appropriate changes, the Council adopted the revised FFIEC Form 002 on March 12, 1985 for implementation with the September 30, 1985 report.

FOR FURTHER INFORMATION CONTACT: William A. Ryback, Office of the Comptroller of the Currency, Washington, DC 20219, (202/447-0413); Stanley J. Sigel, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202/452-2696); Hugh W. Conway, Federal Deposit Insurance Corporation, Washington, 20429, (202/389-4345).

SUPPLEMENTARY INFORMATION: The Examination Council, pursuant to section 1006(c) of Title 10 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3305) has adopted for federal supervisory agency implementation a revision of FFIEC Form 002, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks. The revision will go into effect with the September 30, 1985 report.

The comment period for the proposed revision ran from July 26, 1984 through October 31, 1984. The Council had particularly requested comments on the following features of the proposal issued for public comment:

- Separate identification of specific data on International Bank Facilities (IBFs) to allow the elimination of the quarterly IBF report (FR 2074);
- Addition of selected income and expense information;
- Addition of an allowance and provision for loan losses;
- Addition of a schedule for past due loans;
- Addition of a schedule on commitments and contingencies; and,
- Public disclosure provisions.

In response to its request for comments, the Council received fifteen letters of which eight were from foreign banks, three were from associations representing foreign banks, two were from Federal District Banks, one was from a commercial bank, and one was from a U.S. Government Agency.

In general, the respondents supported the reporting of IBF data in the FFIEC 002, but objected to the public disclosure of the selected income and expense information, schedule for past due loans, and the allowance and provision for loan losses. In addition, reaction to the reporting of selected income and expense information, past due loans, and the allowance and provision for loan losses, regardless of confidentiality, was generally negative while the addition of a schedule on commitments and contingencies drew little response.

More specifically, no negative comments were received regarding the proposal to incorporate the reporting of IBF data into the FFIEC 002. The Federal Reserve Board's quarterly IBF report (FR 2074) will be eliminated upon implementation of the revised FFIEC 002. Some comments were received, however, suggesting that the form in which the Council proposed to collect IBF data should be modified to simplify the reporting for branches and agencies. Accordingly, the Council replaced the column from which IBF data would have been derived by subtraction with a column in which IBF data will be reported directly.

The majority of respondents, which included the foreign banks and the associations representing foreign banks, objected to the public disclosure of the proposed selected income and expense information, past due loans, and the allowance and provision for loan losses. The foreign banks objected to the public availability of this information primarily on the grounds that such information, disclosed on an individual office basis, is not meaningful in the assessment of the performance of the entire bank. The disclosed information, therefore, could create the potential to mislead the public in assessing such performance, especially when made available through an official reporting requirement. In addition, the foreign banks believe that such disclosure, on an individual office basis, would be discriminatory toward non-U.S. banks since U.S. chartered banks are not required to disclose such information on an individual office basis. In recognition of these views, the Council decided that this information, to the extent required to be reported in the revised 002, should be held confidential. Schedule M, "Due from/Due to Related Institutions in the U.S. and in Foreign Countries," is currently confidential and will continue to be confidential. An additional line item will be added to Schedule M to secure information on the balance of any allowance for loan losses to the extent that such a balance exists on the branch's or agency's books.

Many of the foreign bank respondents questioned the supervisory value of income and expense data for branches, even were it to be kept confidential. The Council gave serious consideration to this concern and has asked for further staff study on the matter. If the staff study results in a defensible proposal to collect income and expense data, the Council will look again at the question. In any case, the collection of income and expense data will not begin any earlier than March 31, 1986.

The Federal Reserve, which collects and processes the 002 report on behalf of all three federal bank supervisory agencies, will now submit the revised report to the Officer of Management and Budget (OMB) for its approval, in accordance with Section 3507 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.12. Once OMB approval has been received, instructions and sample copies of the revised report will be available from the Federal Financial Institutions Examination Council, 1776 G Street, NW., Suite 701, Washington, DC 20006, and will be distributed directly to all U.S. branches and agencies of foreign banks.

Dated: April 5, 1985.

Robert J. Lawrence,

Executive Secretary, FFIEC.

[FR Doc. 85-8569 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Concorde/Nopal Line Petition

On January 23, 1985, Concorde/Nopal Line (Concorde/Nopal) petitioned the Federal Maritime Commission pursuant to section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 876) to issue rules to meet or adjust conditions which Concorde/Nopal alleges are unfavorable to shipping in the U.S./Venezuela trade. Although the Commission notified the Department of State and the public of its intention to issue a proposed rule to meet or adjust the apparently unfavorable conditions, that action was deferred at the request of Concorde/Nopal which informed the Commission on February 13, 1985 that it expected to reach an amicable resolution of the matter in consultations with the Venezuelan Ministry of Transportation and Communication.

Concorde/Nopal has again requested that the Commission defer action on its petition in the expectation that the matter will be resolved by April 12, 1985. The Commission will, accordingly, defer further action on the proposed rule and the petition until after April 15, 1985. The Commission does so with the understanding that Concorde/Nopal will inform the Commission in writing by April 15, 1985 of the status of its application to the Venezuelan Ministry of Transportation and Communications to carry commercial cargoes in the trade and the results of its consultations with officials of the Ministry.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8539 Filed 4-9-85; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 84-34]

Shipping Conditions in the U.S./Argentina Trade; Rulemaking Petition

On September 21, 1984 Ivaran Lines petitioned the Commission for issuance of rules to meet or adjust conditions alleged to be unfavorable to shipping in the U.S. trades with Argentina resulting from laws, decrees and actions of the government of Argentina and certain Argentine-flag carriers. Ivaran's petition focused in particular on the effects of Argentine government Resolution 619 which restricts the carriage of Argentine export cargoes to the U.S. to members of a northbound pooling agreement. Ivaran is not currently a member of this agreement. The Commission published notice of the petition in the **Federal Register** inviting the public to comment on the petition. (49 FR 40097, October 12, 1984). The Commission also asked the Departments of State and Transportation to attempt to reach an informal resolution of the problem through government-to-government initiatives.

The Departments of State and Transportation have informed the Commission that they have received informal assurances from Argentine authorities that "they are not enforcing and do not intend to enforce" Argentine government Resolution 619, and that Ivaran continues to have access to the northbound U.S./Argentine trade. In addition, Ivaran Lines requested on April 3, 1985 that the Commission defer consideration of its petition for three weeks so that it may further pursue possible resolution of the issues raised in its petition through its own contacts with U.S. government officials and others.

The Commission will, accordingly, defer further consideration of Ivaran's petition until the week of April 29, 1985. The Commission does so with the understanding that Ivaran Lines will inform the Commission in writing by April 26, 1985 of its current status in the trade, the results of its consultations with U.S. and Argentine officials, and its intentions with respect to disposition of the petition pending before the Commission. By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8590 Filed 4-9-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 4, 1985.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve Systems, Washington, D.C. 20551 (202-452-3829)

OMB Desk Officer— Robert Neal — Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for OMB Approval To Extend With Revision

1. Report title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

Agency form number: FFIEC 002

OMB Docket number: 7100-0032

Frequency: Quarterly

Reporters: U.S. banches and agencies of foreign banks.

Small businesses are not affected.

General description of report: This information collection is mandatory [12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), 3102(b)]; and is given confidential treatment [5 U.S.C. 552(b)(8)].

This report provides balance sheet information from all U.S. branches and agencies of foreign banks required for the supervisory and regulatory requirements of the International Banking Act of 1978. Additional uses of the data are to augment the bank credit, loan, and deposit information needed for monetary policy consideration.

Board of Governors of the Federal Reserve System, April 4, 1985.

James McAfee

Associate Secretary of the Board.

[FR Doc. 85-8525 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

First National State Bancorporation 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, indentifying 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 May 2, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *First National State Bancorporation*, Newark, New Jersey; to acquire 100 percent of the voting shares of First Fidelity Bank, Princeton, West Windsor, New Jersey.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Blue Water Bancshares, Inc.*, Port Huron, Michigan; to become a bank holding company by acquiring 80.4 percent of the voting shares of Peoples Bank of Port Huron, Port Huron, Michigan.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *First Commerce Bancorp, Inc.*, Phoenx, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of First National Commerce Bank, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, April 3, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8522 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

FSB Bancorporation et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than May 2, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *FSB Bancorporation*, Decatur, Alabama; to acquire People Insurance Company, Birmingham, Alabama, thereby engaging in the activities of underwriting credit life, accident and health insurance. These activities would be conducted in the State of Alabama.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Byron Bancshares, Inc.*, Byron, Illinois; to acquire Ives Insurance Agency, Byron, Illionis, thereby engaging in general insurance activities including the sale of accident and health insurance, fire and casualty insurance and life insurance. These activities would be performed within a 20 mile radius of Byron, Illinois.

Board of Governors of the Federal Reserve System, April 4, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8523 Filed 4-9-85; am]

BILLING CODE 6210-01-M

Indian Head Banks, Inc., et al.; Notice of Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the office 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, indentifying 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 May 1, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Indian Head Banks, Inc.*, Nashua, New Hampshire; to engage *de novo* through its subsidiary, Indian Head Mortgage Servicing Corp., Nashua, New Hampshire, in the activities of making, acquiring and servicing loans or other extensions of credit for its own account or for the account of others as would be made by a mortgage company.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, First Bank System Community Development Corporation, Minneapolis, Minnesota, in the activities of making debt and equity investments in projects designed primarily to promote community welfare.

Board of Governors of the Federal Reserve System, April 4, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8524 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on February 12-13, 1985, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $4 billion to $6 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on March 26, 1985.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, April 3, 1985.

Stephen H. Axilrod,

Secretary.

[FR Doc. 85-8648 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on March 26, 1985, the Committee amended its Authorization for Domestic Open Market Operations effective immediately, to raise from $4 billion to $6 billion the limit in paragraph 1(a) on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities. As amended, paragraph 1(a) of the Authorization for Domestic Open Market Operations reads as follows:

Authorization for Domestic Open Market Operations

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, to the extent necessary to carry out the most recent domestic policy directive adopted at a meeting of the Committee:

(a) To buy or sell U.S. Government securities, including securities of the Federal Financing Bank, and securities that are direct obligations of, or fully guaranteed as to principal and interest by, any agency of the United States in the open market, from or to securities dealers and foreign and international accounts maintained at the Federal Reserve Bank of New York, on a cash, regular, or deferred delivery basis, for the System Open Market Account at market prices, and, for such Account, to exchange maturing U.S. Government and Federal agency securities with the Treasury or the individual agencies or to allow them to mature without replacement; provided that the aggregate amount of U.S. Government and Federal agency securities held in such Account (including forward commitments) at the close of business on the day of a meeting of the Committee at which action is taken with respect to a domestic policy directive shall not be increased or decreased by more than $6.0 billion during the period commencing with the opening of business on the day following such meeting and ending with the close of business on the day of the next such meetings.

By order of the Federal Open Market Committee, April 3, 1985.

Stephen H. Axilrod,

Secretary.

[FR Doc. 85-8649 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of February 12-13, 1985

In accordance with §217.5. of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on February 12-13, 1985.[1]

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests that real GNP expanded at a moderate pace in the fourth quarter, reflecting some strengthening in late 1984 after several months of considerably reduced growth, and there was evidence of continued moderate expansion in early 1985. Total retail sales rose in January at about the same pace as the average for November and December, while the decline in housing starts appears to have ended. Industrial production and nonfarm payroll employement increased appreciably in the November-December period and nonfarm payroll employment rose substantially further in January. The civilan unemployment rate rose slightly in January to 7.4 percent. Information on business spending suggests less rapid exansion in outlays for fixed investment, following exceptional growth earlier; businesses also appear to have made substantial progress in adjusting their inventories. During 1984 broad measures of prices generally increased at rates close to those recorded in 1983, and the index of average hourly earnings rose somewhat more slowly.

The Foreign exchange value of the dollar against a trade-weighted average of major foreign currencies has continued to appreciate strongly since mid-December. After the announcement on January 17 by the G-5 Ministers of Finance and Central Bank Governors regarding coordinated intervention in exchange markets, and subsequent operations, the dollar's rise moderated somewhat. The merchandise trade deficit declined sharply in December and for the fourth quarter as a whole, primarily because of a large drop in imports from the high rate in the third quarter. Nevertheless, the deficit for the full year 1984 was substantially higher than in 1983.

After growing little on balance since early summer, M1 expanded at a rapid pace in late 1984 and early 1985. The broader aggregates also expanded rapidly in recent months. For the period from the fourth quarter of 1983 to the fourth quarter of 1984, M1 grew at a rate of about 5¼ percent, somewhat below the midpoint of the Committee's range for the year, and M2 increased at a rate of about 7¾ percent, a bit above the midpoint of its longer-run range. Both M3 and total domestic nonfinancial debt expanded at rates above the Committee's ranges for the year, reflecting vary large government borrowing and strong private credit growth, boosted in part by the unusual size of merger-related credit activity. Short-term interest rates have risen somewhat on balance since the December meeting of the Committee, but long-term rates are about unchanged to a little lower. On December 21, the Federal Reserve approved a reduction in the discount rate from 8½ to 8 percent.

The Federal Open Market Committee seeks to foster monetary and financial conditions that well help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at this meeting to establish ranges for monetary growth of 4 to 7 percent for M1, 6 to 9 percent for M2, and 6 to 9½ percent for M3 for the period from the fourth quarter of 1984 to the fourth quarter of 1985. The associated range for total domestic nonfinancial debt was set at 9 to 12 percent for the year 1985. The Committee agreed that growth in the monetary aggregates in the upper part of their ranges for 1985 may be appropriate, depending on developments with respect to velocity and provided that inflationary pressures remain subdued.

The Committee understood that policy implementation would require continuing appraisal of the relationships not only among the various measures of money and credit but also between those aggregates and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

In the implementation of policy for the immediate future, taking account of the progress against inflation, remaining uncertainties in the business outlook, and the strength of the dollar in the exchange markets, the Committee seeks to maintain reserve conditions characteristic of recent weeks. Should growth in M1 appear to be exceeding an annual rate of around 8 percent and M2 and M3 a rate of around 10 to 11 percent during the period from December to March, modest increases in reserve pressures would be sought, particularly if business activity is rising at a satisfactory rate and exchange market pressures diminish. Lesser restraint on reserve position would be acceptable in the event of substantially slower growth in the monetary aggregates, particularly in the context of sluggish growth in economic activity and continued strength of the dollar in foreign exchange markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

[1] The Record of policy actions of the Committee for the meeting of February 12-13, 1985, if filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

By order of the Federal Open Market Committee, April 3, 1985.

Stephen H. Axilrod,

Secretary

[FR Doc. 85-8646 Filed 4-9-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85F-0123]

Eastman Chemicals Division, Eastman Kodak Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Eastman Chemicals Division, Eastman Kodak Co., has filed a position proposing that the food additive regulations be amended to provide for the safe use of non-oriented ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer in contact with foods containing up to 25 percent (by volume) of aqueous alcohol.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3856) has been filed by Eastman Chemicals Division, Eastman Kodak Co., Kingsport, TN 37662, proposing that § 177.1315 *Ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer* (21 CFR 177.1315) be amended to provide for the safe use of non-oriented ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer in contact with foods containing up to 25 percent (by volume) of aqueous alcohol.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 2, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-8537 Filed 4-9-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPO-53-PN]

Medicare Program; Assignment and Reassignment of Home Health Agencies to Designated Regional Intermediaries

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: Section 1816(e)(4) of the Social Security Act (as amended by Section 2326(b) of the Deficit Reduction Act of 1984, Pub. L. 98-369) requires that the number of regional intermediaries designated to service freestanding home health agencies (HHAs) be limited to not more than ten. In accordance with Section 1816(e)(4) of the Act and existing regulations, this notice announces our proposal to designate ten regional intermediaries to process the workload of these HHAs, the States each intermediary would service, the general criteria used to select these intermediaries, and the procedures we plan to use during the change-over period. This notice also announces our tentative selections of designated regional intermediaries.

The goal of this notice and the legislation on which it is based is to achieve more consistent and effective administration of the home health benefit under the Medicare program.

DATE: To assure consideration, comments must be received by June 10, 1985.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-53-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 2090 Independence Ave., SW., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Toba M. Winston, (301) 597-0471.

Regarding intermediary selection

Norman Fairhurst, (301) 594-9498.

Regarding transition

SUPPLEMENTARY INFORMATION:

Background

In the Medicare program, in general, fiscal intermediaries under contract with HCFA are responsible for making payment to providers of services for the covered services they furnish to Medicare beneficiaries.

Section 1816 of the Social Security Act (the Act) gives any group or association of providers the option of nominating an intermediary to determine the proper amount of reimbursement and to make those payments. As amended in 1977 (Pub. L. 95-142), this section authorizes the Secretary, notwithstanding the nomination process, to assign and reassign providers that had nominated intermediaries to other intermediaries and to designate regional or national intermediaries for a class or classes of providers.

In 1980, section 930(o) of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) further amended section 1816(e) of the Social Security Act by adding a new paragraph (4). Section 1816(e)(4) of the Act requires the Secretary to designate regional agencies or organizations that have entered into an agreement under Section 1816 of the Act to perform functions under that agreement for freestanding home health agencies (HHAs) in the region. (For purposes of this notice, we consider a freestanding HHA as one that is not a subdivision of another Medicare provider of services, which are hospitals, skilled nursing facilities, comprehensive outpatient rehabilitation facilities and hospices.)

Section 1816(e)(4) of the Act also requires that if an HHA is hospital-affiliated (i.e., the hospital and HHA are under common control) the Secretary shall assign that HHA to a regional intermediary only if the Secretary, after applying published criteria relating to administrative efficiency and effectiveness, determines that the assignment would result in the more effective and efficient administration of the Medicare program. We are also applying this approach to HHAs that are affiliated with Medicare providers of service other than hospitals. An HHA is determined to be provider-affiliated when it is an integral and subordinate part of a Medicare provider and is operated with other departments of the

provider under common licensure, governance, and professional supervision; that is, all services of both the provider and the HHA are fully integrated. The existence of either (1) an agreement between an HHA and a Medicare provider with respect to the referral of patients or (2) a share-service arrangement (a common arrangement recognized by both Medicare and Medicaid) does not necessarily mean an HHA is provider-affiliated and is not considered in determining the status of the facility.

To implement these provisions of Section 1816(e)(4) of the Act, we amended our regulations (42 CFR 421.117) to require that all freestanding HHAs serviced by a nominated intermediary be serviced instead by a regional intermediary designated by HCFA (47 FR 38535, September 1, 1982). At that time we defined, in the preamble to those amendments, "regional" as meaning "State" and, therefore, we designated one intermediary to service freestaning HHAs in each State.

More recently, we amended our regulations (42 CFR 421.103) concerning providers' options to elect to receive payments directly from HCFA rather than through a fiscal intermediary (49 FR 3648, January 30, 1984). These regulations also clarified our authority to contract out the workload of these freestanding HHAs that dealt directly with us instead of these freestanding HHAs that dealt directly with us instead of through fiscal intermediary. Effective February 29, 1984, we required the direct dealing freestanding HHAs to receive payments from the designated regional intermediaries. In addition, we made available to all HHAs the option of requesting an alternative designated regional intermediary if the HHA could demonstrate that such an arrangement would be consistent with the effective and efficient administration of the Medicare program.

All freestanding HHAs have now been transferred to the 47 regional intermediaries (an intermediary may have the responsibility to service HHAs in more than one State). However, Section 2326 of the Deficit Reduction Act of 1984 (Pub. L. 98-369) again amended Section 1816(e)(4) of the Social Security Act. By not later than July 1, 1987, HCFA is required to reduce the number of regional intermediaries designated to service freestanding HHAs to not more than ten.

Proposed Actions

We considered designating as few as one national intermediary to as many as ten intermediaries. We are proposing to reduce to ten the number of regional intermediaries that would service HHAs. With ten, as compared to fewer intermediaries, there would be smaller distribution of workload and providers, resulting in greater potential for first-hand knowledge of the HHA provider communities and less administrative complexity, which should lead to better service to HHAs. Selecting ten intermediaries would also offer the least risk of transition problems since it would require reassigning fewer providers. Additionally, we feel that selecting fewer than ten intermediaries at this time would limit flexibility to HCFA with respect to both short-term (e.g., dealing with specific intermediary problems) and long-term (e.g., future consolidation and/or specialization) contingency planning. In the future, one or more of the ten selected intermediaries may cease to serve as an HHA intermediary. In that event, we reserve the right to either fill the vacancy(ies) or to operate with fewer than ten intermediaries.

