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federal register

Thursday
May 23, 1985

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Engineers Corps

Anchorage Grounds
Coast Guard

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Food and Drug Administration

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Federal Aviation Administration

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Marine Safety
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Presidential Documents

Title 3—

The President

Proclamation 5343 of May 21, 1985

National Maritime Day, 1985

By the President of the United States of America

A Proclamation

The restructuring of the Nation's maritime policy and regulations to create an environment in which our shipping industry can prosper is of great importance to the United States.

Since its birth as a Nation, the United States has relied on the oceans for commerce and as avenues for the protection of national interests. The United States is truly a maritime power by necessity.

Maritime power has two principal components. One component, the Navy and the Coast Guard, guards America's free use of the seas while the other component, the Merchant Marine, supports trade with nations and, in an emergency, becomes a part of our military establishment—integral with our military forces.

This role of our civilian mariners is not new. In World War II, virtually every serviceman who saw action against the enemy was transported overseas by ship. In Vietnam, more than 90 percent of the war material utilized in that conflict went by sea.

Our brave merchant seamen took their place alongside the fighting men of our armed services in combat against a determined enemy. In World War II, from December 1941 to August 1945, the United States lost 5,638 merchant seamen aboard 733 ships sunk by submarines. Through the first part of 1943, the casualty rate among U.S. merchant seamen was greater than in all the armed services.

To maintain America's maritime power this Administration has advocated that a number of steps be taken by government, industry, and labor:

—Maintenance of a superior Navy, Marine Corps, and a highly capable Coast Guard. A superior Navy is required to protect merchant ships in time of emergency, in recognition of the critical nature of their military and economic cargoes.

—An economically independent United States flag merchant marine of not less than its current capabilities.

—An adequate shipyard mobilization base. The construction of the 600-ship Navy is helping to maintain the shipyard mobilization base.

—Continued emphasis on merchant vessel security agreements between the United States and its allies, such as the NATO ship-sharing agreement.

The enactment of the Shipping Act of 1984 was a major step toward regaining a prominent position on the world's trade routes for our country. It diminished or streamlined outdated regulations that governed the ocean liner industry, and it has helped rekindle the spirit of American maritime enterprise. American-flag liner companies are now in the forefront of developments that are providing shippers with more efficient, extensive, and innovative intermodal services.

Our Merchant Marine is being bolstered by the replacement of obsolete ships with new, efficient, and highly competitive vessels. With the cooperation of

seafaring labor, these new fleet additions are being operated with small crews that increase their productivity and competitiveness.

These healthy trends should be encouraged. We must work to continue to develop the strong American merchant marine to serve our Nation's peacetime trade and support our Armed Forces.

In recognition of the importance of the American merchant marine, the Congress, by joint resolution approved May 20, 1933, designated May 22 of each year as "National Maritime Day" and authorized and requested the President to issue annually a proclamation calling for its appropriate observance. This date was chosen to commemorate the day in 1819 when the SS SAVANNAH departed Savannah, Georgia, on the first transatlantic steamship voyage.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 22, 1985, as National Maritime Day, and I urge the people of the United States to observe this day by displaying the flag of the United States at their homes and other suitable places, and I request that all ships sailing under the American flag dress ship on that day.

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

Ronald Reagan

[FR Doc. 85-12586
Filed 5-21-85; 2:18 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5344 of May 21, 1985

National Osteoporosis Awareness Week, 1985

By the President of the United States of America

A Proclamation

Osteoporosis is a condition in which bone mass decreases, causing bones to be more susceptible to fracture. It may develop without warning. A fall, blow, or lifting action that would not strain the average person can easily cause one or more bones to break in a person with severe osteoporosis.

Some 15 to 20 million Americans are afflicted with osteoporosis. The risk of developing the disease increases with age and is higher in women than in men. It is estimated that 25 percent of postmenopausal women in the United States will develop osteoporosis. Among people who live to be age 90, 32 percent of women and 17 percent of men will suffer a hip fracture, mostly due to osteoporosis. More than 50,000 older women and many older men die each year in the United States as a result of such complications. It is estimated that national health costs related to osteoporosis are at least $3.8 billion annually.

As scientific knowledge about the disease continues to grow, there is reason for hope. New research findings and new approaches to prevention, diagnosis, and treatment are being developed. The Federal government and private voluntary organizations have created a strong and enduring partnership committed to research on osteoporosis. Working together, our objective must be to uncover the cause and cure for this major public health problem.

The Congress, by Senate Joint Resolution 61, has designated the week beginning May 20, 1985, through May 26, 1985, as "National Osteoporosis Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 20, 1985, through May 26, 1985, as National Osteoporosis Awareness Week. I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 85-12678
Filed 5-22-85; 10:49 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5345 of May 21, 1985

National Medical Transcriptionist Week, 1985

By the President of the United States of America

A Proclamation

Record-keeping is a vital function in our society, and one of the most important records for every American is the medical record. That record, including reports prepared and edited by a medical transcriptionist from physician dictation, is the permanent history of a patient's medical care.

A century ago, physicians knew many of their patients from birth, knew all their ailments, and provided all their medical care. Today, with medical specialization and greater mobility among people, many skilled physicians may treat the average American during a lifetime. Using transcribed medical reports, each physician can easily and quickly review a patient's medical history even if the physician has never seen that patient before. Because of the work done by trained medical transcriptionists, patients can be assured that the history of their medical care is portrayed accurately and legibly. Medical transcriptionists have therefore become a vital link between the physician and the patient.

It is appropriate for our Nation to recognize the contributions of medical transcriptionists. We should encourage hospitals, allied health education programs, and community colleges to provide appropriate courses of instruction recognizing the high standards that must be met by medical transcriptionists and the vital function they perform.

In recognition of the need for medical transcriptionists in today's society, the Congress, by Public Law 98–609, has designated the week beginning May 20, 1985, as "National Medical Transcriptionist Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of May 20 through May 26, 1985, as National Medical Transcriptionist Week, and I urge all Americans to participate in appropriate ceremonies in observance of this event.

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

Ronald Reagan

[FR Doc. 85-12679
Filed 5-22-85; 10:50 a.m.]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ASW-4]

Designation of Transition Area; Bristow, OK

AGENCY: Federal Aviation Administration (FFA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a 700-foot transition area at Bristow, OK. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Jones Memorial Airport. This amendment is necessary since a nonfederal nondirectional radio beacon (NDB) is being installed to provide navigational guidance to Jones Memorial Airport. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: 0901 GMT, September 26, 1985.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW-534), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2622.

SUPPLEMENTARY INFORMATION:

History

On March 1, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Bristow, OK, Transition Area (50 FR 41).

Interested persons 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 that proposed in the notice. Section 71.818 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 designates a 700-foot transition area to provide additional controlled airspace for protection of aircraft arriving and departing Jones Memorial Airport.

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

Aviation safety, Control zones, Transition areas, etc.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Bristow, OK—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Jones Memorial Airport (latitude 35°48'20" N., longitude 96°25'15" W.) and within 3.5 miles each side of the 183-degree bearing from the airport extending from the 6.5-mile radius area to 13 miles south of the airport.

(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 Fort Worth, TX, on May 13, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-12478 Filed 5-22-85; 8:45 am]
BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1201

Statement of Organization and General Information

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is revising its Statement of Organization and General Information to reflect its current organizational structure. This revision includes six program offices and eight staff offices. Since this action is editorial in nature, notice and public comment procedures are not required.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Richard G. Mulligan, 202-453-2970.

SUPPLEMENTARY INFORMATION: This regulation does not constitute a major rule for the purposes of Executive Order 12291. This regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 1201

Organization and functions (Government agencies).