It should be noted that the areas proposed to be serviced by each intermediary follow HCFA regional configurations, with the following exceptions. We propose that both the Atlanta and Chicago Regions be divided into two areas, with each area serviced by a separate intermediary. We also propose combining the Kansas City and Denver Regions under one intermediary and the Seattle and San Francisco Regions under another intermediary. We are proposing these exceptions to the standard HCFA regional configuration in order to provide a better distribution of providers and bill volume per intermediary.

In making our tentative selections, we did not use a precise mathematical formula for ranking the intermediaries; rather we considered each intermediary's performance against an entire array of criteria and compared it against other existing intermediaries available within the proposed regional configurations. In tentatively selecting the proposed ten intermediaries, the major criteria we used included each intermediary's electronic data processing capability and its past performance as measured by HCFA's fiscal year 1983 Contractor Performance Evaluation Program (CPEP). (FY 84 CPEP results are only now becoming available. We plan to review our tentative selections in light of FY 84 scores once they are available.) In addition, we evaluated each intermediary's performance specific to servicing HHAs, including evaluation of performance in the following areas:

- Ensuring that coverage and payment requirements are met;
- Ensuring that correct utilization determinations are made;
- Establishing interim payments for participating HHAs to approximate Medicare reimbursable costs as closely as possible;
- Accurately applying principles of reimbursement to ensure that only reasonable and allowable costs of furnishing covered services to Medicare beneficiaries are reimbursed to HHAs;
- Completing accurate coverage compliance reviews;
- Completing timely HCFA cost report settlements; and
- Processing reconsideration requests timely and accurately.

In addition, we attempted to evaluate an intermediary's performance in the area of provider relations; e.g., whether the intermediary provides adequate training to providers, whether it responds to telephone and written inquiries from HHAs promptly, and whether it demonstrates a willingness to communicate coverage and reimbursement policies fully to HCFA providers. In this regard, we have taken into account unsolicited comments from some home health agency associations, as well as individual HHA providers.

Furthermore, we considered an intermediary's past performance and cooperation in implementing HCFA initiatives in a timely and cost effective manner. Also with an eye to minimizing disruption, we looked at the number of providers that would need to be reassigned based on various intermediary selections and the percentage of workload increase for a selected intermediary.

We wish to stress that we have not come to any final conclusions concerning these selections and therefore reserve the right to make changes by adding an organization not previously listed and deleting one that is listed once we evaluate comments and evaluate more recent performance data. Our tentative selections to service the freestanding HHAs in the indicated States and the District of Columbia and Puerto Rico are as follows:

1. Associated Hospital Service of Maine—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

2. The Prudential Insurance Company of America*—New Jersey, New York, the Virgin Islands, and Puerto Rico.

3. Blue Cross of Greater Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.

4. Blue Cross and Blue Shield of South Carolina—Kentucky, North Carolina, South Carolina, and Tennessee.

5. Aetna Life and Casualty—Alabama, Florida, Georgia and Mississippi.
6. Blue Cross and Blue Shield of Michigan—Indiana, Michigan and Ohio.
7. Health Care Service Corporation (Chicago, Illinois)—Illinois, Minnesota and Wisconsin.
8. New Mexico Blue Cross and Blue Shield, Inc.—Arkansas, Louisiana, New Mexico, Oklahoma and Texas.
9. Blue Cross of Iowa, Inc.*—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.
10. Blue Cross of California*—Alaska, Arizona, California, Hawaii, Idaho, Oregon, Nevada and Washington.

(Intermediaries annotated with an asterisk (*) would also continue to serve as alternative designated regional intermediaries.)

The current provision of 42 CFR 421.117(e), which allows HHAs to request to receive payment from one of three alternative designated regional intermediaries, depending upon the State in which the HHA is situated, is not affected by this proposal. Those HHAs that do not wish to be serviced by the designated regional intermediary may request to be serviced by the alternative designated regional intermediary. We will, in accordance with the provisions of § 421.106, evaluate the request to determine whether the change is consistent with the effective and efficient administration of the program. An HHA that has already been approved to use an alternative designated regional intermediary, as provided in § 421.117, is not affected by this notice (since we are not selecting new alternative designated intermediaries), unless such an HHA wishes to be serviced by the new designated regional intermediary.

Under 42 CFR 421.117, an HHA chain not desiring to receive payment from more than one designated regional intermediary has the opportunity to request to be serviced by a single designated regional intermediary. Alternatively, the chain may request to be serviced by one lead intermediary with the assistance of the local designated regional intermediary. These options will also continue to be made available. The lead, local, or a single intermediary must, as required by the regulations, be a currently designated regional intermediary.

Implementation

We expect that approximately 60 percent of freestanding HHAs participating in the Medicare program would be reassigned to another intermediary under the proposed configuration and intermediary designations. We also expect a final notice concerning this subject to be issued sufficiently in advance of FY 1986 that the transfers can begin before then.

A. Transfer Schedule

Providers would receive at least 60 days' notice prior to the date of their transfer. We intend that the provider transfer date be based on the provider cost report year ending date. We would consider other transfer dates if the receiving intermediary is not ready to handle unique automated billing situations.

B. Assurance of Cash Flow

We plan to make every effort to assure that there will be no interruption of cash flow to HHAs. We would work closely with the designated intermediary and HHAs to identify and resolve problems that could potentially interrupt HHAs' cash flow.

C. Transition Costs

Provider cost incurred due to the transfer would be allowable and reimbursable under established Medicare reimbursement principles. If the HHA's costs exceed the limits as the result of the required transfer to a designated regional intermediary, an exception to the limits may be granted, to the extent that the costs are reasonable, attributable to the circumstances specified, separately indentified by the provider, and verified by the intermediary. Requests for transition cost exceptions would be processed by HCFA consistent with the provisions for handing other exceptions requested under 42 CFR 405.460(f).

D. Procedures During the Change-Over Period

Each HHA would be notified by mail of procedures to follow during the change-over process. We plan to arrange for an orderly transition of service.

1. HHAs would submit bills for services provided before the transfer date to the outgoing intermediary. This same intermediary would be responsible for the settlement of the currently due cost report, prior unsettled cost reports, and any appeals arising from those cost reports.

2. All bills for services provided on and after the transfer date would be submitted to the receiving intermediary.

3. We would continue the ombudsmen-type positions that have been established in each HCFA region to assist providers in resolving any problems encountered during the transition or thereafter.

Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any rules that are considered major rules because they would be likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or have an adverse impact on competition, employment, productivity, or innovation. This document contains our general statement of policy about how we propose to interpret Section 1816 (e)(4) of the Social Security Act and implementing regulations. We believe it is not the type of "rule" subject to the Executive Order. Nevertheless, in the spirit of the Executive Order, we are voluntarily providing the following information.

We project that approximately 2,400 freestanding HHAs would be assigned from their present intermediary to a different regional intermediary, and that we would incur one-time administrative costs of $3 million for extensive travel and training related to the reassignment of these HHAs. We expect to achieve some savings in program expenditures as a result of the consolidation of HHAs and the reduction in the number of intermediaries servicing HHAs. Savings would be associated with economies of scale that would lower unit processing costs, with improved reimbursement determinations, and with better control of utilization and payments. The potential savings, coupled with the one-time costs, would not exceed the $100 million threshold and would not produce a major increase in cost or prices.

Generally, we consider an adverse effect on employment, productivity, innovation, or competition to be significant only if that effect would be equivalent to an economic loss of $10 million or more, and the adverse effect would result in a 10 percent or greater change in a year for a common measurement of an economic variable of the affected entities. For the reasons discussed above, we expect these proposed reassignments to have beneficial, rather than adverse, effects on productivity, and possibly on innovation. Further, although the reassignment of HHAs to fewer intermediaries may result in a reduced level of employment by those intermediaries that would no longer service freestanding HHAs, we do not believe this would be of a significant magnitude. Finally, we have determined that this proposal would not have an adverse effect on competition. Under the statute, there is not a competitive

"market" for intermediary services but rather procedures for administrative designations.

For these reasons, we have determined that our proposal would not meet any of the criteria for identifying major rules. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires us to perform and publish an initial regulatory flexibility analysis for any proposed rule (that is, a rule for which notice and comment procedures are required under 5 U.S.C. 553) unless the Secretary certifies that the rule would not result in a significant impact on a substantial number of small entities. This document contains our general statement of policy about how we propose to interpret Section 1816(e)(4) of the Social Security Act and implementing regulations. We believe it is not the type of "rule" subject to the Regulatory Flexibility Act. Nevertheless, in the spirit of the Act, we are voluntarily providing the following information.

This proposal would require reassignment of a substantial number of freestanding HHAs to designated regional intermediaries, and, for purposes of regulatory flexibility analysis, we consider all providers and other entities participating in Medicare to be small entities. However, we have determined that the impact on the affected entities would not be significant.

We plan to minimize the impact on the affected HHAs. We intend to assure a continued cash flow for each of the affected HHAs, to base reassignment dates upon the provider cost report year ending dates and to provide an exception for those HHAs whose costs exceed their limits as a result of transition costs incurred through the redesignation. For these reasons, we believe, and the Secretary certifies, under 5 U.S.C. 605(b), that this proposal would not result in a significant impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

(Section 1816(e)(4) of the Social Security Act; 42 U.S.C. 1395h) (Catalog of Federal Domestic Assistance Program No. 13. 773, Medicare—Hospital Insurance)

Dated: March 7, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85–8540 Filed 4–9–85; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Alaska; correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; correction.

SUMMARY: This document corrects a notice of availability that appeared on page 8796 in the **Federal Register** of Tuesday, March 5, 1985. This action is necessary to correct the date by which comments should be submitted.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786–3399.

The following correction is made in FR DOC. 85–5245 appearing on 8796 in the issue of March 5, 1985: On page 8796, column one, second paragraph, first sentence, **"DATES"** is corrected to read "Comments on the final CCP/EIS must be submitted on or before June 7, 1985, to receive consideration by the Regional Director.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85–8532 Filed 4–9–85; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NM 52395]

Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that a 162.57-acre withdrawal for the Bureau of Reclamation continue for an additional 50 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

DATE: Comments should be received by July 9, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87504.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, New Mexico State Office, 505–988–6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretarial Order of December 22, 1928, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 21 S., R. 26 E.,
Sec. 23, Lots 2, 3, 6, 7.
The area described contains 162.57 acres.

The purpose of the withdrawal is for use in connection with the Brantley and Carlsbad projects. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: March 29, 1985.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 85–8560 Filed 4–9–85; 8:45 am]

BILLING CODE 4310–FB–M

[AR–034183]

Public Lands Exchange; Mohave County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands in Mohave County, Arizona.

SUMMARY: The following public lands are being considered for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 19 W.,
Section 6, lots 1 thru 4, inclusive S½N½, and S½;
Section 7, SW¼;
Section 18, all (excluding mineral patent 1220920).
T. 23 N., R. 20 W.,
Section 12, all (excluding mineral patent 1220920);
Section 13 NE¼, E½NW¼, and S½ (excluding mineral patent 1220920);
Section 14, all.

Comprising 3209.57 acres, more or less, subject to prior valid existing rights.

In exchange for these lands, the federal government would acquire approximately 4,320 acres from Walter MacEwen of Westlake Village, California. The offered lands are within Desert bighorn sheep range in the Black Mountains northwest of Kingman, Arizona.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response period of forty-five (45) days during which public comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1(b), shall segregate the public lands described herein 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. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

This action is necessary to avoid the occurrence of nuisance mining claims that could encumber the public lands while the preparation of an environmental assessment is ongoing. Upon completion of the environmental assessment and land use decision, a Notice of Realty Action shall be published specifying the lands to be exchanged and any reservations of record.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange including a list of the offered lands is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of 45 days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: April 2, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-8563 Filed 4-9-85; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 2323, 2324, and 3783, Blocks 360, 361, and 353, respectively, Eugene Island Area, offshore Louisiana. Proposed Plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on March 25, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 29, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-8554 Filed 4-9-85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 072, Block 12, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject DOCD was deemed submitted on March 29, 1985.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD's available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 29, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-8553 Filed 4-9-85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 1610, 1901, 1966, and 1967, Blocks 65 and 64, South Pass Area, and Blocks 152 and 153, Main Pass Area, respectively, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on March 29, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Mineral Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 29, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–8555 Filed 4–9–85; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Current Schedule of Reviews of Government Versus Contract Operation of Commercial or Industrial Activities and Service Contracts

AGENCY: Agency for International Development, IDCA.

ACTION: Notification of current schedule of reviews.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular A–76, notice is hereby given that the Agency for International Development (AID) intends to conduct reviews of the commercial and industrial activities listed below to identify opportunities for improving their efficiency and cost effectiveness. Based on the results of the reviews cost comparison studies may be performed to determine if one or more of the activities should be performed under contract. Specific invitations for bids or requests for proposals will be announced in the Commerce Business Daily. A contract or contracts may or may not result from each review or cost comparison study. Results of each study can be made available to responding bidders or offerors and other interested parties.

FOR FURTHER INFORMATION CONTACT: Fred Allen, 632–3378, John H. Elgin, 632–3378.

SUPPLEMENTARY INFORMATION: Studies to be made are identified in the following tabulation:

Name of activity	Location of activity	Review start date
Offst. dup. prs. opr.	Washington, D.C.	In process.
Educ/training	Rosslyn, VA	1 Apr. 85.
Computer specialist	Washington, D.C.	3 June 85.
Mail and file	do	1 Oct. 85.
Motor pool/ warehsg Voucher examiner.	do	6 Jan. 86.
Audiovosual prod	do	1 Mar. 86.

Dated: April 2, 1985.

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 85–8557 Filed 4–9–85; 8:45 am]

BILLING CODE 5116–01–M

[Redelegation of Authority No. 40.11.2]

Redelegation of Authority to Director, Office of Administration of Justice and Democratic Development, Bureau for Latin America and the Caribbean

I. Pursuant to the authorities delegated to me as Deputy Assistant Administrator for Latin America and the Caribbean, I hereby redelegate to the Director, Office of Administration of Justice and Democratic Development, Bureau for Latin America and the Caribbean, with respect to Regional projects in the Latin American and Caribbean region related to administration of justice and democratic development, the following authorities.

A. Implementing Authorities

Authority to implement, in accordance with the terms of the authorization thereof and in accordance with the applicable statutes and regulations, all grant agreements, and amendments thereto, whether heretofore or hereafter authorized, including authority:

1. To sign Project Implementation Orders (PIO's);

2. To approve contractors, review and approve all grantee contracts financed in whole or in part by an AID grant and review and approve requests for proposals and invitations for bids with respect to such contracts;

3. To prepare, sign and deliver Project Implementation Letters; and

4. To review and approve documents and other evidence submitted by grantees in satisfaction of conditions precedent under such grant agreements.

B. Extension of Terminal Dates.

Authority to extend:

1. The terminal date for meeting conditions precedent for a cumulative period of not to exceed six months;

2. The terminal date for requesting disbursement authorizations for a comulative period of not to exceed one year; and

3. The terminal date for completion of performing services and furnishing goods (PACD) for a cumulative period of not to exceed one year.

II. The authorities hereby redelegated may not be further redelegated, but may be exercised by persons who are performing the functions of the Director, Office of Admnistration of Justice and Democratic Development, Bureau for Latin America and the Caribbean, in an "acting" capacity.

III. Actions within the scope of this redelegation heretofore taken by the Director, Office of Administration of Justice and Democratic Development, Bureau for Latin America and the Caribbean, are hereby ratified and confirmed.

IV. This redelegation of authority is effective immediately.

Dated: March 29, 1985.

Marshall Brown,

Deputy Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 85-8556 Filed 4-9-85; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-209]

Aluminum Frame Fabric-covered Luggage and Components; Decision Not To Review Initial Determination Terminating Investigation on the Basis of Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of the investigation on the basis of a consent order.

SUMMARY: The U.S. International Trade Commission hereby gives notice of its decision not to review an initial determinination (ID) terminating the above-captioned investigation. The ID terminated the investigation on the basis of a consent order signed by complainant Skyway Luggage Company and respondents Baltimore Luggage Company and Nan Zong Leather Products Company, Ltd.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0311.

SUPPLEMENTARY INFORMATION: The Commission has determined that the consent order will have no negative effects on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.

Termination of this investigation on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken pursuant to the authority of 19 U.S.C. 1337 and 19 CFR 210.53.

Notice of the ID was published in the **Federal Register** of March 20, 1985, 50 FR 11252. No petition for review was filed, nor were any comments received from Government agencies or from the public.

Copies of the consent order, the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

By order of the Commission.

Issued: April 4, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8618 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-205]

Certain Dialyzers Using Telescoping Connectors for Fluid Lines; Decision Not to Review Initial Determination Terminating Investigation on the Basis of Consent Order Agreement; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of the investigation on the basis of a consent order agreement.

SUMMARY: On February 15, 1985, the administrative law judge (ALJ) in this investigation, Judge Saxon, issued an initial determination (ID) (Order No. 4) which terminates this investigation on the basis of a consent order agreement incorporating a proposed consent order between complainant Baxter Travenol Laboratories, Inc. and respondent Terumo Corporation.

Termination of this investigation furthers the public interest by conserving Commission resources and those of the parties involved.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0311.

SUPPLEMENTARY INFORMATION: This action is taken pursuant to the authority of 19 U.S.C. 1337 and 19 CFR 210.53.

The Commission has determined that the consent order will have no negative effects on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.

Notice of the ID was published in the **Federal Register** of February 27, 1985, 50 FR 7969. No petition for review was filed, nor were any comments received from Government agencies or from the public.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: April 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8619 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-243 (Preliminary)]

Certain Expansion Tanks From the Netherlands

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from the Netherlands of prepressurized, diaphragm-type expansion tanks for use in closed water systems, which are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On February 14, 1985, a petition was filed with the Commission and the Department of Commerce by Amtrol, Inc., West Warwick, RI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain prepressurized diaphragm expansion tanks and parts thereof [3] for closed water systems from the Netherlands. Accordingly, effective February 14, 1985, the Commission instituted preliminary antidumping investigation No. 731-TA-243 (Preliminary).

Notice of the institution of the Commission's investigation and of a

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure [19 CFR 207.2(i)].

[2] Commissioner Eckes determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the imports.

[3] The petitioner included "parts" of expansion tanks in the petition only in order to deter any evasion of possible antidumping duties on expansion tanks by importing the tanks in semi-finished form or sections, which the petitioner considered to be "parts." Such imports would not be considered to be parts for tariff purposes. Accordingly, the Commission did not include "parts" of expansion tanks in its notice of institution.

public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of March 6, 1985 (50 FR 9140). The conference was held in Washington, DC, on March 8, ,1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 1, 1985. The views of the Commission are contained in USITC Publication 1669 (April 1985), entitled "Certain Expansion Tanks from the Netherlands: Determination of the Commission in Investigation No. 731-TA-243 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: April 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8622 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02

[Investigation No. 337-TA-210]

Certain Motor Graders With Adjustable Control Consoles and Components Thereof; Initial Determination Terminating Investigation on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of investigation on the basis of settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating the above-captioned investigation on the basis of a settlement agreement among complainant Caterpillar Tractor Co. (Caterpillar) and respondents Komatsu Ltd. and Komatsu America Corp. (Komatsu). On March 1, 1985, complainant, respondents, and the Commission investigation attorney filed a joint motion requesting termination of the investigation on the basis of a settlement agreement (Motion No. 210-3). On March 5, 1985, administrative law judge issued an ID accepting the settlement agreement and granting the motion for termination.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: No petitions for review were received and there were no comments from Government agencies or the public.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.51 (19 CFR 210.51).

Copies of the ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: April 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8617 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-202 (Final)]

Tubiar Steel Framed Stacking Chairs From Italy

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-202 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of tubular steel framed stacking chairs, provided for in item 727.70 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination by July 11, 1985, and the Commission will make its final injury determination by July 11, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR part 201).

EFFECTIVE DATE: March 14, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of tubular steel framed stacking chairs from Italy are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on August 10, 1984, by counsel for Frazier Engineering, Inc., Greenfield, IN. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United Sates was materially injured by reason of imports of the subject merchandise (49 FR 39116, Otober 3, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 14, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 3, 1985, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 23, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on May 29, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is May 29, 1985.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 10, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 10, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: April 2, 1985.

By order of the Commission

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8621 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Extension of Deadline for Decision Concerning Review of Initial Determination

AGENCY: International Trade Commission.

ACTION: Three-day extension of deadline for determining whether to review initial determination (ID) concerning the violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation.