For reasons set forth in the preamble, Title 14 CFR Part 1201 is revised to read as follows:

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Subpart 1—Introduction

Sec.
1201.100 Creation and authority.
1201.101 Purpose.
1201.102 Functions.
1201.103 Administration.

Subpart 2—Organization

1201.200 General.

Subpart 3—Boards and Committees

1201.300 Boards and committees.

Subpart 4—General Information

1201.400 NASA procurement program.
1201.401 Special document depositories.
1201.402 NASA Industrial Applications Centers.

Authority: 5 U.S.C. 552, as amended.

Subpart 1—Introduction

§ 1201.100 Creation and authority.

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.), as amended (hereafter called the "Act").

§ 1201.101 Purpose.

It is the purpose of the National Aeronautics and Space Administration under the Act to carry out the declared policy of the United States that aeronautical and space activities sponsored by the United States shall be the responsibility of, shall be directed by, and shall be under the control of a civilian agency, except to the extent that aeronautical and space activities are determined by the President to be peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States, which activities shall be the responsibility of the Department of Defense.

§ 1201.102 Functions.

In order to carry out the purpose of the Act, NASA is authorized to conduct research into the problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate a space transportation system including the space shuttle, upper stages, space programs, and related equipment; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, together with related equipment, devices, components, and parts.

§ 1201.103 Administration.

(a) NASA is headed by an Administrator, who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible, under the supervision and direction of the President, for exercising all powers and discharging all duties of NASA.

(b) The Deputy Administrator of NASA is also appointed by the President from civilian life by and with the consent of the Senate. The Deputy Administrator acts with or for the Administrator within the full scope of the Administrator's responsibilities. In the Administrator's absence, the Deputy Administrator serves as Acting Administrator.

Subpart 2—Organization

§ 1201.200 General.

(a) Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters, located in Washington, DC. NASA Headquarters is comprised of:

(1) six Program Offices which are responsible for planning and directing agencywide research and development programs, and management and administrative processes;

(2) eight Staff Offices which provide agencywide leadership in certain administrative and specialized areas;

(3) the Office of the Associate Deputy Administrator;

(4) the Office of the Chief Engineer;

(5) the Office of the Chief Scientist; and

(6) the Office of Policy.

All of these offices report directly to the Administrator. Directors of NASA Field Installations and other component installations are responsible for execution of NASA's programs, largely through contracts with research, development, and manufacturing enterprises. Certain types of research and development activities are conducted at NASA field installations and other component installations by Government-employed scientists, engineers, and technicians. NASA's basic organization consists of the Headquarters, eight field installations, the Jet Propulsion Laboratory (a Government-owned, contractor-operated facility), and several component installations which report to heads of field installations. NASA's eight field installations have different and broad capabilities. Although these field installations have a primary program responsibility to the program office to which they report, they also conduct work for the other program offices. (NASA Management Instruction 1132.2.)

(b) The NASA field installations are as follows:

(1) Ames Research Center, Moffett Field, CA 94035.

(2) Goddard Space Flight Center, Greenbelt, MD 20771.

(3) John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(4) Langley Research Center, Langley Station, Hampton, VA 23665.

(5) Lewis Research Center, Cleveland, OH 44135.

(6) Lyndon B. Johnson Space Center, Houston, TX 77058.

(7) George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812.

(8) National Space Technology Laboratories, NSTL Station, MS 39520.

For more detailed description of the organization and functions of the Headquarters and field installations, see the "U.S. Government Manual."

Subpart 3—Boards and Committees

§ 1201.300 Boards and committees.

Various boards and committees have been established as part of the permanent organization structure of NASA. These include:

(a) *Board of Contract Appeals.* (1) The Board is established in accordance with the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The function of the Board is to decide any appeal from a decision of a contracting officer relating to a contract made by NASA.

(2) The charter of the Board is set forth in Subpart 1 of Part 1209 of this chapter. The Board's rules of procedure are set forth in 14 CFR Part 1241.