SUMMARY: The 45-day deadline for the Commission to determine whether to review the ID was Wednesday, March 27, 1985. (See 19 CFR 210.54(b) and 210.55, as amended at 49 FR 46123 (Nov. 23, 1984).) That deadline has been extended to the close of business on Monday, April 1, 1985.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 1985, the presiding administrative law judge issued an ID holding that certain respondents have violated section 337 in the importation or sale of the subject woodworking machines. On February 20, 1985, the Commission investigative attorney filed a petition for review of portions of the ID. The complainant filed a response opposing the petition.

Under § 210.53(h) of the Commission's rules, the ID would have become the Commission's determination effective March 27, 1985, unless the Commission ordered a review or extended the deadline for its decision concerning a review. (See 19 CFR 210.53(h), as amended at 49 FR 46123 (Nov. 23, 1984).) In light of the number of issues presented in this "more complicated" investigation (see 49 FR 22724 (May 31, 1984)), the Commission decided to extend the deadline for determining whether to review the ID.

Public Inspection

Copies of the ID, the petition for review, the complainant's response, and all other nonconfidential documents on the record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

Issued: April 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8620 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332-204, Competitive Assessment of the U.S. Commuter and Business Aircraft Industries, instituted under the authority of section 332(b) of the Tariff act of 1930 (19 U.S.C. 1332(b)).

Summary of proposal:

(1) Number of forms submitted: two.

(2) Title of form: Competitive Assessment of the U.S. Commuter and Business Aircraft Industries—Questionnaire for Importers of Commuter and/or Business Aircraft and

Questionnaire for Purchasers of Commuter and/or Business Aircraft.

(3) Type of request: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: Firms importing or purchasing commuter and-or business aircraft in the United States.

(6) Estimated number of respondents: 220.

(7) Estimated total number of hours to complete the forms: 3360.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed form and supporting documents may be obtained from Deborah C. Ladomirak (202)–523–0131). Comments about the proposal should be directed to Ms. Francine Picoult, Desk Officer for the U.S. International Trade Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. If you anticipate commenting on a form but find that time to prepare comments will prevent your from submitting them promptly you should advise OMB of your intent as soon as possible. Ms. Picoult's telephone number is (202) 395–7231. Copies of any comments should be provided to Mr. William E. Fry (U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Issued: April 5, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–8627 File 4–9–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–255 (Preliminary)]

Animal Feed Grade DL-Methionine From France

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–255 (Preliminary) under section 733(a) of the Tarriff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason by imports from France of animal feed grade DL-methionine, provided for in item 425.04 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 20, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: April 3, 1985.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth (202–523–0289), Office of Investigations, U.S. International Trade Commission, 701 E Street NW, Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 3, 1985 by Degussa Corp., a U.S. producer of animal feed grade DL-methionine.

Participation in the Investigation

Persons wishing to particulate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on April 26, 1985 at the U.S. International Trade Commission Building, 701 E Street NW, Washington, DC. Parties wishing to participate in the conference should contact Abigail Eltzroth (202–523–0289) not later than April 24 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before April 30 a written statement of the information pertinent of the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be cleared labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: April 5, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–8628 Filed 4–9–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-204]

Certain Pull-Type Golf Carts and Wheels Therefor; Commission Decision Not To Review Initial Determination Terminating Respondents on The Basis of a Settlement Agreement

AGENCY: International Trade Commission.

SUMMARY: Decision not to review initial determination terminating two respondents on the basis of a settlement agreement.

ACTION: The Commission has determined not to review the administrative law judge's initial determination (ID) (Order No. 7) terminating the above-captioned investigation with respect to respondents Diversified Products Corporation and Glotex International, Incorporated, on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

SUPPLEMENTARY INFORMATION: On February 5, 1985, complainants Ajay Enterprises Corporation and Spherex, Inc., and respondents Diversified Products Corp. (DP) and Glotex International, Inc. (Glotex), filed a joint motion to terminate the investigation as to respondents DP and Glotex on the basis of a settlement agreement. The administrative law judge (ALJ) issued an ID granting the joint motion for termination on March 5, 1985. No petitions for review or comments from Government agencies or the public were received.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: April 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8625 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-192]

Certain Spring Balance Arm Lamp Heads; Commission Decision Not to Review Initial Determination; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of certain respondents on the basis of settlement agreements; termination of the investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 9) terminating seventeen respondents on the basis of settlement agreements. The ID granted the following joint motions filed by complainant Luxo Lamp Corp. and named respondents: Motion to terminate BC Imports, Inc. (Motion No. 192-4), and motion to terminate Prestigeline, Inc. (Motion No. 192-5), filed October 19, 1984; motion to to Terminate Fleco Industries, Inc., Lite-Tron, Light World Inc., and Light Fantastic of Texas (Motion No. 192-7); motion to terminate Sansui Industries Co., Ltd. (Motion No. 192-8), and motion to terminate J.K. Gill (Motion No. 192-9), filed October 26, 1984; motion to terminate Associated Graphics, Inc. (Motion No. 192-10), filed October 31, 1984; motion to terminate City Electric, Inc. (Motion No. 192-11), filed November 9, 1984; motion to terminate Pay 'n Pak Stores, Inc. (Motion No. 192-12), filed November 23, 1984; motion to terminate Advanced Tool Technology, Inc. (Motion No. 192-14), filed December 3, 1984; motion to terminate Lightways, Inc. (Motion No. 192-15), filed January 14, 1985; motion to terminate Sternlite Corp. (Motion No. 192-18), motion to terminate Lighting Bug, Ltd., Inc., and Lighting Resource (Motion No. 192-19), and motion to terminate J&D International (Motion No. 192-20), filed January 20, 1985. Complainant Luxo also filed Motion No. 192-13, November 28, 1984, withdrawing the complaints as to respondents Lighting Sources, Charming Products Corp., and Golden H&Y Co. The administrative law judge issued the ID granting the aforementioned motions for termination on February 22, 1985. There being no remaining respondents, the ID also terminated the investigation

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq ., Office of the General Counsel, U.S. International Trade Commission, telepone 202-523-0311.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule § 210.51 (19 CFR 210.51). Notice of the ID was published in the **Federal Register** of March 6, 1985 (50 FR 9141). No petitions for review of the ID were filed nor were any comments received from Government agencies or the public.

Copies of the nonconfidential version of the ID and all other nonconfidential dcuments filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: April 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-8623 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Commission Decision to Review Initial Determination; Schedule for Filing of Written Submissions on Review Issues and on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review portions of the administrative law judge's initial determination that there is a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-.56 of the Commission's Rules of Practice and Procedure (49 FR 46123 (Nov. 23, 1984) to be codified at 19 CFR 210.53-.56)

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq. Office of he General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION: On February 7, 1985, the presiding adminstrative law judge issued an initial determination (ID) holding that there is a violation of section 337 in the importation and sale of certain woodworking machines. The Commission investigative attorney petitioned for review of certain parts of the initial determination pursuant to § 210.54(a) of the Commission's rules.

After examining the petition for review and the response thereto, the Commission has concluded that the following issues warrant review:

1. Whether the overall design appearances of the complainant's 10-inch table saw and 14-inch band saw are nonfuctional and have acquired secondary meaning;

2. The definition of the domestic industry;

3. Whether there is an effect or tendency to substantially injure the domestic industry;

4. Whether the Commission should entertain the complainant's arguments concerning misappropriation, in light of the fact that misappropriation is not one of the alleged unfair acts and practices listed in the notice of investigation;

5. Patent infringement, including the question of whether the Commission should entertain the complainant's arguments concerning the alleged infringement of claim 4 of U.S. letters Patent 3,745,493, in view of the fact that claim 4 is not listed in the notice of investigation; and

6. Whether respondent Leroy International Corp. should be found to be in violation of section 337.

The Commission's review will be limited to the above issues. No other issues will be considered.

In connection with the portions of the ID that the Commission determined not to review, the Commission has adopted the following findings of fact proposed by the parties:

1. Common-law trademark infringement (i.e., the overall design of the 10-inch table saw and the 14-inch band saw), likelihood of confusion—the complainant's proposed findings 77–122;

2. Common-law trademark infringement (i.e., the term "Contractor's Saw")—the Commission investigative attorney's proposed findings 22–48;

3. Registered trademark infringement—the complainant's proposed findings 123–130.2, 146, and 147.2

4. False and deceptive advertising—the complainant's proposed findings 146–147.4 and the Commission investigative attorney's proposed findings 227–239;

5. Passing off—the Commission investigative attorney's proposed findings 240–242;

6. Efficient and economic operation—the complainant's proposed findings 157–173; and

7. The parties—the Commission investigative attorney's proposed findings 1-17.

The Commission also hereby amends conclusions of law 10–11 in the ID to include the activities of the respondents as indicated in the discussion on pages 24–26 of the ID and in the findings of fact adopted listed hereinabove in connection with registered trademark infringement.

If, at the conclusion of the review, the Commission finds that a violation of section 337 has occurred, it may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders that could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of remedy, it must consider the effect of that remedy upon the public interest. The factors that the Commission will consider include the effect that an exclusion order and/or cease and desist orders should have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those that are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting a remedy would have on the public interest.

If the Commission finds that a violation of section 337 has occurred and orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation and interested Government agencies are encouraged to file written submissions on the legal issues under review and on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. The filing deadlines are as follows:

Tuesday, April 16, 1985—written submissions on the review issues;

Tuesday, April 23, 1985—written submissions concerning remedy, the public interest,and bonding; and

Tuesday, April 30, 1985—reply submissions on the review issues and reply submissions on remedy, the public interest, and bonding.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with the final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary not later than the close of business on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the administrative law judge. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary to the Commission.

Notice of this investigation was published in the **Federal Register** of December 15, 1983 (48 FR 55786). See also 49 FR 20767 (May 16, 1984).

Copies of the nonconfidential version of the administrative law judge's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Issued: April 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–8626 Filed 4–9–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-237 (Preliminary) and 731-TA-245-247 (Preliminary)]

Low-fuming Brazing Copper Wire and Rod From France, New Zealand, and South Africa; Determinations

On the basis of the record [1] developed in investigation No. 701-TA-237 (Preliminary), the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from France of low-fuming brazing copper wire and rod [3] which are alleged to be subsidized by the Government of France.

In addition, on the basis of the record developed in investigation No. 731-TA-245 (Preliminary), the Commission determines,[4] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from France of low-fuming brazing copper wire and rod which are alleged to be sold in the United States at less than fair value (LTFV).

The Commission further determines, on the basis of the record developed in investigations Nos. 731-TA-246 and 247 (Preliminary), pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from New Zealand and South Africa of low-fuming brazing copper wire and rod which are alleged to be sold in the United States at LTFV.

Background

On February 19, 1985, petitions were filed with the Commission and the Department of Commerce by counsel on behalf of American Brass Co., Rolling Meadows, IL; Century Brass Products, Inc., Waterbury, CT; and Cerro Metal Products, Inc., Bellefonte, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of low-fuming brazing copper wire and rod from France and New Zealand,[5] and by reason of LTFV imports of low-fuming brazing copper wire and rod from France, New Zealand, and South Africa. Accordingly, effective February 19, 1985, the Commission instituted preliminary countervailing duty investigations Nos. 701-TA-237 and 238 (Preliminary) and preliminary antidumping investigations Nos. 731-TA-245-247 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 27, 1985 (50 FR 7971). The conference was held in Washington, DC, on March 13, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 5, 1985. The views of the Commission are contained in USITC Publication 1673 (April 1985), entitled "Low-Fuming Brazing Copper Wire and Rod from France, New Zealand, and South Africa: Determinations of the Commission in Investigations Nos. 701-TA-237 (Preliminary) and 731-TA-245-247 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.
Issued: April 5, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-8624 Filed 4-9-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Lodwick dissenting.

[3] The term "Low-fuming brazing copper wire and rod" covers brazing wire and rod, of copper, whether or not flux-coated, provided for in items 612.62, 612.72, and 653.15 of the Tariff Schedules of the United States (TSUS).

[4] Commissioner Lodwick dissenting.

[5] Effective April 1, 1985, New Zealand lost its entitlement to an injury determination, and the Commission terminated investigation No. 701-TA-236 (Preliminary). Also, at the same time the cited petitions were filed, counsel for the petitioners filed a countervailing duty petition with Commerce concerning imports of low-fuming brazing copper wire and rod from South Africa. Inasmuch as South Africa is not a signatory to the GATT Subsidies Code, the Commission is not required to make an injury determination.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Safe Drinking Water Act; Township of West Carroll

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 8, 1985, a proposed partial consent decree in *United States* v. *Water and Sewer Authority of the Township of West Carroll*, Civil No. 83-811 (W.D. Pa.), was lodged with the United States District Court for the Western District of Pennsylvania. The proposed partial consent decree requires the Water and Sewer Authority of the Township of West Carroll to comply with the sampling, analysis, reporting, public notification, and record keeping requirements of the Safe Drinking Water Act, and to achieve and maintain compliance with the maximum contaminant levels for turbidity contained in 40 CFR 141.13 by October 1, 1986.

The Department of Justice will receive comments for a period of thirty (30) days from the date of this publication relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Water and Sewer Authority of the Township of West Carroll*, D.J. Ref. 90-5-1-1-1496.

The proposed partial consent decree may be examined at the office of the United States Attorney, 633 United States Post Office and Courthouse, Pittsburgh, Pennsylvania 15219, at the Region III Office of the Environmental Protection Agency, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106 and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed partial consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed partial consent decree, refer to the case, proposed partial consent decree, and D.J. reference number, and include a check payable to the United States Treasury in

the amount of $0.80 ($0.10 per page reproduction charge).

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-8559 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act; International Partners in Glass Research; Emhart Glass Research, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), Emhart Glass Research, Inc., has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the formation of International Partners in Glass Research and (2) the nature and objectives of the partnership. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the partnership and its general area of planned activities are given below.

International Partners in Glass Research, a New York partnership, was formed on December 14, 1984, to undertake a research program by funding research efforts at various research institutions. The following firms are partners:

ACI Ventures, Inc., 1811 Quail Street, Newport Beach, CA 92660

Bayerische Flaschen-glashuettenwereke, Weigand & Soehne GmbH & Co., KG, D-8641 Steinback AM Wald, Federal Republic of Germany

Brockway Research Incorporated, c/o Brockway, Inc., McCullough Avenue, Brockway, PA 15824

Emhart Glass Research, Inc., 123 Day Hill Road, Windsor, CT 06095

Portion Research, Inc., c/o Consumers Glass Co. Limited, 4022 The West Mall, Suite 900, Etobicoke, Ontario M9C 5J7 Canada

Rockware Glass Limited, Headlands Lane, Knottingley, W. Yorks WF11 OHP, England

Yamamura Glass Co., Ltd., 2-113, Higashihama-Cho, Nishinomiya, Japan.

The purpose of the partnership is to conduct a basic research and development program directed to the development of glass containers that will be stronger and lighter than those currently used by members of the glass container industry and to derive income therefrom through the granting of licenses to third parties. Research and development will be undertaken on a distinct project basis—universities, institutes, or industrial research laboratories will be chosen to engage in each specific area of basic research. The areas of research and product development will encompass, but not be limited to, such areas as research of glass composition and properties, strengthening techniques, forming processes, and coatings.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 85-8634 Filed 4-9-85; 8:45 am

BILLING CODE 4410-01-M

National Cooperative Research Act; Portland Cement Assoc., Change in Membership

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), the Portland Cement Association ("PCA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. Specifically, effective Janaury 31, 1985, Centex/Nevada/Texas and, effective March 1, 1985, Lousiville Cement Company resigned from membership in the PCA. Accordingly, at present the members of the PCA are:

Aetna Cement Corporation
Alaska Basic Industries
Arkansas Cement Corporation
Ash Grove Cement Company
Ash Grove Cement West, Inc.
Atlantic Cement Company, Inc.
Blue Circle Inc.
CalMat Co.
Capitol Aggregates, Inc.
Cianbro Corporation
Davenport Cement Company
General Portland Inc.
Genstar Cement Company
Gifford-Hill & Company, Inc.
Ideal Basic Industries, Cement Division
Independent Cement Corporation
Lehigh Portland Cement Company
Lone Star Industries, Inc.
The Monarch Cement Company
Moore McCormack Cement, Inc.
Northwestern States Portland Cement Co.
Rinker Portland Cement Corp.
Rochester Portland Cement Corp.
St. Marys Peerless Cement Co.
St. Marys Wisconsin Cement, Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Co.
Canada Cement Lafarge Ltd.
Ciment Quebec, Inc.
Federal White Cement Ltd.
Genstar Cement Limited
Lake Ontario Cement Limited
Miron Inc.
North Star Cement Limited
St. Lawrence Cement Inc.
St. Marys Cement Limited

In addition, the following equipment suppliers are involved as "Participating Associates," together with PCA members, in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee:

Holderbank Consulting, Ltd.
Humboldt Wedag Company
Centennial Engineering, Inc.
Allis-Chalmers Corp.
Bendy Engineering, M.K./H.K. Ferguson
F.L. Smidth and Company
Claudius Peters, Inc.
Polysius Corp.
The Fuller Company

The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The original notification, identifying the original parties to the venture and describing in general terms the area of planned activities of the venture, is published at 50 FR 5015 (1985).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-8633 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-01-M

United States v. Newell Companies, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulatin and Competitive Impact Statement have been filed with the United States District Court for the District of Connecticut in Hartford, Connecticut, in *United States* v. *Newell Companies, Inc.*, Civil No. N 82-305 (PCD). The Complaint in this case alleges that the acquisition of the Stanley Drapery Hardware Division of The Stanley Works by Newell Companies, Inc. ("Newell") violates Section 7 of the Clayton Act, 15 U.S.C. 18, in that the effect of the acquisition may be substantially to lessen competition in the manufacture and sale of drapery hardware in the United States. Since the acquisition, Newell has operated the acquired business under the trade name Judd Drapery Hardware ("Judd").

The proposed Final Judgment would require Newell to divest Judd within 180 days following entry of the Final

Judgment. The divestiture shall be accomplished through an independent broker, previously selected by the parties. The independent broker will commence efforts to effect divestiture immediately upon the filing of the proposed Final Judgment with the Court. In addition, until the divestiture is completed, the Stipulation and Hold Separate Order entered by the Court, which requires Newell to maintain and operate Judd as a separate and ongoing business enterprise, shall remain in effect and Newell shall comply therewith. Under other provisions of the proposed Final Judgment, at the option of the purchaser, Newell is required to transport, at its expense, some or all of the assets which Newell previously transferred from Judd's operation in Wallingford, Connecticut. Newell is also required, at the option of the purchaser, for a period not to exceed three months, to provide assistance to aid the purchaser in re-establishing a staff of field service representatives. Finally, Newell would be enjoined for a period of ten years from acquiring, without the consent of the Department of Justice, the assets or stock of any person engaged in the manufacture or sale of drapery hardware in the United States. The Competitive Impact Statement describes fully the terms of the proposed Final Judgement and the background of the action.

Comments regarding the proposed Final Judgement are invited from the public. The statutory comment period is sixty days from the date of this publication in the **Federal Register**. Such comments and responses thereto will be filed with the Court and published in the **Federal Register**. Comments should be directed to Ralph T. Giordano, Chief, New York Field Office, Antitrust Division, Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10278.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court District of Connecticut

United States of America, plaintiff, v. Newell Companies, Inc., defendant.

[Civ. No. N 82-305 (PCD)]

Filed: April 4, 1985.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

(2) The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment.

(3) In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: April, 1985

For the Plaintiff: J. Paul McGrath, *Assistant Attorney General;* Roger B. Andewelt, Ralph T. Giordano, *Attorneys, Department of Justice.*

For the Defendant: William S. D'Amico, D'Amico, Luedtke, Demarest & Golden, 1920 N Street, NW.; Suite 400, Washington, D.C. 20036, Telephone: (202) 785-9200; Lowell L. Jacobs, Martha E. Gifford, Geoffrey Swaebe, Jr., Belinda Johnson, *Attorneys, Department of Justice, Antitrust Division.* 26 Federal Plaza, Room 3630, New York, New York 10278, Telephone: (212) 264-0659.

United States District Court, District of Connecticut

United States of America, plaintiff, Newell Companies, Inc., defendant.

[Civ. No. N 82-305 (PCD)]

Filed: April 4, 1985.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on June 14, 1982, and the defendant, Newell Companies, Inc., by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II

As used in this Final Judgment:

(A) "The defendant" means Newell Companies, Inc., including each division, subsidiary and affiliate thereof, except Judd.