(3) The texts of decisions of the Board are published by Commerce Clearing House, Inc., in Board of Contract Appeals Decisions, and are hereby incorporated by reference. All decisions and orders are available for inspection and for purchase from the Recorder of the Board at NASA Headquarters, Washington, DC. Decisions and orders issued after July 4, 1967, are available for inspection and for purchase at NASA Information Centers. An Index/Digest of Decisions is issued periodically with supplements published as appropriate. These are available for inspection or purchase at the NASA Information Centers (see Subpart 4 of Part 1206 of this chapter) and from the Recorder of the NASA Board of Contract Appeals.

(b) *Contract Adjustment Board.* (1) The function of the Board is to consider and dispose of requests by NASA contractors for extraordinary contractual adjustments pursuant to Pub. L. 85–804 (50 U.S.C. 1431–35) and Executive Order 10789 dated November 14, 1958 (23 FR 8397).

(2) The charter of the Board is set forth at Subpart 3 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 48 CFR chapter 18–50.306–70.

(3) Indexes of and texts of decisions of the Board are available for inspection and for purchase from the Chairperson of the Board, National Aeronautics and Space Administration, Washington, DC

20546, and from the NASA Information Centers.

(c) *Inventions and Contributions Board.* (1) The function of the Board is to consider and recommend to the Administrator the action to be taken with respect to:

(i) Petitions for waiver of rights to any invention or class of inventions made during the performance of NASA contracts, and

(ii) Applications for award for scientific and technical contributions determined to have significant value in the conduct of aeronautical and space activities, pursuant to the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457 (f) and (g), 2458), and the Government Employees Incentive Awards Act (5 U.S.C. 2121–23), respectively.

(2) The charter of the Board is set forth at Subpart 4 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 14 CFR Parts 1240 and 1245.

(3) The texts of key decisions and an index of all decisions of the Board on requests for waiver are published in Petitions for Patent Waiver (NASA Handbook 5500.1A) and are hereby incorporated by reference. These are available for inspection and for purchase at NASA Information Centers.

Subpart 4—General Information

§ 1201.400 NASA procurement program.

(a) The Office of Procurement, headed by the Assistant Administrator for Procurement, serves as a central point of control and contact for NASA procurements. Although the procurements may be made by the field installations, selected contracts and contracts of special types are required to be approved by the Assistant Administrator for Procurement prior to their execution. The Office of Procurement is also responsible for formulation of NASA procurement policies and provides overall assistance and guidance to NASA field installations to achieve uniformity in NASA procurement processes.

(b) The NASA procurement program is carried out principally at the NASA field installations listed in the "U.S. Government Manual," and in Subpart 2 of this part. The Headquarters Contracts and Grants Division is responsible for contracts with foreign governments and foreign commercial organizations, grants and cooperative agreements, and the procurement of materials and services required by Headquarters offices except for minor office supplies and services procured locally.

(c) All procurements are made in accordance with the Federal Acquisition Regulation (FAR) (48 U.S.C. Chapter 1) and the Federal Acquisition Regulation Supplement (NASA/FAR Supplement) (48 U.S.C. Chapter 18). Copies of these publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on an annual subscription basis.

§ 1201.401 Special document depositories.

NASA provides the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, with copies of NASA or NASA-sponsored unclassified unlimited documents to provide availability to the public. These documents may be reproduced by NTIS and sold at prices established by NTIS. NASA also uses the regional depository libraries established through the Federal Depository Library Program by Chapter 19 of Title 44 of the U.S. Code under the Government Printing Office (GPO) to make its technical documents and bibliographic tools available to the general public. These depository libraries are responsible for permanent retention of material, interlibrary loan, and reference services.

§ 1201.402 NASA Industrial Applications Centers.

As part of its Technology Utilization Program—a program designed to transfer new aerospace knowledge and innovative technology to nonaerospace sectors of the economy—NASA operates a network of Industrial Applications Centers. These centers serve U.S. industrial clients on a fee paying basis by providing access to literally millions of scientific and technical documents published by NASA and by other research and development organizations. Using computers, the NASA Industrial Applications Centers conduct retrospective and current awareness searches of available literature in accordance with client interests and assist in interpretation and adaption of retrieved information to specified needs. Such services may be obtained by contacting one of the following:

(a) Aerospace Research Applications Center (ARAC), Indianapolis Center for Advanced Research, 611 N. Capital Avenue, Indianapolis, IN 46204

(b) NASA Florida State Technology Applications Center, State University System of Florida, 307 Weil Hall, Gainesville, FL 32611

(c) NASA/UK Technology Applications Program, University of Kentucky, 109 Kinkead Hall, Lexington, KY 40506–0057

(d) NASA Industrial Applications Center, 823 William Pitt Union, University of Pittsburgh, Pittsburgh, PA 15260

(e) New England Research Application Center (NERAC), Mansfield Professional Park, Storrs, CT 06268

(f) North Carolina Science and Technology Research Center (NC/STRC), P.O. Box 12235, Research Triangle Park, NC 27709

(g) Technology Application Center (TAC), University of New Mexico, Albuquerque, NM 87131

(h) Kerr Industrial Applications Center (KIAC), Southeastern Oklahoma State University, Station A, Box 2584, Durant, OK 74701

(i) NASA Industrial Applications Center (WESRAC), University of Southern California, Research Annex, 3716 South Hope Street, Room 200, Los Angeles, CA 90007.

Dated: May 15, 1985.

James M. Beggs,

Administrator.

[FR Doc. 85–12355 Filed 5–22–85; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 82N–0293]

New Drug and Antibiotic Regulations; OMB Approval of Requirements; Clarifications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Management and Budget (OMB) has approved the collection of information requirements concerning its new drug and antibiotic regulations. The agency is amending those regulations to reflect OMB's approval. The agency is also providing a few minor clarifications concerning those regulations.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Center for Drugs and Biologics (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA revised its regulations governing the approval for marketing new drugs and antibiotic drugs for human use (called the NDA Rewrite) (21 CFR Part 314). In that document (50 FR 7455), FDA announced that it had submitted the final rule to OMB for approval of the collection of information requirements contained in §§ 314.50, 314.55, 314.70, 314.71, 314.72, 314.80, 314.81, 314.90, 314.110, 314.120, 314.126, 314.200, 314.300, and 314.420.

OMB has approved the collection of information requirements under OMB control number 0910–0001. This document announces OMB's approval and amends the regulations to reflect that approval.

FDA is making three minor changes intended to clarify specific provisions of the final rule.

First, the agency is making certain editorial changes in § 314.50(d)(2) to clarify the use of the term "nonclinical laboratory studies." The changes ensure that the term is used in the same way in Part 314 as it is used in the regulations describing good laboratory practices for nonclinical laboratory studies (21 CFR Part 58).

Second, the agency has changed the mailing address within FDA to which adverse drug experience reports should be submitted. Section 314.80(c), which identifies that mailing address, has been revised accordingly. Under this revision, adverse drug experience reports are to be submitted to the Central Document Room, Center for Drugs and Biologics, Food and Drug Administration, Park Bldg. (Rm. 214), 12420 Parklawn Dr., Rockville, MD 20857.

Third, § 314.430 of the regulations has been revised to identify the title of the publicly available list of approved applications.

Because these amendments are nonsubstantive, notice and public procedure and delayed effective date are unnecessary (5 U.S.C. 553(b)(B) and (d)).

List of Subjects in 21 CFR Part 314

Drugs, Medical research.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for Part 314 is revised to read as follows:

Authority: Secs. 501, 502, 503, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 355, 356, 357, 371); 21 CFR 5.10, 5.11.

2. In § 314.50 by revising the introductory text of paragraph (d)(2), by revising paragraph (d)(2)(v), and by adding a parenthetical statement at the end of the section, to read as follows:

§ 314.50

Content and format of an application.