(B) "Judd" means the business of Judd Drapery Hardware, a Newell Company, having its headquarters in Wallingford, Connecticut, including the assets and capital stock acquired by the defendant on April 24, 1981 from The Stanley Works, wherever such assets are currently located, and such other assets as are used by or in connection with the operation of Judd Drapery Hardware, but not including those assets which were acquired from The Stanley Works and were located at Roxton Pond, Canada.

(C) "Drapery hardware" means products used to hang draperies or curtains, including adjustable traverse, curtain, cafe and sash rods and various functional and decorative accessories such as hooks, rings, supports, brackets and tiebacks.

(D) "Person" means any individual, partnership, firm, corporation, association or any other business or legal entity.

(E) "Eligible purchaser" means any person not owned or controlled by the defendant, directly or indirectly, and approved by the plaintiff or the Court, which certifies in writing its intention to purchase and operate Judd as a viable and ongoing business engaged in the manufacture and sale of drapery hardware, reasonably demonstrates to the plaintiff or the Court that it will have the capability of doing so, and agrees to supply any information in its possession, custody, or control requested by the plaintiff in accordance with Section V (D) of this Final Judgment.

III

The provisions of this Final Judgment shall apply to the defendant, its officers, directors, agents and employees, and to its subsidiaries, affiliates, successors and assigns, and to each of their respective officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) The defendant is hereby ordered and directed to divest, as a viable and ongoing business engaged in the manufacture and sale of drapery

hardware in the United States, all of its ownership in and control over Judd to an eligible purchaser. Provided that nothing in the Final Judgment obligates the defendant to finance the sale of Judd or any of Judd's assets to any purchaser.

(B) At the request of a prospective eligible purchaser, the defendant shall sell to such purchaser less than all of Judd's assets but only with the written approval of the plaintiff and only if such assets are capable of being operated as a viable and ongoing business engaged in the manufacture and sale of drapery hardware in the United States. In the event that the plaintiff approves a sale to an eligible purchaser pursuant to this paragraph (B), such sale shall fully discharge the defendant's obligations under Section IV (A) of this Final Judgment.

V

(A) Subject to Section V (D) of this Final Judgment, Louis Klein, Jr., previously selected by the plaintiff and the defendant in accordance with the attached agreement, and herein approved by the Court, shall act as an independent broker with full power and authority to carry out the divestiture ordered in Section IV of this Final Judgment.

(B) The independent broker shall commence efforts to find an eligible purchaser and to effect divestiture immediately upon the filing of this Final Judgment with the Court. The independent broker shall at all times thereafter use its best efforts to effect divestiture. The defendant shall in good faith devote its best efforts to assist the independent broker in promoting the sale of Judd, including providing to a potential eligible purchaser access to Judd's plant, machinery, books and records and the opportunity to interview Judd personnel. The defendant shall promptly notify the independent broker of any contact it has had with any person that has made an offer or expressed an interest or desire to acquire Judd, together with full details of the same.

(C) Thirty (30) days from the date of entry of this Final Judgment and every thirty (30) days thereafter until the divestiture has been completed, the independent broker shall submit an affidavit to the plaintiff describing in detail the fact and manner of compliance with this Final Judgment. Each affidavit shall include the name, address and telephone number of each person who, during the preceding thirty (30) days, has contacted or been contacted by the independent broker or the defendant in relation to the proposed sale of Judd, or has made an offer, expressed an interest or desire, or entered into negotiations, to acquire Judd, together with full details of same. The independent broker shall maintain full records of all efforts made to divest Judd, including summaries of all meetings and conversations; such records shall be made available to the plaintiff at its request.

(D) At least forty-one (41) days prior to the proposed closing of any sale pursuant to this Final Judgment, the independent broker shall furnish in writing to the plaintiff and the defendant the terms and conditions of the proposed sale together with the name and address of the proposed eligible purchaser and a description of its business. The defendant shall advise the plaintiff and the independent broker in writing no later than thrity-one (31) days prior to the scheduled closing date whether it has any objection to the proposed sale. If the defendant does so object, such objection shall be sufficient to bar the sale unless the Court approves the sale. The plaintiff may apply to the Court for approval of such sale within ten (10) days of notice of the defendant's objection, unless the plaintiff requested additional information. The plaintiff shall advise the defendant and the independent broker in writing no later than thirty-one (31) days prior to the scheduled closing date whether it has any objection to the proposed sale or that it requests additional information. If the plaintiff does so object, the defendant may apply to the Court for approval of such sale within ten (10) days of notice of the plaintiff's objection. If the plaintiff requests additional information from the defendant, the independent broker, or the proposed eligible purchaser; such information must be furnished ten (10) days of the receipt of the request, unless the plaintiff shall agree otherwise in writing; and the plaintiff shall have ten (10) days from the date all such information is received by it in which to object to the proposed sale or to apply to the Court for appoval of such sale. If the plaintiff does not so object, such objection shall be sufficient to bar the sale unless the Court approves the sale. The defendant may apply to the Court for approval of such sale within ten (10) days of notice of the plaintiff's objection. The time period set forth in Section VI of this Final Judgment shall be tolled from the time either the plaintiff or the defendant files its application with the Court, pursuant to this section, until the conclusion of any proceeding in any Court under this section relating to the approval of a proposed sale.

VI

Subject to the provisions of Section V (D) of this Final Judgment, if the independent broker has not effected divestiture within one hundred eighty (180) days following the entry of this Final Judgment, the obligation of the defendant to divest shall then be terminated and the requirement of divestiture considered satisfied: Provided, however, that upon application and a proper showing to the Court that there is a potential eligible purchaser that has made an offer, expressed a serious interest or desire, or entered into negotiations, to acquire Judd, the obligation of divestiture may be extended by the Court for such additional period of time as may be reasonably necessary to complete negotiations and effect the sale.

VII

Until the divestiture required by this Final Judgment has been accomplished, all of the provisions of the Stipulation and Hold Separate Order entered by this Court on August 17, 1982 shall remain in effect and the defendant shall comply therewith.

VIII

At the option of the eligible purchaser, and on its request within thirty (30) days following the closing date of the sale of Judd, the defendant shall:

(A) at its expense, undertake to transport promptly to a location selected by the eligible purchaser some or all of the assets of Judd listed in the attached Schedule A, which the defendant previously transferred from Judd's operation in Wallingford, Connecticut. However, the method of transportation shall be at the purchaser's discretion, reasonably exercised, and the expense of the transportation shall not be more than the expense which the defendant would incur in transporting the assets to Wallingford, Connecticut; and (B) use its best efforts for a period to be selected by the eligible purchaser but not to exceed three (3) months to provide assistance to aid the eligible purchaser in assembling, hiring and providing the necessary training for re-establishing a staff of field service representatives that is capable of satisfactorily servicing Judd's customers.

IX

The defendant is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring any of the assets or stock of, or from merging with, any person engaged in whole or in part in the manufacture or sale of drapery

hardware in the United States without the prior written consent of the plaintiff, or if such consent is refused, then upon approval by this Court after an affirmative showing by the defendant that the effect of any such acquisition will not be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of this country. Nothing herein contained shall preclude the defendant from acquiring drapery hardware manufacturing property or equipment from any source in the ordinary course of its business.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees and agents of the defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by means provided in Sections V (C) or (D) or Section X of this Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by the defendant to the plaintiff, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by the plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

XI

Jurisdiction of this section is retained by this Court for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XII

This Final Judgment will expire on the tenth anniversary of the date of entry, or with respect to any particular provision, on any earlier date specified.

XIII

Entry of this Final Judgment is in the public interest.

Dated:

Peter C. Dorsey,

United States District Judge.

SCHEDULE A.—JUDD MACHINERY AND EQUIPMENT SENT FROM WALLINGFORD, CONNECTICUT

Machine No.	Descritpion
1. Machinery And Equipment sent to Freeport, Illinois	
10874A	Maple wood Formers.
10974B	Maple wood Formers.
10984A	Cooper-Wymouth Reel.
10984B	Cooper-Wymouth Reel.
11011A	Maplewood Rolling Mill.
11011B	Maplewood Rolling Mill.
11008A	Cut To Length Feed Table.
11008B	Cut To Length Feed Table.
11012A	Cooper-Weymouth Reel.
11012B	Cooper-Weymouth Reel.
3378	Rod Strip Feed.
3378	Rod Rolling Machine.
3378	Rebuild Curt-N-Mate Machine.
2591	O Gang Slitting Machine.
11041	Tie Together Roll Form & Bend.
5776	Clark Mod. PF40 Platform Truck.
2724	5 HP Motor Driven Buffer.
2417	13" South Bend Coom Lathe.
5678	Harris Surface Grinder.
5969	Rotary Table for Brpt. Miller.
5328	Brpt. Milling Machine.

SCHEDULE A.—JUDD MACHINERY AND EQUIPMENT SENT FROM WALLINGFORD, CONNECTICUT—Continued

Machine No.	Descritpion
4704	Double Head Riveter.
5599	Clausing Drill Press.
5994	Doboy Unipocket Machine.
5994	Vibratory Feeder.
3379	Rod Rolling Machine.
4024	Rod Bender & Telescope Machine.
11026A	Two Drapette Pack Tables.
4746	Furniture for Stapling 4112 Rod.
5572	Closure Card Machine 3¼.
5572	Rebuild Closure Card Machine.
5575	Closure Card Machine 4½.
5575	Rebuild Closure Card Machine.
5576	Closure Card Machine 3¼.
5576	Rebuild Closure Card Machine.
5574	Closure Card Machine 4½.
5574	Rebuild Closure Card Machine.
	6 Assembly Tables.
	32 #75 Cases.
11091	Replace Die for Rod #42243.
11013	IN-Outer Rolls #42240-42243.
10921	Rebuild Prenotch Die #42240.
11229	Clipping Tools #40411 & 40412.
10972	CTL Feed Table Mdl Form Mills.
10973	In-Outer Roll #42198 & 42199.
10703	Clipping Die for #40412.
11123	Build Tool for #42198.
10836	Slit Roll Curt-N-Mate.
10911	Rod Formers Curt-N-Mate.
10995	Curtain Rod Bending Station.
10956	Repair Die #42249.
10956	Rod 42249-50 Drp. Supp.
10573	Die For #42756-07.
10955	Repair Die #40306 & 40307.
10993	Prog. Die for #42756-00.
	Prog. Die for #42306-00.
40408	Clipping Tool.
11124	Outer Clipping Die.
42306	Progressive Die.
5964	Model XL Doboy Packaging Machine.
2. Machinery And Equipment Sent to Binghamton, New York	
5474	Molding Machine.
5679	Bearing Assembly Machine.
5786	Mold Sweep.
5784	Mold Sweep.
5877	Mold Sweep.
5878	Mold Sweep.
5879	Mold Sweep.
5940	Sonic Welder.
42908	Mold.
41214	Mold.
41975	Mold.
42332	Mold.
42803	Mold.
43033	Mold.
43182	Mold.
43183	Mold.
43188	Mold.
42731	Mold.
42910	Mold.
80006	Mold.
42800	Mold.
42948	Mold.
43080	Mold.
42847	Mold.
42904	Mold.
42785	Mold.
43196	Mold.
42848	Mold.
43118	Mold.
43187	Mold.
42173	Mold.
32060	Mold.
42646	Mold.
42580	Mold.
42590	Mold.
42592	Mold.
42239	Mold.
42604	Mold.
42476	Mold.
42237	Mold.
42238	Mold.
42246	Mold.
42247	Mold.
43116	Mold.
43081	Mold.
42652	Mold.
43119	Mold.

SCHEDULE A.—JUDD MACHINERY AND EQUIPMENT SENT FROM WALLINGFORD, CONNECTICUT—Continued

Machine No.	Descritpion
42633	Mold.
80024	Mold.
42730	Mold.
43167	Mold.
80021	Mold.
42851	Mold.
42784	Mold.
42714	Mold.
80078	Mold.
43235	Mold.
42942	Mold.
43197	Mold.
43196	Mold.
80079	Mold.
42716	Mold.
42713	Mold.
43164	Mold.
43178	Mold.
43179	Mold.

Agreement

This agreement is entered into as of the 8th day of March, 1985, by and between Louis Klein, Jr. ("Klein") and Newell Companies, Inc., a corporation organized under the laws of the State of Delaware ("Newell").

Whereas, it is contemplated that Newell will consent to the entry of a proposed Final Judgment (the "Final Judgment") in the case entitled *United States* v. *Newell Companies, Inc.*, Civil No. N 82-305 (PCD), pending before the United States District Court for the District of Connecticut; and

Whereas, Newell has been advised that the U.S. Department of Justice ("DOJ"), on behalf of the plaintiff United States of America, intends to file the Final Judgment with the Court when it is consented to by Newell pursuant to the procedures set forth in the Antitrust Procedures and Penalties Act; and

Whereas, the Final Judgment, upon becoming effective, would direct Newell to divest itself of all of its ownership in and control over Judd Drapery Hardware, a Newell Company ("Judd"), pursuant to certain terms and conditions as set forth therein; and

Whereas, Klein has been recommended by the DOJ as an independent broker in connection with the divestiture of Judd; and

Whereas, the Final Judgment, upon becoming effective, would authorize Klein to serve as an independent broker who is to use his best efforts to effect the divestiture through the sale of Judd to a third party purchaser; and

Whereas, the parties hereto desire to enter into this Agreement to set forth the terms and conditions under which Klein will serve as an independent broker;

Now Therefore, in consideration of the mutual promises and covenants as hereinafter set forth, the parties hereto do agree as follows:

1. *Scope of Engagement.* Newell hereby hires Klein to serve as an independent broker with respect to the divestiture of Judd by Newell pursuant to the terms of the proposed Final Judgment. Newell shall notify Klein when the proposed Final Judgment has been filed with the court and Klein shall thereupon commence preparation of an offering circular and take any other actions deemed necessary by Klein preparatory to the offering of Judd for sale to third parties. Upon notification from Newell that the Final Judgment has become effective, Klein shall use his best efforts to identify an eligible purchaser for Judd under the terms and conditions as set forth herein. For purposes of this Agreement, an "eligible purchaser" shall be defined in the same manner as in Section II(E) of the Final Judgment and the business of "Judd" to be available for sale shall be defined in the same manner as Section II(B) of the Final Judgment. Klein acknowledges that he has been provided with a copy of the proposed Final Judgment.

2. *Terms of Offer of Sale.*

(a) Klein will attempt to sell Judd to an eligible purchaser at the highest price attainable. Klein will use his best efforts to sell Judd at a price of not less than $5,671,000. Klein has been advised by Newell that Newell regards a price of $5,671,000, the appraised value of Judd as of December 31, 1984, to be a fair and reasonable price for Judd. Pursuant to Section V(D) of the Final Judgment, Newell shall retain the right to object to any proposal for the sale of Judd. The DOJ does not express a view as to what constitutes a reasonable price for Judd and has the right to ask the Court to approve a sale even if Newell objects on the basis of price.

(b) The sale shall be on an all cash basis, with Newell having no obligation to provide financing to the purchaser. Newell and the purchaser each shall be responsible for payment of their respective closing expenses, including their attorneys, accountants and other third party expenses incurred by them. The purchaser shall be responsible for paying any recording or transfer taxes in connection with the transaction and shall assume all liabilities of Judd as of the date of closing, including accounts payable. Acounts receivable as of the closing shall be allocated to the purchaser.

(c) The proposed sale contract may contain a provision that, if requested by the purchaser within thirty (30) days following the closing date, Newell will at its expense transfer to a location selected by the purchaser those assets listed on Schedule A to the Final Judgment, provided that the method of transportation shall be reasonably selected by the purchaser and the expense involved shall not be more than that which would be incurred in the transportation of such assets to the Wallingford, Connecticut facilities of Judd. Additionally, the proposed contract may contain a provision that, if requested by the purchaser within the above time period, Newell will use its best efforts for period to be selected by the purchaser not to exceed three (3) months to provide assistance to the purchaser in assembling, hiring and providing the necessary training for the re-establishing of a staff of field service representatives capable of satisfactorily servicing Judd's customers. If the proposed contract either or both of the foregoing provisions, it shall also contain the purchaser's estimate of the cost associated with such activity, and Newell shall be obligated to pay only the lesser of actual or estimated costs. In the case of the field service organization, if the provision is used the contract shall also contain a description of the level of staffing and training and the duration of such persons' utilization that is proposed. If there is no provision in the contract regarding these matters, then Newell shall have no obligation to undertake any of such activities following the closing.

(d) Closing shall take place no later than one hundred eighty (180) days following the date on which the Final Judgment becomes effective.

3. *Compensation.*

(a) As full and complete compensation for Klein's services, Newell agrees to pay to Klein the sum of One Hundred Thousand Dollars ($100,000.00), together with Two Percent (2%) of any amount received by Newell from the sale of Judd at a price in excess of $5,671,000. The sum of One Hundred Thousand Dollars ($100,000.00) shall be payable as follows:

(i) Sixty Thousand Dollars ($60,000.00) shall be paid in three installments of Twenty Thousand Dollars ($20,000.00) each, the first of which shall be due three days after the date on which the Final Judgment becomes effective, and the second and third of which shall be due on the thirtieth and sixtieth day, respectively, following the date on which the Final Judgment becomes effective;

(ii) Thirty Thousand Dollars ($30,000.00) shall be paid in two installments of Fifteen Thousand Dollars ($15,000.00) each, which installments shall be due on the ninetieth and one hundred twentieth day, respectively,

following the date on which the Final Judgment becomes effective; and

(iii) Ten Thousand Dollars ($10,000.00) shall be paid in one installment due on the one hundred fiftieth day following the date on which the Final Judgment becomes effective.

(b) If any of the due dates for a payment under (a) falls on a weekend or legal holiday, the actual due date shall be the next business day following the date on which the payment otherwise is due. In the event that the closing of the sale of Judd takes place prior to the date on which a payment to Klein otherwise is due, payment of the entire One Hundred Thousand Dollars ($100,000.00) (or such portion thereof as has not been previously paid) shall be made at the closing. Any payment due as a result of a sale in excess of $5,671,000 also shall be due at the closing.

(c) In addition to the foregoing compensation, Newell will reimburse Klein for incurred out-of-pocket expenses not to exceed Five Thousand Dollars ($5,000.000) in the aggregate.

(d) In the event that the proposed Final Judgment does not become effective, Newell shall have no obligation to pay any sums to Klein pursuant to this Agreement.

4. *Reports.*

(a) Commencing thirty (30) days from the date of entry of the Final Order and continuing every thirty (30) days thereafter until the sale of Judd has been consummated on Klein's duties hereunder have been terminated, Klein shall submit an affidavit to the DOJ describing in detail his efforts to sell Judd during the preceding thirty (30) day period. Each affidavit shall include the name, address and telephone number of each person who, during the preceding thirty (30) day period, contacted or was contacted by Klein in regard to the proposed sale of Judd, or who has made an offer, expressed an interest or desire, or entered into negotiations to acquire Judd, together with full details of the same. Klein agrees to maintain full records of all efforts undertaken by him to effect a sale of Judd, including summaries of meetings and conversations, and to make such records available to the DOJ upon its request.

(b) No later than forty-one (41) days prior to the proposed closing of any sale of Judd arranged by Klein, Klein shall furnish to Newell and the Department of Justice information concerning the terms and conditions of the proposed sale together with the name and address of the proposed eligible purchaser and a description of its business. Klein understands that either Newell or the DOJ may, no later than thirty-one (31) days prior to the proposed closing date, object to a proposed sale. In the DOJ requests additional information, Klein agrees to furnish such information within ten (10) days of the receipt of the request, unless the DOJ otherwise agrees in writing. Klein agrees to promptly supply Newell with any information Newell may request regarding the terms and conditions of the proposed transaction so that Newell can make a determination whether to accept or object to the transaction within the time period set forth above. Klein agrees to treat all information received from Newell, the DOJ, or any potential purchaser of Judd confidentially, and agrees not to disclose such information except in compliance with the terms of this Agreement or as ordered by the court under the terms of the Final Judgment.

5. *Access to Information.* Newell agrees to provide potential eligible purchasers identified by Klein with access, during normal business hours and upon reasonable notice, to Judd's plant, machinery, books and records and the opportunity to interview Judd's personnel, upon receipt of a request therefor from Klein or directly from the potential eligible purchaser. If the request has been made directly by the potential eligible purchaser, Newell shall promptly notify Klein of full details of any contact it has with the potential eligible purchaser.

6. *Miscellaneous.*

(a) Any notice required or permitted to be given pursuant to this Agreement will be deemed sufficiently given when delivered, or, if sent by mail, postage prepaid, on the third day after such mailing, to the following address or to any other address that has been designated in writing to the sending party:

(i) To Newell: Newell Companies, Inc., P.O. Box 117, 1 Millington Road, Beloit, Wisconsin 53511, Attention: Mr. Daniel C. Ferguson, President
With a copy to: William S. D'Amico, Esq., D'Amico, Luedtke, Demarest & Golden, 1920 N Street NW., Suite 400, Washington, D.C. 20036

(ii) To the DOJ: Antitrust Division, U.S. Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10278

(iii) To Klein: Louis Klein, Jr., Fifth Floor, 522 Fifth Avenue, New York, NY 10036.

(b) This agreement embodies the entire agreement of the parties hereto and supersedes any and all prior agreements and understandings, written or oral, with respect to the subject matter hereof, including the letter of intent dated March 4, 1985. This Agreement may not be amended or modified except in writing signed by both parties and subject to the approval of the DOJ.

(c) This Agreement shall be construed and given effect in accordance with the laws of the State of Connecticut.

In Witness Whereof, the parties have set their respective hands and seals hereto as of the date and year first written above.

Louis Klein, Jr.,

Attest:

Mary Lou Wemstrom,

Newell Companies, Inc.

By:

Donald Krause,

Title:

Vice President-Controller.

United States District Court, District of Connecticut

United States of America, plaintiff, v. Newell Companies, Inc., defendant.

[Civ. No. N 82-305 (PCD)]

Filed April 4, 1985.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On June 14, 1982, the United States filed a civil antitrust Complaint alleging that the April 1981 acquisition of the Stanley Drapery Hardware Division ("SDH") of The Stanley Works by Newell Companies, Inc. ("Newell") violated Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that the effect of the acquisition may be substantially to lessen competition in the manufacture and sale of drapery hardware in the United States. The Complaint seeks the divestiture of the acquired business.

The United States and the defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify and enforce the proposed Final Judgment, and to punish violation thereof.

II

Events Giving Rise to the Alleged Violation

On or about April 24, 1981, Newell acquired SDH for approximately $11,535,000. Since the acquisition, Newell has operated SDH under the trade name Judd Drapery Hardware ("Judd").

Both Newell and Judd manufacture and sell drapery hardware. Drapery hardware is the term used by the industry to describe the unique cluster of products that are used to hang draperies or curtains. Drapery hardware products include traverse rods (both white and decorative), cafe rods, curtain rods, and sash rods, each of which is manufactured in a variety of sizes and styles, and various functional and decorative accessories such as hooks, rings, supports, brackets and tiebacks. Drapery hardware manufacturers sell their products to retailers, jobbers and drapery workrooms in the United States. Both the manufacturers and the purchasers of drapery hardware treat this cluster of interrelated items as a distinct product line.

Since no other products can reasonably and practically be used to hang draperies or curtains, which is the only function of drapery hardware, there are no substitutes in the marketplace for these products. Thus, if the price of drapery hardware increases, buyers who need drapery hardware cannot turn to any other product. For these and other reasons, the United States contends that the manufacture and sale of drapery hardware in the United States is the appropriate market within which to assess the competitive effect of the acquisition.

Newell is the second largest manufacturer of drapery hardware in the United States. In 1980, Newell had domestic drapery hardware sales of approximately $32 million and a 14.15% market share. SDH was the sixth largest drapery hardware manufacturer in the United States. In 1980, SDH had domestic drapery hardware sales of approximately $17 million, and a 7.46% market share. The combination of Newell and SDH increased Newell's market share to 21.61%.

The market for the manufacture and sale of drapery hardware in the United States is highly concentrated. The four largest firms accounted for 78.48%, and the six largest firms had 95.03% of 1980 domestic sales. The merger raised the Herfindahl-Hirschman Index (HHI) from 2238 to 2448 in 1980. The HHI, a measure of market concentration, is the sum of the squares of the market shares of each competitor. Thus, the effect of this acquisition may be substantially to lessen competition in the manufacture and sale of drapery hardware in the United States.

The United States and the defendant have engaged in extensive pretrial discovery. Upon the proposal of the defendant, settlement negotiations have been conducted. These negotiations have resulted in the proposed Final Judgment which is the subject of this Statement.

III

Explanation of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the APPA. The proposed Final Judgment constitutes no admission by any party as to any issue of fact or law. Under the provisions of Section 2(e) of the APPA, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. Divestiture

The proposed Final Judgment requires Newell to divest all of its ownership in and control over Judd, within 180 days of the entry of the Final Judgment, to a purchaser who intends to operate it as a viable and ongoing business engaged in the manufacture and sale of drapery hardware. At the request of a prospective purchaser, Newell must sell less than all of Judd's assets but only with the written approval of the United States and only if such assets are capable of being operated as a viable and ongoing business engaged in the manufacture and sale of drapery hardware. Newell is not required to finance the sale of Judd or any of Judd's assets.

Divestitute shall be accomplished through an independent broker, previously selected by the parties in accordance with the agreement attached to the proposed Final Judgment, with full power and authority to carry out the divestiture. This procedure will ensure that divestiture will be effected in an expeditious manner. The independent broker will commence efforts to effect divestiture immediately upon the filing of the proposed Final Judgment with the Court. Newell must use its best efforts to assist the independent broker in promoting the sale of Judd. The independent broker will attempt to sell Judd at the highest price attainable.

After receiving notice by the independent broker of the terms and conditions of a proposed sale, either party may object to the proposed sale. Either party's objection shall be sufficient to bar the sale unless the Court approves the sale.

If the independent broker has not effected divestiture within 180 days following entry of the proposed Final Judgment, Newell's obligation to divest Judd shall be terminated. However, if there is a potential purchaser seriously interested in buying Judd, the Court may extend Newell's obligation of divestiture for such additional period of time as may be reasonably necessary to complete negotiations and effect the sale.

Until the divestitute of Judd is accomplished, the Stipulation and Hold Separate Order entered by the Court, which requires Newell to maintain and operate Judd as a separate and ongoing business enterprise, shall remain in effect and Newell shall comply therewith.

In addition, at the option of the purchaser, Newell is required to transport, at its expense, to a location selected by the purchaser, some or all of the assets which Newell previously transferred from Judd's operation in Wallingford, Connecticut. The assets are specified in Schedule A to the proposed Final Judgment. The method of transportation shall be at the purchaser's discretion, reasonably exercised, although Newell shall not incur an expense greater than the expense to transport the assets back to Wallingford.

Finally, at the option of the purchaser, for a period not to exceed three months, Newell is required to provide assistance to aid the purchaser in re-establishing a staff of field service representatives that is capable of servicing Judd's customers.

B. Other Provisions

The proposed Final Judgment enjoins Newell for ten years from acquiring any of the assets or stock of any person engaged in the manufacture or sale of drapery hardware in the United States without first obtaining the approval of the United States. If the United States objects, Newell can seek the Court's approval, but must bear the burden of proof that the acquisition will not lessen competition or tend to create a monopoly. Newell may acquire drapery hardware manufacturing equipment in the ordinary course of its business.

The proposed Final Judgment also contains reporting provisions and visitation rights that will permit the United States to determine and secure compliance with the Final Judgment.

IV

Remedies Available to Potential Private Litigants

Entry of the proposed Final Judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for any remedy they deem appropriate. However, pursuant to Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), this Final Judgement may not be used as *prima facie* evidence in private litigation.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment must do so within sixty (60) days of the date of publications of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Ralph T. Giordano, Chief, New York Field Office, Antitrust Division, United States Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10278.

VI

Alternatives to the Proposed Final Judgment

The relief sought in the Complaint is the divestiture of Judd, the proposed Final Judgment requires that Newell, through an independent broker, divest Judd within six months after entry of the Final Judgment.

The United States considered the alternative to the proposed Final Judgment of proceeding to trial on the merits. While the United States was confident of its ability to succeed ultimately after a trial, it is likely that after as successfully trial a court would order divestiture substantially the same as that to which the parties have now agreed. Thus, the proposed Final Judgment fully achieves the objectives sought by the United States and is preferable to proceeding to a trial on the merits.

VII

Determinative Documents

There are no materials or documents which the United States considered determinative in formulating this proposed Final Judgment. Accordingly, no documents are being filed along with this Competitive Impact Statement.

Dated: April 1, 1985, New York, New York.

Respectfully submitted,

Lowell L. Jacobs,

Martha E. Gifford,

Geoffrey Swaebe,

Belinda Johnson,

Attorneys, Department of Justice, Antitrust Division, 26 Federal Plaza, Room 3630, New York, New York 10278, (212) 264-0659.

Certificate of Service

I, Lowell L. Jacobs, hereby certify that on this day of April 3, 1985, I served a copy of the foregoing Competitive Impact Statement upon William S. D'Amico, Esq., D'Amico, Luedtke, Demarest & Golden, 1920 N Street NW., Washington, D.C. 20036, counsel for defendant Newell Companies, Inc., by Express Mail.

Lowell L. Jacobs,

Attorney, Department of Justice, Antitrust Division, 26 Federal Plaza, Room 3630, New York, New York 10278, (212) 264-0659.

[FR Doc. 85-8635 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration Application; Knoll Pharmaceutical Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 16, 1984, Knoll Pharmaceutical Company, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may also file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (30 days from publication).

Dated: April 4, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-8577 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration Application; M.D. Pharmaceutical, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 14, 1984, M.D. Pharmaceutical Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than May 10, 1985.

Dated: April 4, 1985.

Gene R. Haislip

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-8580 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration Application; Western Fher Laboratories, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 9, 1984, Western Fher Laboratories, Inc., Carretera 132 KM. 25.3 P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance. Phenmetrazine (1631).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than May 10, 1985.

Dated: April 4, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-8579 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-09-M

Controlled Substances; Dudley B. Turner Jr., D.O.; Revocation and Denial of Application

On February 1, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an order to show cause to Dudley B. Turner Jr., D.O. (Respondent), 460 Market Street, Williamsport, Pennsylvania 17701 seeking to revoke DEA Certificate of Registration AT2447642, and to deny any pending applications for renewal of that registration. The statutory predicate under 21 U.S.C. 824(a)(2) was the conviction of Respondent on September 6, 1984, in the Court of Common Pleas of Lycoming County, Pennsylvania, of eight counts of "prescription of controlled substance in a manner not in accordance with treatment principles accepted by a responsible segment of the medical profession." These are felony offenses relating to controlled substances.

Respondent, through counsel, explicitly waived his opportunity for a hearing and submitted a statement regarding his position on the proposed revocation of the DEA Certificate of Registration previously issued to him. The Acting Administrator finds that Respondent has waived his opportunity for a hearing under 21 CFR 1301.54(c), and enters this final order on the record as it appears. 21 CFR 1301.54 (d) and (e).

The Acting Administrator finds that a grand jury sitting in Lycoming County, Pennsylvania, returned a 36-count indictment against Respondent, charging him with violations of Pennsylvania Act 64, Section 13(a)(14). Respondent pled guilty to seven counts of distribution of various controlled substances including Preludin, Seconal, Tuinal, Parest and Qualude.

The Acting Administrator finds that the Pennsylvania Bureau of Narcotic Investigations and Drug Control (Bureau) began an investigation of Respondent in December, 1981. The investigation was instituted as a result of reports from the Williamsport Police Department that numerous Schedule II prescriptions written by Respondent were appearing at area pharmacies. Monthly Schedule II reports, which the pharmacies are required to maintain, confirmed that Respondent was writing excessive numbers of Schedule II prescriptions. These prescriptions were written primarily in the names of two young men. A review of these records revealed that Respondent prescribed 120 Seconal; 270 Tuinal; 60 Parest; 120 Ionamin 340 Valium; and 54 ozs. of Tussionex in September, 1981 for one of these men. He prescribed 810 Preludin and 270 Dilaudid for the same young man in October and November, 1981. Respondent's prescribing with respect to the other young man were similar. In September, 1981, he prescribed 105 Tuinal for this individual. Between September and December, 1981, he prescribed 450 Darvocet-N and between September 1981 and November, 1981, he prescribed 62 ozs. of Tussionex.

During the course of the investigation, the Pennsylvania agent conducting the investigation spoke with a professor at the Philadelphia School of Osteopathy. This physician examined patient profiles of the two young men and concluded that Respondent's prescriptions for these patients were excessive and not in accordance with treatment principles accepted by a responsible segment of the medical profession. The professor also told the Pennsylvania agent that Respondent's medical records, which the agent seized on September 28, 1982, pursuant to a search warrant, were so abbreviated as to be improper.

The Pennsylvania agent interviewed one of the individuals receiving the prescriptions on March 3, 1983. This individual told the agent that he had paid Respondent for the prescriptions. The individual admitted that he sold many of the pills that he received by these prescriptions on the street. He said that he paid Respondent on one occasion up to $600 for a number of prescriptions. This individual told the agent that Respondent was aware that he was selling drugs on the street, but that Respondent counseled him to "be careful". The agent interviewed the second individual on April 8, 1983, and his statement corroborated that of the first man. He told the agent that he could get anything he wanted from Respondent and that following an initial contact in 1977 or 1978, Respondent did not medically examine him. Respondent prescribed for this individual upon request. Respondent told this individual that he was aware that the Pennsylvania authorities were investigating him and therefore to be "careful" in filling the prescriptions.

The Acting Administrator further finds that the Pennsylvania agent and others interviewed Respondent on July 20, 1983. At this interview, Respondent admitted to the agent that he had prescribed "too many" Dilaudids to the first individual in October, 1981. He also admitted that his prescriptions to this person were not good medical practice. As to the second individual, Respondent stated that he did not realize that he was prescribing so many controlled substances. He admitted to the agent that what he was doing was "not what you might call good medical practice." Respondent said that he was not aware that the second individual was in to see him since he did not take the time to "pull the card" and "go and bring it up to date."

The Acting Administrator has carefully considered Respondent's position statement. The submission from Respondent consists largely of copies of letters that were submitted at Respondent's sentencing hearing and a photostat of portions of the sentencing hearing before a Pennsylvania state court judge. Respondent operated his own medical practice from the early 1940's until 1976. At that time he assumed full time employment at the

United States Penitentiary in Lewisburg, Pennsylvania as chief medical officer, working several evenings a week at his former practice. It was during this period that Respondent wrote the prescriptions which were the basis of the charges against him and his ultimate plea of guilty. In his submission, Respondent presented evidence that he was a good employee at Lewisburg Penitentiary. He also submitted evidence from a broad spectrum of community residents in the Williamsport area that he had provided competent and caring medical attention over the years and that he was the only osteopath practicing in Williamsport. Among those individuals submitting letters or testimony at the sentencing hearing were various area physicians.

While the Acting Administrator is impressed by the sincerity of the testimony concerning Dr. Turner, this testimony in no way explains or mitigates Respondent's actions leading to his plea. Indeed, none of the submissions touch on Respondent's ability to responsibly handle controlled substances, which is the central issue in this proceeding or any other proceeding brought to revoke a registration or deny an application. Respondent's submission in no way describes Respondent's current need for controlled substances prescribing and dispensing privileges or his current professional situation. The Acting Administrator is not convinced that Respondent can once again assume the heavy responsibilities imposed by DEA registration, and can professionally and competently handle controlled substances. The public should not be put at risk that Respondent may choose again to exercise bad judgment or engage in something less than the competent practice of osteopathy in his prescribing of controlled substances.

Having examined the record in this Matter, the Acting Administrator finds that he has the statutory authority under 21 U.S.C. 824(a)(2) to revoke Respondent's certificate of registration and to deny any pending applications for renewal. The Acting Administrator, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100, hereby revokes Certificate of Registration AT2447642 previously issued to Dudley B. Turner Jr., D.O., and denies any pending applications for renewal, effective May 10, 1985.

Dated: April 3, 1985.

John C. Lawn,

Acting Administrator.

[FR Doc. 85-8578 Filed 4-9-85; 8:45 am]

BILLING CODE 4410-09-M

LEGAL SERVICES CORPORATION

One-Time Grant Award; Announcement

AGENCY: Legal Services Corporation.

ACTION: Announcement of One-Time Grant Award.

SUMMARY: The Legal Services Corporation (LSC) announces its intent to award a one-time, non-recurring grant of $70,000 to the American Corporate Counsel Institute (ACCI). This grant will be for a one-year term. It will be awarded pursuant to authority conferred by Sections 1006(a)(1)(B) and 1006(A)(3) of the Legal Services Corporation Act of 1974, as amended, in response to an unsolicited proposal submitted by ACCI for assistance in continuing ACCI's Corporate Pro Bono Activation Program. The grant will not be subject to automatic refunding rights or entitled to any rights, including hearing rights, under Section 1011 of the LSC Act, as amended, or LSC regulations promulgated thereunder.

This public notice is issued pursuant to Section 1007 (F) of the LSC Act, with a request for comments and recommendations within a period of thirty (30) calendar days from date of publication of this Notice. The grant award will not become effective and no grant funds will distributed prior to expiration of this thirty-day period.

DATE: All comments and recommendations must be received by the Program Development and Substantive Support Unit within the Office of Field Services of the Legal Services Corporation within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Charles T. Moses III, Esq., Legal Services Corporation, Office of Field Services, Program Development and Substantive Support Unit, 733 Fifteenth Street, NW., Washington, D.C. 20005, (202) 272-4356.

SUPPLEMENTARY INFORMATION: This grant will be the second award to the American Corporate Counsel Institute. This 501(c)(3) corporation was established by the American Corporate Counsel Association (ACCA) to support the Association's endeavors in the fields of education, research and community service. The ACCA/ACCI Pro Bono Program was originally funded by LSC in October 1983. This Pro Bono Program performs a variety of activities to stimulate the development and expansion of corporation law department pro bono projects. The Program fosters pro bono commitments by attorneys employed by corporation law departments as well as from outside counsel retained by corporations. These corporation sponsored projects provide civil legal assistance to poor individuals and generally work cooperatively with local LSC-funded field programs.

Thomas Opsut,

Interim President, Legal Services Corporation.

[FR Doc. 85-8645 Filed 4-9-85; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological Systematic Collections; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Anthropological Systematic Collections.

Date and time: April 26, 1985, 9:00 a.m.—5:00 p.m.

Place: National Science Foundation, 1800 G. St., NW, Washington, DC 20550, Room 1141.

Type of meeting: Closed.

Contact person: Mary W. Greene, Assoc. Program Director for Anthropology, Room 320, National Science Foundation, Washington, DC 20550, (202) 357-7804.

Purpose of advisory panel: To provide advice and recommendations concerning support for systematic anthropological collections.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reveiwed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

April 5, 1985.

[FR Doc. 85-8641 Filed 4-5-85; 4:45 pm]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Medical Uses of Isotopes; Reestablishment

AGENCY: Nuclear Regulatory Commission.

ACTION: The purpose of this notice is to announce the reestablishment of the Advisory Committee on Medical Use of Isotopes for an additional two-year period.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with GSA, the Nuclear Regulatory Commission has determined that reestablishment of this advisory committee is in the public interest. This committee provides advice with respect to the development of standards and criteria for regulating and licensing uses of radionuclides in human subjects. It also provides advice and consultation with respect to individual applications on user qualifications and the human use of radiation sources.

FOR FURTHER INFORMATION CONTACT: Patricia Vacca, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 427–4112.

Dated at Washington, D.C., this 5th day of April 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85–8600 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

Publication Sales Program with the Government Printing Office

Notice is hereby given that effective May 7, 1985, the Nuclear Regulatory Commission (NRC) will no longer be a consigned sales agent for the U.S. Government Printing Office (GPO) for the printing, inventory control, and public sale of NRC publications. Consistent with the provisions of Title 44 section 1708 of the U.S. Code that govern recovery costs related to government publications, the Superintendent of Documents will perform the sale and distribution of NRC publications.

To provide service to customers for NRC publications, the GPO has established a special mailing address and telephone number. NRC publications may be ordered by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or Mastercard number and expiration date.

Subscription account service will also continue to be available for selected periodic NRC publications. Anyone wishing to inquire about a subscription account or subscribe to a periodic NRC publication may do so by calling GPO at (202) 783–3238. Further information concerning the availability of subscription services will be announced by GPO.

The NRC will continue to participate in the National Technical Information Service Program. Individuals or organizations may continue to purchase NRC documents at NTIS subject to NTIS procedures and prices.

Dated at Bethesda, MD, this 3rd day of April 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85–8604 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–13]

Babcock & Wilcox Co.; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated August 7, 1984, as supplemented, Babcock & Wilcox Company (the licensee) requested authorization to dismantle the critical facility, License No. CX–10, located near Lynchburg, Virginia, and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the **Federal Register** on September 18, 1984 at 49 FR 36579. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment for the proposed action. Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an Environmental Impact Statement need not be prepared.

Accordingly, Babcock & Wilcox Company is hereby authorized to dismantle the critical facility covered by License No. CX–10, as amended, and dispose of the component parts in accordance with its dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and disposal, B&W will submit a report on the radiation survey it will perform to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the dismantling plan and in the Commission's guidance. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility License No. CX–10.

For further details with respect to this action, see (1) the B&W application for authorization to dismantle the facility and dispose of component parts, dated August 7, 1984, as supplemented, (2) the Commission's related Safety Evaluation, and (3) the Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of April 1985.

Hugh L. Thompson, Jr.,

Director, Division of Licensing.

[FR Doc. 85–8605 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Co.; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of proposed amendments which would change the expiration date for the Calvert Cliffs Nuclear Power Plant Unit 1 Operating

License, DPR–53 from July 7, 2009, to July 31, 2014, and change the expiration date for the Calvert Cliffs Nuclear Power Plant Unit 2 Operating License, DPR–65, from July 7, 2009, to August 13, 2016.

Identification of Proposed Action

The currently licensed term for Calvert Cliffs Units 1 and 2 is 40 years commencing with issuance of the construction permit (July 7, 1969). Accounting for the time that was required for plant construction, this represents an effective operating license term of 35 years of Unit 1 and 33 years for Unit 2. The licensee's application dated June 15, 1984 requests a 40-year operating license term for Calvert Cliffs Units 1 and 2.

Summary of Environmental Assessment

The NRC staff has reviewed the potential environmental impact of the proposed change in the expiration dates of the Operating Licenses for Calvert Cliffs Units 1 and 2. This evaluation considered the previous environmental studies, including the "Final Environmental Statement Relating to Operation of Calvert Cliffs Nuclear Power Plant Units 1 and 2" April 1973, and more recent NRC policy.

Radiological Impacts

Although the population in the vicinity of Calvert Cliffs Units 1 and 2 has increased, the site requirements of 10 CFR Part 100 are still met with regard to Exclusion Area Boundary, Low Population Zone, and nearest population center distances. In addition, the proposed additional years of reactor operation do not increase the annual public risk from reactor operation.

With regard to normal plant operation, the licensee complies with NRC guidance and requirements for keeping radiation exposures "as low as is reasonably achievable" (ALARA) for occupational exposures and for radioactivity in effluents. The licensee would continue to comply with these requirements during any additional years of facility operation and also apply advanced technology when available and appropriate.

Non-Radiological Impacts

The NRC review identified no additional degradation of the habitat surrounding Calvert Cliffs with regard to indigenous plant and animal species, including those that are commercially valuable, for the additional years of facility operation. In addition the National Pollutant Discharge Elimination System permit provides additional environmental protection.

Finding of No Significant Impact.

The staff has reviewed the proposed change to the expiration dates of the Calvert Cliffs Units 1 and 2 Facility Operating Licenses relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or nonradiological impacts associated with the proposed action and that the proposed license amendments will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to this action, see (1) the application for amendments dated June 15, 1984, (2) the Final Environmental Statement Relating to Operation of Calvert Cliffs Nuclear Power Plant Units 1 and 2, April 1973, and (3) the Environmental Assessment dated April 3, 1985. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C. 20555 and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 3rd day of April 3, 1985.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactor, Division of Licensing.

[FR Doc. 85–8606 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–3014]

Finding of No Significant Impact; Issuance of Special Nuclear Material License No. SNM–1950; Northeast Nuclear Energy Co., Waterford, CT

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of Special Nuclear Material License No. SNM–1950 to permit the receipt, possession, inspection, and storage of unirradiated nuclear fuel assemblies at the Millstone Nuclear Power Plant, Unit 3, in Waterford, Connecticut. The unirradiated fuel assemblies will be for eventual use in the Millstone Nuclear Power Plant, Unit 3, once its operating license is issued.

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the issuance of Special Nuclear Material License No. SNM–1950. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of the Environmental Assessment may be obtained by calling (301) 427–4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Silver Spring, Maryland, this 4th day of April 1985.

For the Nuclear Regulatory Commission.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 85–8607 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–275]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; Correction

In FR Doc. 85–5525 appearing on page 9338, in the issue of Thursday, March 7, 1985, make the following change in the notice captioned as above:

Line 4—change "DPR–76" to "DPR–80"

Dated at Bethesda, Maryland, this 3rd day of April, 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 85–8608 Filed 4–9–85; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S ECONOMIC POLICY ADVISORY BOARD

Meeting

April 22, 1985.

The President's Economic Policy Advisory Board will meet on April 22, 1985, at the White House, Washington, D.C. from 9:00 a.m. to 1:00 p.m. The purpose of this meeting is to review and discuss:

The Strong Dollar and Its Economic Implications

The Federal Budget
Trade Policy and Services
The Bonn Summit

"All agenda items concern matters listed in Section 552(b) of Title 5, United States Code, specifically sub-paragraphs (1), (4), (8) and (9) thereof, and will be closed to the public."

John A. Svahn,

Assistant to the President for Policy Development.

[FR Doc. 85-8680 Filed 4-9-85; 8:45 am]

BILLING CODE 3195-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0419]

RISA Capital Associates; License Surrender

Notice is hereby given that, RISA Capital Associates, 280 Oser Avenue, Hauppauge, New York 11788, has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958 (the Act). RISA Capital Associates was licensed on March 26, 1982.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on February 4, 1985, and accordingly all rights and privileges, and franchises therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: March 27, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-8568 Filed 4-9-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0322]

Wesco Capital, Ltd.; Surrender of License

Notice is hereby given that Wesco Capital, Ltd., 3471 Via Lido, Suite 204, Newport Beach, California 92663 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Wesco Capital, Ltd. was licensed by the Small Business Administration on August 30, 1983.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on April 1, 1985, and accordingly, all rights, privileges, and franchises derived thereform have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: April 3, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-8567 Filed 4-9-85; 8:45 am]

BILLING CODE 8025-01-M

Washington; Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m. on Thursday, April 25, 1985, in Room 695, U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651, U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210, telephone (509) 456-3781.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 2, 1985

[FR Doc. 85-8565 Filed 4-9-85; 8:45 am]

BILLING CODE 8025-01-M

Louisiana; Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, Louisiana, will hold a public meeting at 10:00 a.m. on Friday, April 26, 1985, at 333 St. Charles Avenue, Room 900. The meeting will be held to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call T.A. Aboussie, District Director, U.S. Small Business Administration, 1661 Canal Street, New Orleans, Louisiana 70112-2890, (504) 589-2744.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 2, 1985.

[FR Doc. 85-8566 Filed 4-9-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/839]

Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet May 15-16, 1985 in Conference Room 8A&B, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. The meeting will begin at 9:30 a.m. on both days.

Study Group 8 studies matters relating to systems of radiocommunications and radiodetermination for the mobile services. The purpose of the meeting is to review preparations for the internatonal meeting of Study Group 8 in Geneva in November, 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard E. Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: April 1, 1985.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 85-8531 Filed 4-9-85; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/838]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting at 0930 on April 24, 1985, in Room 1303 of the Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C.

The purpose of this meeting will be to discuss results of the 30th session of the International Maritime Organization (IMO) Subcommittee on Fire Protection, February 4-8, 1985, including: use of cargo as fuel, location of fire control plans, flame spread test for interior finish and deck coverings, portable and fixed halon units, inert gas systems for chemical carriers, guidelines for oil tankers not fitted with inert gas systems, materials equivalent to steel, bow and stern loading, fire integrity of deck penetrations, alarm systems, helicopter

facilities and other miscellaneous subjects.

Plans for the 31th session of the IMO Subcommittee on Fire Protection will also be discussed including: smoke control research, cargo tank venting arrangements, fire fighting systems and materials equivalent to steel.

Member of the public may attend up to the seating capacity of the room.

For further information contact Mr. Donald J. Kerlin, U.S. Coast Guard (G-MTH-4/13), Washington, D.C. 20593. Telephone: (202) 462-2197.

Dated: March 20, 1985.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 85-8530 Filed 4-9-85; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review.

Dated: April 5, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB No. 1545-0020
Form No. IRS Form 709
Type of Review: Extension
Title: United States Gift Tax Return
OMB No. 1545-0143
Form No. IRS Form 2290
Type of Review: Revision
Title: Heavy Vehicle Use Tax return
OMB No. 1545-0256
Form No. IRS Forms 941C and 941C PR
Type of Review: Revision
Title: Statement of Correct Information
OMB No. 1545-0575
Form No. IRS Forms 5330
Type of Review: Revision
Title: Return of Excise Taxes Related to Employee Benefit Plans
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, N.W., Washington, D.C. 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of Alcohol, Tobacco and Firearms

OMB No. 1512-0149
Form No. ATF F 2900 (5100.21)
Type of Review: Revision
Title: Application, Permit and Report—Beer and Wine (Puerto Rico)
OMB No. 1512-0151
Form No. ATF 2928 (5120.34)
Type of Review: Revision
Title: Prepayment Tax Return—Wine (Puerto Rico)
OMB No. 1512-0153
Form No. ATF F 2900 (5130.21)
Type of Review: Reinstatement
Title: Prepayment Tax Return—Beer (Puerto Rico)
OMB No. 1512-0210
Form No. ATF 5110.51
Type of Review: Revision
Title: Application, Permit and Report—Distilled Spirits Products (Puerto Rico)
OMB No. 1512-0211
Form No. ATF F 5110.52
Type of Review: Reinstatement
Title: Deferred Tax Return—Distilled Spirits (Puerto Rico)
OMB No. 1512-0212
Form No. ATF F 5110.53
Type of Review: Revision
Title: Prepayment Tax Return—Distilled Spirits (Puerto Rico)
Clearance Officer: Howard Hood (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

James V. Nasche, Jr.,

Departmental Reports Management Office.

[FR Doc. 85-8646 Filed 4-9-85; 8:45 am]

BILLING CODE 4810-25-M

Debt Management Advisory Committee; Closed Meeting

Notice is hereby given, pursuant to Section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on April 29 and 30 and May 1, 1985 of the following debt management advisory committee:

Pubilc Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provided for working sessions on April 29 and 30, and the preparation of a written report to the Secretary of the Treasury on May 1, 1985.

Pursuant to the authority placed in Heads of Departments by Section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under Sections 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such a meeting be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making it final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by Section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature, disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by Section 552b(c)(9)(a) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of Section 552b of Title 5 of the United States Code.

Dated: April 5, 1985.

John J. Niehenke,

Acting Assistant Secretary (Domestic Finance).

[FR Doc. 85-8644 Filed 4-9-85; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

Meetings of the U.S. Advisory Commission on Public Diplomacy will be held in Tokyo, April 23–24; Beijing, April 25–26; Shanghai, April 28; and Hong Kong, April 29–30, 1985. The Commission will meet with senior Embassy officers and host country government officials, business and cultural leaders; observe program activities of USIA's posts; and consult with senior public affairs officers from U.S. embassies in Bangkok and Manila.

The Commission will also visit the East-West Center in Honolulu, Hawaii and meet with its Director and senior staff members on May 1–3, 1985.

For further information, please call Gloria Kalamets, (202) 485–2468.

Dated: April 5, 1985.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 85-8527 Filed 4-9-85; 8:45 am]

BILLING CODE 8230-01-M

Advisory Board for Radio Broadcasting to Cuba; Establishment

The Advisory Board for Radio Broadcasting to Cuba, was created by Public Law 98–111, the Radio Broadcasting to Cuba Act.

The Advisory Board for Radio Broadcasting to Cuba shall review the effectiveness of the activities carried out under Public Law 98–111, and shall make recommendations to the President, the Director and the Associate Director for Broadcasting of the United States Information Agency as it may deem necessary.

The charter of the Advisory Board for Radio Broadcasting to Cuba has been filed with the GSA Committee Management Secretariat and the Library of Congress.

Dated: April 2, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85-8528 Filed 4-9-85; 8:45 am]

BILLING CODE 8230-01-M

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency (USIA) will meet in Washington, DC, on Thursday, May 9, 1985, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the Patrick Henry Building of the USIA, 601 D Street NW, Room 10017. The meeting will begin at 9:00 AM. Point of contact for the meeting is Terry Balazs, tel: 202–485–8048.

This meeting will include reports from senior members of the VOA management and engineering staff on the progress being made on the overall VOA modernization and enhancement effort. Specific topics of discussion will include the development of appropriate radio broadcasting signal standards in a jammed environment, review of direct broadcast satellite concepts, and other technical and regulatory issues relating to VOA modernizaton.

This meeting will be closed to the public because issues relating to future site negotiations for Voice of America relay stations will be discussed throughout the meeting. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact is properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)).

Dated: April 2, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85-8529 Filed 4-9-85; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Advisory Committee on Cemeteries and Memorials; Meeting

The Veterans Administration gives notice that a meeting of the Administrator of Veterans Affairs' Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 1001, will be held at the Sheraton Hotel, 500 Canal Street, New Orleans, Louisiana 70130, on July 10 and 11, 1965.

The opening day session will begin at 8 a.m. to conduct routine business. The meeting will be open to the public up to the seating capacity which is about twenty persons. Those wishing to attend should contact Mrs. Ann Stone in the Office of the Chief Memorial Affairs Director (phone 202–389–2396) not later than 12 noon, EDT June 14, 1985.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Chief Memorial Affairs Director (40) at 810 Vermont Avenue, NW, Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Chief Memorial Affairs Director. Letters and written statements as discussed above must be mailed or delivered in time to reach the Chief Memorial Affairs Director by 12 noon, EDT June 14, 1985. Oral statements will be heard only between 9 and 10 a.m. on July 11, 1985.

Dated: April 3, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-8574 Filed 4-9-85; 8:45 am]

BILLING CODE 8320-01-M

Special Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Special Medical Advisory Group will be held on May 9 and 10, 1985. The session on May 9 will be held on the First Floor of the Disabled American Veterans National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, DC, and the session on May 10 will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The session on May 9 will convene at 5:00 p.m., and the session on May 10 will convene at 8:00 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary

for those wishing to attend to contact Mrs. Von Hudson, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389–2298) prior to May 1, 1985.

Dated: April 3, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–8575 Filed 4–9–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 69
Wednesday, April 10, 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).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:22 p.m. on Thursday, April 4, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Hunter, Hunter, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma, on Thursday, April 4, 1985; (2) accept the bid for the transaction submitted by The First National Bank in Tonkawa, Tonkawa, Oklahoma; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 5, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-8662 Filed 4-8-85; 11:02 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, April 15, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance and for consent to merge and establish one branch:

Bank of Santa Ana, Santa Ana, California, a proposed new bank, for Federal deposit insurance and for consent to merge, under its charter and with the title "First American Trust Company," with First American Trust Company, Santa Ana, California, a noninsured trust company, and to establish the sole branch of First American Trust Company as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,202-NR—First National Bank of Browning, Browning, Montana

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement preceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Summary Audit Report re: United States National Bank, San Diego, California, NR-305 (Memo dated March 28, 1985)

Summary Audit Report re: Heritage Bank of Bureau County, Depue, Illinois, AP-373 (Memo dated March 7, 1985)

Summary Audit Report re: Planters Trust & Savings Bank of Opelousas, Opelousas, Louisiana, AP-388 (Memo dated March 13, 1985)

Summary Audit Report re: Republic Bank of Kansas City, Kansas City, Missouri, SR-492 (Memo dated March 12, 1985)

Summary Audit Report re: First Continental Bank & Trust Company of Del City, Del City, Oklahoma, SR-479 (Memo dated March 15, 1985)

Summary Audit Report re: Emerald Empire Banking Company, Springfield, Oregon, AP-371 (Memo dated March 26, 1985)

Summary Audit Report re: The Lawrence County Bank, Lawrenceburg, Tennessee, AP-395 (Memo dated March 22, 1985)

Summary Audit Report re: United American Bank in Knoxville, Knoxville, Tennessee, Review of the Modification of Agreement, Dated August 8, 1984, Between First Tennessee Bank, Knoxville, Tennessee, and the FDIC

Discussion Agenda:

Memorandum and resolution re: Supervisory Policy of the Federal Financial Institutions Examination Council concerning the sale and purchase of United States Government guaranteed loans by insured financial institutions and related income, servicing fees, and premiums.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: April 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-8739 Filed 4-8-85; 8:45 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5

U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, April 15, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in he conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of Subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of Subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552 (b) (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–8740 Filed 4–8–85; 8:45 am]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, April 15, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases of computers within the Federal Reserve System.
2. Building proposals regarding the Federal Reserve Bank of Atlanta.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–8650 Filed 4–5–85; 5:08 pm]

BILLING CODE 6210–01–M

5

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 16, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th & Constitution Ave., NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Finance Docket No. 30500, Norfolk Southern Corporation-Control-North American Van Lines, Inc.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,

Secretary.

[FR Doc. 8738 Filed 4–8–85; 4:01 p.m.]

BILLING CODE 7035–01–M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (50 FR 12438 3/28/85).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: March 25, 1985.

CHANGE IN THE MEETING: Additional Items.

The following additional items were considered at a closed meeting held on Tuesday, April 2, 1985, at 3:15 p.m.

Litigation matter.

Settlement of injunctive action.

Consideration of amicus participation.

Chairman Shad and Commissioners Cox, Marinaccio and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please, contact: Barry Mehlman at (202) 272–2648.

John Wheeler,

Secretary.

April 5, 1985.

[FR Doc. 85–8681 Filed 4–8–85; 12:08 pm]

BILLING CODE 8010–01–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 15, 1985.

An open meeting will be hled on Tuesday, April 16, 1985, at 10:00 a.m., in Room 1C30. A closed meeting will be held on Tuesday, April 16, 1985, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioner Treadway, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, April 16, 1985, at 10:00 a.m., will be.

1. Consideration of whether to grant the proposals by the National Association of Securities Dealers, Inc. and six national securities exchanges to trade options on over-the-counter ("OTC") stocks and stock indexes. The Commission also will consider whether to adopt amendments to Rule 12a–6 under the Securities Exchange Act of 1934 that would remove the current prohibition against the exchange trading of options on OTC stocks and stock indexes. For further information, please contact Alden Adkins at (202) 272–2825.

2. Consideration of whether to issue a release soliciting comment on issues concerning the increasing internationalization of the world securities markets. For further informaion, please contact Andrew E. Feldman at (202) 272–2388.

3. Consideration of whether to issue a release proposing for public comment revisions to Form TA–1, utilized for registration as a transfer agent, including a new SEC Supplement to Form TA–1 to require information about persons associated with an independent, non-issuer transfer agent; proposed Rule 17Ac2–2, which requires transfer agents to complete proposed Form TA–2, an annual report regarding the nature and scope of a transfer agents' business activities. Also to be considered for public comment is an amendment to securities Exchange Act Rule 17Ac2–1(c) to increase the time period from 21 to sixty days for a registered transfer agent to amend their registration application once information reported therein becomes inaccurate misleading or incomplete. For further information, please contact Pierron R. Leef, Jr. at (202) 272–2897 or Randy G. Goldberg at (202) 272–2365.

4. Consideration of whether to issue a release proposing technical amendments to Rule 3A–02 of Regulation S–X, "Consolidated financial statements of the registrant and its subsidiaries." For further information, please contact Dorothy Walker at (202) 272–7343.

The subject matter of the closed meeting scheduled for Tuesday, April 16, 1985, at 2:30 p.m., will be:

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceeding of an enforcement nature

Regulatory matter regarding financial institution.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alan Dye at (202) 272–2014.

John Wheeler,

Secretary.

April 5, 1985.

[FR Doc. 85–8602 Filed 4–8–85; 3:59 am]

BILLING CODE 8010–01–M

federal register

Wednesday
April 10, 1985

Part II

Department of Agriculture

48 CFR Ch. 4
Acquisition Regulation

DEPARTMENT OF AGRICULTURE

48 CFR Ch. 4

Acquisition Regulation

AGENCY: Office of Operations, Department of Agriculture.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms and amends the interim rule by which Agriculture published the Agriculture Acquisition Regulation (AGAR) to implement and supplement the new Federal Acquisition Regulation (FAR), both of which regulations were effective on April 1, 1984.

The purpose of the FAR, codified as 48 CFR Chapter 1, is to simplify the Federal acquisition process by adopting a uniform regulation for all executive agencies. The FAR is intended to eliminate the confusion caused contractors by differing policies prescribed among the various regulatory agencies. The purpose of the AGAR, codified as 48 CFR Chapter 4, is to implement the FAR where required and to supplment the FAR in areas where there is no FAR coverage of policies unique to this Department.

Although the AGAR replaces the Agriculture Procurement Regulations (AGPR) codified at 41 CFR Chapter 4, the AGPR remains in full force and effect for contracts awarded prior to the effective date of the FAR and AGAR. The AGPR will be applicable to Departmental contracts entered into, or contracts resulting from solicitation issued prior to, April 1, 1984, and will be applicable to those contracts until such times as they are completed, terminated, or modified to comply with the provisions of the FAR and AGAR.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Schreier, Procurement Division (Room 1575–So.), Office of Operations, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8924.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Executive Order 12291
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
III. Public Comments

I. Background

The interim rule published in the **Federal Register** on March 28, 1984, (49 FR 12110–12133) established this Department's acquisition regulation to implement and supplement the FAR and invited comments through May 15, 1984. Comments were received from two public sources, and from numerous contracting activities within the agency. The pertinent public comments and the dispositive actions taken on them are summarized in subsection III of this preamble section. Many of the internal agency comments are being adopted to improve the clarity of this final rule.

II. Procedural Requirements

A. Executive Order 12291

Pursuant to the memorandum from David Stockman, Director, Office of Management and Budget, to Donald Sowle, Administrator, Office of Federal Procurement Policy, and Douglas Ginsburg, Administrator, Office of Information and Regulatory Affairs, dated December 13, 1984, this rule is exempt from Sections 3 and 4 of Executive Order 12291.

B. Regulatory Flexibility Act

This Department certified in the original document (49 FR 12110, March 28, 1984) that this document would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). Therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

The information collection or record keeping requirements that are imposed on the public by this rule have been approved by the Office of Management and Budget under OMB control number 0505–0005 in accordance with section 3504(h) of the Paper Work Reduction Act of 1980, 44 U.S.C. 3501, et seq.

III. Public Comments

One commenter took exception to section 401.301(b) which authorizes Departmental contracting activities to issue internal guidance on matters not directly affecting contractors or prospective contractors. The commenter is concerned that contracting activities may avoid publishing directives about policies and procedures indirectly affecting contractors, but which may be of substantive consequence to contractors. We agree that the effect of a directive is an important determinant whether the directive should be published. Consequently, section 401.301(b) has been amended to define internal guidance as being without significant effect upon contractors, as well as defining the term "significant."

The same commenter recommended adding a section 436.102 to define "Architect Engineer Services" in accordance with 41 CFR 1–4.1002. We believe the matter is being addressed by the two councils maintaining the FAR, and should be established only by FAR amendment for the sake of uniformity among agencies.

The commenter also expressed reservations about the appropriateness of FAR 19.502–2 total small business set-aside policy on acquisitions including those for A&E services. Out of concern for a uniform regulation, we believe neither a request to deviate from the FAR or a request for the councils maintaining the FAR to amend the "rule of two" standard should be pursued.

It should be understood that the "rule of two" applies only after a decision to set aside has been made in accordance with 19.502–1. In other words, it does not determine if there will be a set aside, but does determine the extent of a set aside. The current FAR language in 19.502–2 represents new policy only for former Federal Procurement Regulations (FPR) users. It is a policy that has been in effect for almost 5 years in DOD and approximately 1½ years at NASA.

Until the procurement regulations were amended to include this "rule of two" as a firm standard, the sole measure for deciding to make a small business set-aside total was whether there was "a reasonable expectation" that a "sufficient number" of responsible small business firms would present offers "at reasonable prices." The "sufficient number" standard was open to wide interpretation and proved inadequate for deciding when an entire procurement could be blocked out for exclusive small business bidding.

We believe that the confusion over the "rule of two" developed as a result of reading FAR 19.502–2 out of context. FAR 19.502 must be read in total in order to apply the policies for total or partial set-asides. At this time we do not consider it necessary to modify the FAR since the basic policy for setting aside acquisitions had not been changed.

Another commenter suggested adding a discrete transaction code for research and development (R&D) contracts in section 404.870–2. The transaction codes to identify contract types were established out of convenience and preference to contracting activities and the agency. The absence of a unique two-position code number for R&D contracts should not imply directly that R&D is a subset of service type contracts subject to the Service Contract Act. However, to avoid an inadvertent incorporation into some inappropriate category, the section is revised to add a separate transaction code for R&D contracts.

The commenter also criticized the omissions in FAR Subpart 42.1 or the AGAR Supplement 442.1 of any reference to OMB Circular A–88 policies

about the cognizant agency concept for auditing educational institutions and negotiating their indirect cost rates. Since AGAR section 442.102 simply specifies the coordinating office through which contracting officers may obtain audit services and does not override any established Government-wide policy, we believe no change to this section is required.

The commenter believes the clauses at AGAR 452.228–70, 452.228–71, and 452.228–72 are prescribed in such a manner as to imply that they must be inserted into all solicitations. We believe the prescription to insert provisions for bid or contract security "as prescribed in 428.102," which in turn applies only when performance and payment bonds may be required, is sufficiently clear to mean that the insertion is not universally required.

Lastly, the commenter suggested that we express the rationale for the clauses at 452.232–70 and 452.232–71 regarding interest on overdue payments and payment due dates. We agree. Suitable coverage is added to Part 432 to explain the basis for the two clauses as well as the clause at 452.232–72 since the supplementation results from the Prompt Payment Act (Pub. L. 97–177). Alternates to the clauses at 452.232–70 and 452.232–71 are also added.

There were numerous recommended revisions received from cognizant offices within Agriculture, and, to the extent accepted, they have been incorporated into this final rule.

List of Subjects in 48 CFR Chapter 4

Government procurement.

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

For the reasons set out in this preamble, the interim rule adding Chapter 4 to Title 48 of the Code of Federal Regulations is adopted as a final rule, with the changes as set forth below.

Issued in Washington, D.C., April 2, 1985.

Frank Gearde, Jr.,

Director, Office of Operations.

PART 401—AGRICULTURE ACQUISITION REGULATION SYSTEM

401.104–2 [Amended]

1. Section 401.104–2 is amended by correcting the section citation "415.80–3" at the end of the fourth sentence of paragraph (b) to read "415.804–3."

2. Section 401.104–2 is further amended by revising the last sentence of paragraph (b) to read, "However, subdivisions below the section and subsection levels may not always correlate directly to FAR designated paragraphs and subparagraphs."

3. Section 401.105–70 is added to read as follows:

401.105–70 OMB approval under the Paperwork Reduction Act.

The OMB control number 0505–0005 applies to USDA solicitations and specified information collections within the AGAR.

4. Section 401.301(b) introductory text is revised and two entries are added to the list of subagency symbols in paragraphs (b)(4) to read as follows:

401.301 Policy.

* * * * *

(b) Each designated Head of a Contracting Activity (HCA) is authorized to issue or authorize the issuance of, at any organizational level, internal guidance which does not have a significant effect on contractors or prospective contractors. "Significant effect" is defined generally as something which has an effect beyond the internal operating procedures of the activity, or has a cost or administrative impact on offerors or contractors. Internal guidance issued by contracting activities will not be published in the **Federal Register.** HCAs shall ensure that the guidance, procedures, or instructions e, issued:

* * * * *

(4) * * *

4E Food Safety and Inspection Service.

* * * * *

4S Extension Service.

5. Section 401.670 is added to read as follows:

401.670 Legal review and assistance.

Proposed acquisitions may be subject to legal review by the Office of the General Counsel in accordance with the procedures contained in Departmental Directives (5000 series).

PART 403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

6. Section 403.303 is revised to read as follows:

403.303 Reporting suspected antitrust violations.

Contracting officers shall report the circumstances of suspected violations of antitrust laws to the Office of Inspector General in accordance with procedures in Departmental Regulation 1710–2.

7. Section 403.502 is revised to read as follows:

403.502 Subcontractor kickbacks.

Contracting officers shall report the circumstances of suspected violations of the Anti-Kickback Act (41 U.S.C. 51–54) to the Office of Inspector General in accordance with procedures in Departmental Regulation 1710–2.

PART 404—ADMINISTRATIVE MATTERS

8. Section 404.870–2 is amended by revising paragraph (a)(8) to read as follows:

404.870–2 Contract numbering system.

* * * * *

(a) * * *

(8) Code 57—leasehold interest in real property contract

* * * * *

PART 405—PUBLICIZING CONTRACT ACTIONS

9. Section 405.404–1(a) is revised to read as follows:

405.404–1 Release procedures.

(a) HCA's shall establish procedures to control the release of long-range acquisition estimates as authorized under FAR 5.404–1.

* * * * *

PART 407—ACQUISITION PLANNING

407.170 [Amended]

10. Section 407.170 is amended by changing the word "Regulation" to read "Directives."

11. Section 407.302 is revised to read as follows:

407.302 General.

The requirements of FAR Subpart 7.3 and OMB Circular A–76 are implemented in Departmental Directives (2100 series).

PART 408—REQUIRED SOURCES OF SUPPLIES AND SERVICES

12. Section 408.802(c) is revised to read as follows:

408.802 Policy

* * * * *

(c) Prior to contracting for any of the items defined in FAR 8.801, the contracting officer shall verify that the requisite approval has been received by the publication liaison officer or requisitioner.

PART 410—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

13. Section 410.004 is amended by revising paragraph (a) and the introduction text of paragraph (b); by adding a sentence to paragraph (b)(5); and by adding paragraph (c) to read as follows:

410.004 Selecting specifications or descriptions for use.

(a) In accordance with FAR 10.004(b)(2), purchase descriptions shall not specify a product, or specific feature of a product, peculiar to a manufacturer unless the office initiating the purchase request furnishes written documentation and the contracting officer concurs that the product, or specific product feature, is essential to the Government's requirements and other similar products will not meet their requirements.

(b) A "brand name or equal" purchase description shall be used only under the conditions listed in FAR 10.004(b)(3) and in accordance with the following policies and procedures.

* * * * *

(5) * * * This provision may be modified for use in negotiated contracts.

(c) The policies and procedures in this section and the provision at 452.210-70 are not applicable to contracts for construction services, since the use of trade name descriptions are covered by the clause at FAR 52.236-5, Material and Workmanship.

PART 414—FORMAL ADVERTISING

14. Section 414.407-8(c)(1) is amended by revising the second sentence as follows:

414.407-8 Protests against award.

* * * * *

(c) * * *

(1) * * * Within 25 working days after notification by the Office of Operations that a protest has been filed with the GAO, the contracting officer shall prepare a report responsive to the protest and forward to the GAO in accordance with agency procedures.

* * *

* * * * *

Subpart 414.2—[Removed]

15. Subpart 414.2 consisting of sections 414.205 and 414.205-1, is removed in its entirety.

PART 415—CONTRACTING BY NEGOTIATION

16. Section 415.307(c) is revised to read as follows:

415.307 Signatory authority.

* * * * *

(c) For the purpose of signing determinations and findings for contracts or modifications negotiated for not more than $25,000 under authority of 41 U.S.C. 252(c)(11), the "appropriate official" shall be the head of a contracting office or at least one level above the contracting officer.

414.405 [Removed]

17. Section 415.405 is removed.

PART 416—TYPES OF CONTRACTS

416.603-2 [Amended]

18. Section 416.603-2 is amended by adding the words "or a designee" between the acronym "HCA" and the word "is."

19. Section 416.702 is revised to read as follows:

416.702 Basic agreements.

Promptly after execution by the Government, the HCA shall furnish to the Director, Office of Operations, a copy of each basic agreement negotiated with a contractor in accordance with FAR 16.702.

PART 417—SPECIAL CONTRACTING METHODS

Subpart 417.2—[Removed]

20. Subpart 417.2 consisting of sections 417.703 and 417.206, is removed in its entirety.

21. Section 417.502 is revised to read as follows:

417.502 General.

The HCA shall establish procedures for making interagency acquisitions under the Economy Act. The determination required by FAR 17.502 shall be made at a level above the contracting officer.

PART 419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

419.201-71 [Amended]

22. Section 419.201-71(a) and (d) are amended by changing "$25,000" to read "$10,000."

23. Section 419.201-72 is amended as follows:

a. Paragraphs (a)(2), (3), (5) and (d) are amended by changing "$25,000" to read "$10,000."

b. Paragraph (e) is added to read as follows:

419.201-72 Goals.

* * * * *

(e) Fiscal year goals are expected to reflect measurable improvement over an agency's performance in the previous fiscal year. Justification for establishing a goal lower than the achievement attained should be documented in accordance with paragraph (b) of this section.

24. Subpart 419.4 is added to read as follows:

Subpart 419.4—Cooperation With the Small Business Administration

419.402 Small Business Administration procurement center representatives.

(a) SBA has assigned a full-time Procurement Center Representative (PCR) to USDA procuring agencies located in the metropolitan Washington, D.C. area. A part-time PCR also has been assigned to the ASCS Kansas City Field Office (KFO), Kansas City, MO. PCR responsibilities are described in FAR 19.402.

(b) Acquisition offices in the metropolitan Washington, D.C. area and the KFO shall notify and make available for review by the PCR all proposed acquisitions in excess of $10,000 that have not been unilaterally set aside for small business (see FAR 19.501(c)). This action shall be taken prior to announcement of the acquisition in the Commerce Business Daily or before public solicitation of offers.

PART 432—CONTRACT FINANCING

25. Subpart 432.1 is added to read as follows:

Subpart 432.1—General

432.102 Description of contract financing methods.
432.111 Contract clauses.

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c)

Subpart 432.1—General

432.102 Description of contract financing methods.

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under USDA contracts or subcontracts for construction, alteration or repair, and shipbuilding and conversion. Such payments are authorized also for service contracts, if the contracting officer determines that progress payments based on costs are not practicable and adequate safeguards can be provided to administer progress payments based on a percentage or stage of completion. For all other contracts, progress payment provisions shall be based on costs, as provided in FAR 32.5, as supplemented by Subpart 432.5, except that progress payments based on a percentage or stage of completion may be authorized on a case-by-case basis by the HCA or designee when a determination is made that progress payments based on costs cannot be employed practically and that there are adequate safeguards provided for the administration of progress payments based on a percentage or stage of completion.

432.111 Contract clauses.

Payments due dates shall be established in accordance with the provisions set forth in Subpart 432.70, *Contract Payments*.

26. Subpart 432.70 consisting of sections 432.7000 through 432.7004, is added to read as follows:

Subpart 432.70—Contract Payments

Sec.
432.7000 Scope of subpart.
432.7001 Definitions.
432.7002 General.
432.7003 Exemptions.
432.7004 Contract clauses.

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c)

Subpart 432.70—Contract Payments

432.7000 Scope of subpart.

This subpart prescribes policies and procedures for the inclusion of payment terms in USDA contracts and purchase orders; the requirements of the Prompt Payment Act (Pub. L. 97–177; 31 U.S.C. 3901 et seq.), Office of Management and Budget (OMB) Circular No. A–125, Prompt Payment; and invoice requirements and matters concerning payments to contractors.

432.7001 Definitions.

"Business concern" means any person or organization engaged in a profession, trade, or business; and nonprofit entities (including State and local governments, but excluding Federal entities) operating as contractors.

"Contract" means any enforceable agreement, including rental and lease agreements and purchase orders, between an agency and a business concern for the acquisition of property or services.

"Designated payment office" means the place named in the contract for the forwarding of invoices for payment, or in certain instances for approval.

"Due date" means the date by which, if payment is made, a specified discount can be taken.

"Discount date" means the date by which, if payment is made, a specified discount can be taken.

"Payment date" means the date on which a check for payment is dated or an electronic funds transfer is made.

"Proper invoice" means a bill or written request for payment prepared and submitted by a contractor in accordance with contract terms and conditions.

"Receipt of invoice" means the date a proper invoice is actually received in the designated payment office, or the date on which USDA accepts the property or service, whichever is later.

432.7002 General.

(a) It is the policy of USDA to include payment terms in its contracts and to make payment due thereunder on the due dates determined in accordance with such terms.

(b) In accordance with guidelines set forth in the Treasury Fiscal Requirements Manual (1 TFRM 6–8040.20), it is also the policy of the Government to defer payment until as close as administratively possible to the due date for payment or, if appropriate, the discount date. However, discounts for early payments shall not be taken, unless such discounts are determined to be economical under the provisions of 1 TFRM 6–8040.30.

(c) When not otherwise established contractually, it is the USDA policy that the payment due date for invoices, bills, statements, or any other documents including progress and final payments (hereinafter referred to as "invoices") shall be the thirtieth (30th) calendar day after date of invoice receipt as defined in this subpart, unless a different date is required by law or regulations. If the 30th day falls on a holiday or weekend, the next business day will be used.

(d) Notice of an apparent error, defect, or impropriety in an invoice shall be given to a business concern within 15 days of invoice receipt (3 days for meat or meat food products and 5 days for perishable agricultural commodities). When provided orally, the notice shall be suitably documented.

(e) The contracting officer and other responsible officials shall ensure that receipt and acceptance are executed as promptly as possible.

(f) Checks shall be mailed or transmitted on or about the same day for which the check is dated.

(g) When USDA accepts property or services from a business concern, but does not make payment for each such complete delivered item of property or service by the required payment date, an interest penalty shall be paid to such business concern unless such payment is made within 15 days after the due date (3 days for meat or meat products and 5 days for perishable agricultural commodities) or is exempted pursuant to 432.7003 below.

(h) If a business concern offers USDA a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, payment will be made in an amount equal to the discounted price only if payment is made within such specified period of time. Violation of this provision shall result in payment of an interest penalty on any amount which remains unpaid and on which the Department fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities).

(i) To ensure prompt payment of amounts due, all USDA contracts shall incorporate appropriate payment provisions enabling the Government, at its option, to determine at the time of payment the method of payment to be used (e.g., check, electronic funds transfer).

432.7003 Exemptions.

The interest penalty provisions of this subpart are not applicable to the following types of contract payments:

(a) Advance payments, progress payments or other payments made for financing purposes before receipt of complete delivered items of property or service;

(b) Payments under cost-reimbursement contracts or similar payments under other types of contracts providing for cost-reimbursements; e.g., a Time-and-Materials or Labor-Hour Contract, a Personal Service Contract;

(c) Payments for utilities (gas, water, electricity, etc.) where the contract includes provisions for late payment charges established by tariffs or State regulatory commissions; or

(d) Payments under informal contracts for the purchase of utilities under a tariff when such tariff provides for late payment charges.

432.7004 Contract clauses.

(a) The contracting officer shall insert one of the clauses at 452.232–70 Interest on Overdue Payments, in solicitations and contracts. The contracting officer shall select the Alternate that is applicable to the type of supplies or services being procured.

(b) The contracting officer shall insert one of the clauses at 452.232–71, Payment Due Date, in solicitations and contracts. The contracting officer shall select the Alternate that is applicable to the type of supplies or services being procured.

(c) The contracting officer shall insert the clause at 452.232–72, Invoice Requirements, in solicitations and contracts for supplies or services which require the submission of invoices.

(d) The contracting officer shall insert the clause at 452.232–73, Method of Payment, in all solicitations and contracts for supplies and services, including construction, and in leases of real property.

PART 436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

436.602-3 [Amended]

27. Section 436.602-3(a) is amended by correcting the section citation "436.601-1" to read "436.602-1."

436.603 [Amended]

28. Section 436.603(b) is amended by changing the word "approval" in the first sentence to read "comment."

29. Part 437 is revised to read as follows:

PART 437—SERVICE CONTRACTING

Subpart 437.1—Service Contracts—General

437.104 Personal services contracts.

Subpart 437.2—Consulting Services

437.205 Management controls.

Authority: 5 U.S.C. 301 and 5 U.S.C. 480(c).

Subpart 437.1—Services Contracts—General

437.104 Personal services contracts.

USDA has the following specific statutory authorities to contract for personal services:

(a) Section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) authorizes contracting with persons or organizations on a temporary basis (without regard to civil service compensation and classification standards in 5 U.S.C., Chapter 51 and Subchapter III of Chapter 53, *Provided:*

(1) That no expenditures shall be made unless specifically provided for in the applicable appropriation, and

(2) The expenditure does not exceed any limitations prescribed in the appropriation.

(b) 7 U.S.C. 1627 authorizes the Secretary of Agriculture to contract with technically qualified persons, firms or organizations to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws, *Provided,* it is for a temporary basis and for a term not to exceed six months in any fiscal year.

Subpart 437.2—Consulting Services

437.205 Management controls.

Contracts for consulting services are subject to the management controls and procedures in Departmental Regulations (5000 series).

PART 446—QUALITY ASSURANCE

30. Section 446.704 is revised to read as follows:

446.704 Authority for use of warranties.

(a) The requisitioning unit is responsible for preparing a written recommendation to identify those acquisitions deemed appropriate for application of warranty provisions. The recommendation shall address the criteria set forth at FAR 46.703 to document the basis on which a warranty is considered appropriate. The recommendation shall also identify the specific parts, subassemblies, assemblies, systems, or contract line items to which a warranty should apply.

(b) Before soliciting the requirement, the contracting officer shall make a written determination, subject to approval at a level above the contracting officer, whether to include a warranty contract clause.

PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

31. Section 452.228-70 is revised to read as follows:

452.228-70 Notice of Required Bid Security.

As prescribed in 428.102-3(a), insert the following provision in solicitations:

Notice of Required Bid Security (Apr. 1984)

Each bidder must submit a bid guarantee in the amount of ——* percent of the total bid price, but in no event shall the penal sum exceed $3 million. If a bid bond is submitted, it should be on Standard Form 24. Money orders, cashiers checks, or certified checks, if used, shall be drawn payable to: *(Insert name of USDA contracting activity).*

(End of Clause)

*The Contracting Officer shall insert an appropriate number but not less than 20 percent.

32. Section 452.232-70 is revised to read as follows:

452.232-70 Interest on overdue payments.

As prescribed in 432.7004(a), insert the following clause in all nonexempt contracts and purchase orders, including those for construction and leases of real property.

Interest on Overdue Payments (Apr. 1984)

(a) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to payments under this contract and requires the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

Alternate I (Mar. 1985)

If an architect-engineer or other professional or technical service contract is involved add the following paragraphs (c) and (d) to the basic clause:

(c) The A-E (Contractor) shall not be entitled to interest penalties on progress payments (such as payments for concept and tentative drawings) and other payments made for financing purposes before receipt of complete delivered items of property or service. The Government shall be liable for interest penalties only on the amount of payment which is past due that represents payment for complete delivered items of property or service which have been accepted by the Government.

(d) The term "progress payments," as used herein, signifies payments made as work progresses under the contract, upon the basis of costs incurred, of percentage of completion accomplished, or of a particular stage of completion, as provided under the payment provisions of this contract. As used herein this term does not include payments for partial deliveries accepted by the Government under this contract, or partial payments on contract termination claims.

(Alternate II (Mar. 1985)

If a construction contract which provides for progress payments is involved, add the following paragraph (c) to the basic clause:

(c) The Contractor shall not be entitled to interest penalties on progress payments and other payments made for financing purposes before receipt of complete delivered items of property or service, or on amounts withheld temporarily in accordance with the contract.

(End of clause)

33. Section 452.232-71 is amended by revising (a) introductory text and paragraph (d) of the clause to paragraph (g); by revising paragraphs (b) and (c); and by adding paragraphs (d) through (g), to read as follows:

452.232-71 Payment due date.

(a) As prescribed in 432.7004(b), insert a clause substantially the same as the following provision in solicitations and supply contracts when invoices required to be furnished by Contractors may be received before the Government has had an opportunity to inspect and accept the supplies. It shall be stipulated in the payment terms that payment will be due on the later of: (1) receipt of invoice, or (2) the acceptance of the supplies. The following clause, for example, is suitable for use in supply contracts when delivery is on an f.o.b. destination basis:

Payment Due Date (Apr. 1984)

* * * * *

(d) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

(b) As prescribed in 432.7004(b), insert the following clause in solicitations and supply contracts when invoices are required to reflect that delivery (or performance) and acceptance has already occurred. This would be the

situation in the case of supplies purchased on f.o.b. origin basis, with inspection and acceptance at source, and proof of shipment (e.g., a Government bill of lading) required to be furnished with the invoice. This may also be the case with respect to various contracts for services.

Payment Due Date—Alternate I (Mar. 1985)

(a) Payments under this contract will be due on the ——* calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice.

(b) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

**"30th"* calendar day, unless the contracting officer inserts a different number.

(c) As prescribed in 432.7004(b), insert the following clause in solicitations and supply contracts for meats and meat food products, or perishable agricultural commodities.

Payment Due Date—Alternate I (Mar. 1985)

(a) Payment under this contract will be due on the ——* calendar day after the date of delivery.

(b) A proper invoice covering the supplies delivered is required to be submitted with the shipment. Delivery will be deemed to be made on the later of the actual date of delivery, or the date a proper invoice is received in the office designated to receive the invoice.

(c) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

*The contracting officer shall insert "7th" for the acquisition of meats and meat food products, and "10th" for the acquisition of perishable agricultural commodities.

(d) As prescribed in 432.7004(b), insert the following clause in solicitations and nonpersonal service contracts when invoices required to be furnished by contractors may be received before the date of completion of performance of the services it shall be stipulated in the payment terms that payment will be due on the later of receipt of the invoice, or the date of completion of performance of the services.

Payment Due Date—Alternative III (MAR 1985)

(a) Payment under this contract will be due on the——* calendar day after the later of:

(1) The date of actual receipt of a proper invoice in the office designated to receive the invoice, or

(2) The date of completion of performance of the services.

(b) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communication System shall be considered to be the date payment is made.

(End of Clause)

**"30th"* calendar day, unless the contracting officer inserts a different number.

(e) As prescribed in 432.7004(b), insert the following clause in architect-engineer (including supplemental architect-engineer contracts) and other professional or technical service contracts.

Payment Due Date—Alternative IV (MAR 1985)

(a) The required payment date will be——* calendar days after (1) the date of actual receipt of a proper invoice by the office designated to receive the invoice, or (2) the date the contract deliverable is approved, whichever is later.

(b) The date of the check issued in payment or the date of the payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

**"30th"* calendar day, unless the contracting officer inserts a different number.

(f) As prescribed in 432.7004(b), insert the following clause in solicitations and construction contracts when the contract amount is expected to exceed the small purchase limitation. Construction contracts which do not involve progress or other financing payments shall utilize the clause in paragraph (d) above.

Payment Due Date—Alternative V (MAR 1985)

(a) Payment due dates under this contract will be as follows:

(1) For progress payments, ——* calendar days after the date of actual receipt of a proper written progress payment request/invoice in the office designated to receive invoices. If the Government agrees with the amount of the Contractor's payment request, payment will be based on that amount. If the Government does not agree with the amount of the Contractor's request, the Contracting Officer will attempt to reach agreement with the Contractor on an alternative amount. If timely agreement is not possible, the Contracting Officer will make payment based upon the Government estimate. The term "progress payment," as used herein, means payments made as work progresses under the contract based upon costs incurred, percentage of completion accomplished, or a particular stage of completion achieved. As used herein this term does not include payments for partial deliveries accepted by the Government under this contract, or partial payments on contract termination claims.

(2) For partial payments for complete delivered items of property or service, ——** calendar days after the later of: (i) the date of actual receipt of a proper payment request/invoice in the office designated to receive invoices, or (ii) the date the property or services are accepted by the Government. The term "partial payments," as used herein, means payments made under the contract for such completed property or services delivered to and accepted by the Government, where such property or services are only a part of the total contract requirements.

(3) For final payment, ——** calendar days after the later of: (i) the date of actual receipt of a proper payment request/invoice in the office designated to receive invoices, (ii) the date of actual receipt by the contracting officer of a release of all claims against the Government, relating to this contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the release, or (iii) the date all property or work is accepted by the Government.

(b) For the purpose of determining the due dates for partial payments and final payment and for no other purpose, acceptance will be deemed to occur on the ——*** calendar day after the date of actual receipt of property or completion of work.

(c) If the property or services are rejected for failure to conform to the technical requirements of the contract, the provisions of paragraph (b) of this clause will be based upon the date of the Contractor's correction of the defect(s).

(d) To be considered "proper," a payment request/invoice must satisfy the requirements of the "Invoice Requirements" clause and the "Payments under Fixed Price Construction Contracts" clause of this contract.

(e) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

*The contracting office should insert in appropriate number of days. The number should represent the average time required to inspect the work, verify the payment request, and process the payment. In establishing the number of days the contracting officer should consider whether there will be Government inspectors assigned to the project site. The number of days shall not exceed 30 unless a longer period is justified. Such justification shall be included in the contract file.

**The contracting officer should insert in appropriate number (normally 30 days, unless some other number of days is necessary and is justified in the contract file).

***The contracting officer should insert the number of days which constitutes the number of days necessary for inspection, acceptance, and other necessary actions. The number should range from 15 to 30 days depending upon the size, complexity, and location of the project.

(g) As prescribed in 432.7004(b) insert the following clause in all solicitations and contracts for leases of real property.

Payment Due Date—Alternative VI (Mar. 1985)

(a) Payment under this contract will be due on the 5th workday of the month following that in which payment accrued.

(b) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

34. Section 452.232-73 is added to read as follows:

452.232-73 Method of payment.

As prescribed in 432.7004(d), insert the following clause in all solicitations and contracts for supplies and services, including construction, and in leases of real property:

Method of Payment (Mar. 1985)

(a) Payments under this contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

(b) The Contractor shall forward the following information in writing to (*Insert addressee identification*) not later than 7 days after receipt of notice of award.

(1) Full name (where practicable), title, phone number, and complete mailing address of responsible official(s) (i) to whom check payments are to be sent, and (ii) who may be contacted concerning the bank account information requested below.

(2) The following bank account information required to accomplish wire transfers:

(i) Name, address, and telegraphic abbreviation of the receiving financial institution.

(ii) Receiving financial institution's 9-digit American Bankers Association (ABA) identifying number for routing transfer of funds. (Provide this number only if the receiving financial institution has access to the Federal Reserve Communications System.)

(iii) Recipient's name and account number at the receiving financial institution to be credited with the funds.

(iv) If the receiving financial institution does not have access to the Federal Reserve Communications System, provide the name of the correspondent financial institution through which the receiving financial institution receives electronic funds transfer messages. If a correspondent financial institution is specified also provide:

(A) Address and telegraphic abbreviation of the correspondent financial institution.

(B) The correspondent financial institution's 9-digit ABA identifying number for routing transfer of funds.

(C) Any changes to the information furnished under paragraph (b) of this clause shall be furnished to the Contracting Officer in writing at least 30 days before the effective date of the change. It is the Contractor's responsibility to furnish these changes 30 days before submitting invoices to avoid invoices being returned as improper.

(D) The document furnishing the information required in paragraphs (b) and (c) must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and contract number.

(End of Clause)

[FR Doc. 85-8536 Filed 4-9-85; 8:45 am]

BILLING CODE 3410-98-M

federal register

Wednesday
April 10, 1985

Part III

Department of Education

Office of Special Education and Rehabilitative Services

Auxiliary Activities; Innovative Programs for Severely Handicapped Children; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Auxiliary Activities; Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Notice of final annual funding priorities.

SUMMARY: The Secretary announces annual funding priorities for the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program. To ensure widespread and effective use of program funds, the Secretary announces seven priorities to direct funds to the areas of greatest need for fiscal year 1985. A separate competition will be established for each priority.

EFFECTIVE DATE: This notice of priorities will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these final annual funding priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3511—M/S 2313). Washington, D.C. 20202. Telephone: (202) 732–1177.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities program, authorized by section 624 of the Education of the Handicapped Act, supports research, development or demonstration, training, and dissemination activities which meet the unique educational needs of handicapped children and youth, and are consistent with the purposes of Part C of the Act (20 U.S.C. 1424). The Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199, included amendments to the provisions of section 624. In accordance with this authority, the Secretary will invite projects under the following priorities for fiscal year 1985. Projects will be funded for up to 36 months, except where otherwise indicated, subject to an annual review of progress, the availability of Federal funds, and other factors (*see* 34 CFR 75.251–75.253).

Summary of Comments and Responses

A "Notice of Proposed Annual Funding Priorities" was published in the **Federal Register** on January 4, 1985 (50 FR 700) for the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program. Three comments were received. Two commenters were supportive of the proposed priorities and did not suggest any changes.

Comment. The only commenter recommending a change proposed the addition of a priority to serve children and youth at risk of being categorized as deaf-blind.

Response. No change has been made. This priority was included in both the fiscal year 1983 and 1984 competitions, to which very limited response was received. Consequently, the Secretary determined to increased the amount of monies available under other priorities, including Priority 84.086H—"Non-directed Demonstration Projects for Deaf-Blind Children and Youth," which allows for a greater diversity of project efforts. Should an applicant desire to propose a project dealing with the at-risk issue for deaf-blind children, however, such an application could be submitted under the "Non-directed Demonstration Projects for Deaf-Blind Children and Youth" priority

Priorities

(1) *Non-directed Demonstration Projects for Severely Handicapped Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant educational needs, including vocational needs, of severely handicapped (other than deaf-blind) children and youth. The content of the demonstration projects is limited only by the overall mission of the program—to demonstrate innovative and effective approaches to the education of severely handicapped children. Applicants proposing to conduct the projects must fully describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $7,000 is expected to be available for issuing up to six awards under this competition.

(2) *Approaches to Total Life Planning for Deaf-Blind Children and Youth.* This priority supports projects which implement innovative procedures for the development of total life planning for deaf-blind children and youth. The planning must include: (1) Assessment of a broad range of skills and capabilities including, but not limited to, cognitive, linguistic, affective, and psychomotor functioning of the project participants; (2) identification of services which are essential to meet the needs of the participants and which will maximize their potential as they approach adulthood; (3) development of strategies for individualized life planning for each project participant, with provision for modifying the planning on at least an annual basis; and (4) development of strategies for applying individualized planning to deaf-blind children and youth not served by the project. These projects: (1) May begin activities from the time children are identified as handicapped and include planning for preschool education through vocational education and rehabilitation services as appropriate, emphasizing the transition of such children from educational to home and community environments; and (2) encourage the active involvement of parents in promoting the implementation of total life planning for these children. Approximately $600,000 is expected to be available for issuing up to five awards under this competition.

(3) *Skills Training, Placement, and Supported Employment for Deaf-Blind Youth.* This priority supports projects which design, implement, and disseminate information about innovative practices in the prevocational and vocational skills training, work site placement, and supported employment of deaf-blind youth. The practices must extend beyond, expand upon, complement, or supplement existing successful practices. These projects may also include feasible applications of techniques still in the development stage in research and other experimental programs. Four characteristics distinguish these programs from traditional vocational education programming for deaf-blind children and youth. These programs are designed to—(1) Provide employment opportunities for youth lacking the potential for unassisted competitive employment or those not eligible for vocational rehabilitation benefits; (2) provide, in combination with other Federal, State and local funding services, ongoing training supervision and support services without the expectation of unassisted competitive work; (3) provide an employment focus directed toward the achievement by deaf-blind youth of the same goals (security, mobility, quality of life, and income level) sought by nonhandicapped workers; and (4) incorporate a variety of support strategies and techniques to assist a service agency in providing training to deaf-blind individuals at work sites. Approximately $600,000 is expected to be available for issuing up to five awards under this competition.

(4) *Non-directed Demonstration Projects for Deaf-Blind Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant

educational needs of deaf-blind children and youth. The content of the demonstration projects is to focus upon the overall mission of the program—to demonstrate innovative and effective approaches to the education of deaf-blind children and youth in the least restrictive environment with the goal of providing educational programs for these children and youth in regular school settings. Projects, in particular, must be designed to demonstrate functional and viable procedures in such areas as the design, implementation, and evaluation of age appropriate curricula and the provision of related services for the education of deaf-blind children and youth.

For the purposes of this priority, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training. *See* 34 CFR 300.13.

Each applicant proposing to conduct a project must fully describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $600,000 is expected to be available for issuing up to five awards under this competition.

(5) *State-wide Systems Change.* This priority supports projects which design, implement, evaluate, and disseminate information about a model for the State-wide delivery of compehensive special education and related services to severely handicapped children and youth (including deaf-blind children and youth), ages birth through 21, within a particular State. Such a design must utilize and enhance existing service delivery systems for these children. Particular attention should be placed on ensuring that deaf-blind children are properly integrated into these systems since services to this group are often provided through a combination of regional, Federal, State and local service providers. Federal programs with which the projects should be coordinated include Early Childhood State Plan projects (34 CFR Part 309), the Services for Deaf-Blind Children program (34 CFR Part 307), and vocational education activities. Each project must develop a system which will—(1) Develop a comprehensive description of services for severely handicapped children within a State; (2) complete an extensive analysis of the current service delivery system; (3) design an improved comprehensive State-wide model for the delivery of educational services to maximize the potential of severely handicapped children and youth; (4) implement the model of Statewide services on a pilot basis under systematic and carefully documented conditions; (5) design and implement an evaluation plan for each of the project components; (6) disseminate information about the model's findings and recommendations; (7) establish and utilize an advisory committee; and (8) maintain a performance measurement system to monitor all project activities. In the past few years, contracts have been awarded to establish similar Statewide service delivery systems. States receiving these contracts are not eligible for funding under this priority. These states are Georgia, Hawaii, Illinois, Kansas, Minnesota, Montana, New York, Oregon, Washington, Utah, and Wyoming.

Projects under this priority will be funded through cooperative agreements with the Secretary. Approximately $1,672,500 is expected to be available for issuing up to 13 grants or cooperative agreements under this competition.

(6) *Communication Skills Development for School-age Deaf-Blind Children and Youth.* This priority supports projects which identify critical educational problems in developing communication skills in school-age deaf-blind children, ages 6 through 21, design and demonstrate innovative programs to effectively resolve such problems, and disseminate information about project findings and recommendations. Projects should address one of the following issues—(1) Appropriate communication modes; (2) standardized procedures of communication (language) sampling within a range of social contexts; (3) the sequence of communicative behaviors that follow the presymbolic stage and are predictive of later linguistic or communicative functioning; (4) procedures for assessment of communicative exchanges between deaf-blind persons and others (parents, siblings, peers, teachers, etc.); (5) effective intervention strategies that facilitate effective communicative exchanges between deaf-blind persons and others; or (6) procedures for selecting and evaluating technological aids with attention to the vocabulary and linguistic features appropriate to each device and its individual user. Approximately $1,050,000 is expected to be available for issuing up to 14 grants with each grant averaging $75,000 annually. These grants will be awarded for 24 months or less.

(7) *Social and Community Skills Development for Severely Handicapped Children and Youth.* This priority supports projects which design, implement, and evaluate innovative procedures which increase the skills and opportunities of severely handicapped (including deaf-blind) children and youth to socially interact with peers and others in neighborhood and other community situations. These projects should seek to promote the development of new social skills, and improve the existing interactive skills, and additionally seek to ensure that the right of such children and youth to participate in community activities outside of structured educational or intervention settings is not dependent upon a particular level of performance. Projects should focus on one or more of the following issues—(1) Enhancing social skills; (2) reducing or eliminating social barriers; and (3) increasing opportunities for social participation. Projects which emphasize skill enhancement should provide opportunities for generalization to other settings. Activities preparing the community and/or neighborhood to support and adjust to the inclusion of severely handicapped children and youth should include parents, professionals, and non-handicapped peers as well as the general public. Projects which focus on increasing environmental opportunities should emphasize integrated settings and provide opportunities for expanding available effective experiences. Project activities should focus on two or more small groups of two or more severely handicapped children and be co-directed by a parent and local educational agency professional. Approximately $1,340,000 is available for issuing up to 16 grants with each grant averaging $83,750 annually. These grants will be for 24 months or less.

Information collection requirements have been approved by the Office of Management and Budget under control number 1820-0028.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance No. 84.086; Innovative Programs for Severely Handicapped Children)

Dated: April 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-8638 Filed 4-9-85; 8:45 am]

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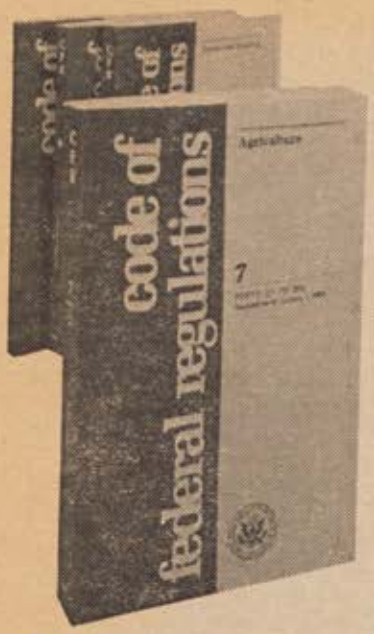

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