* * * * *

(d) * * *

(2) *Nonclinical pharmacology and toxicology section.* A section describing, with the aid of graphs and tables, animal and in vitro studies with drug, including the following:

* * * * *

(v) For each nonclinical laboratory study subject to the good laboratory practice regulations under Part 58 a statement that it was conducted in compliance with the good laboratory practice regulations in Part 58, or, if the study was not conducted in compliance with those regulations, a brief statement of the reason for the noncompliance.

* * * * *

(Collection of information requirements approved by the Office of Management and Budget under number 0910–0001.)

3. In § 314.80 by revising the second sentence in the introductory text of paragraph (c) and by adding a parenthetical statement at the end of the section, to read as follows:

§ 314.80 Postmarketing reporting of adverse drug experiences.

* * * * *

(c) * * * The applicant shall submit two copies of each report described in this section to the Central Document Room, Center for Drugs and Biologics, Food and Drug Administration, Park Bldg. (Rm. 214), 12420 Parklawn Dr., Rockville, MD 20857. * * *

* * * * *

(Collection of information requirements approved by the Office of Management and Budget under number 0910–0001.)

§§ 314.55, 314,70, 314.71, 314.72, 314.81, 314.90, 314.110, 314.120, 314.126, 314.200, 314.300, and 314.420 [Amended]

4. In § 314.55 *Abbreviated application,* § 341.70 *Supplements and other changes to an approved application,* § 314.71 *Procedures for submission of a supplement to an approved application,* § 314.72 *Change in ownership of an application,* § 314.81 *Other postmarketing reports,* § 314.90 *Waivers,* 314.110 *Approvable letter to the applicant,* § 314.120 *Not approvable letter to the applicant,* § 314.126 *Adequate and well-controlled studies,* § 314.200 *Notice of opportunity for hearing; notice of participation and request for hearing; grant or denial of hearing,* § 314.300 *Procedure for the issuance, amendment, or repeal of regulations,* and § 314.420 *Drug master files* by adding at the end of each section the parenthetical statement "(Collection of information requirements approved by the Office of Management and Budget under number 0910–0001.)"

5. In § 314.430 by revising the second sentence in the introductory text of paragraph (e), to read as follows:

§ 314.430 Availability for public disclosure of data and information in an application.

* * * * *

(l) * * * A list of approved applications, entitled "Approved Prescription Drug Products with Therapeutic Equivalence Evaluations (list ID APDP)," is available from the Government Printing Office, Washington, DC 20402. * * *

* * * * *

6. In § 314.440 by revising the third sentence in paragraph (a)(1), to read as follows:

§ 314.440 Addresses for applications.

(a) * * *

(1) * * * After FDA has filed the application, the agency will inform the applicant which division is responsible for the application. * * *

* * * * *

Dated: May 17, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–12358 Filed 5–22–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Clindamycin Hydrochloride Liquid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by the Upjohn Co., providing for safe and effective oral use of clindamycin hydrochloride liquid for dogs for treatment of infected wounds and abscesses caused by *Staphylococcus aureus.*

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary

Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed NADA 135-940 providing for use of Antirobe® Aquadrops Liquid (clindamycin hydrochloride) in dogs for treatment of infected wounds and abscesses caused by *Staphylococcus aureus*. The NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. By adding new § 520.447 to read as follows:

§ 520.447 Clindamycin hydrochloride liquid.

(a) *Specifications.* Each milliliter of 8.64 percent alcoholic solution contains the equivalent of 25 milligrams of clindamycin (as the hydrochloride).

(b) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use. Dogs—(1) Amount.* 2.5 milligrams per pound of body weight every 12 hours.

(2) *Indications for use.* For treatment of infected wounds and abscesses caused by *Staphylococcus aureus*.

(3) *Limitations.* Discontinue use after 3 or 4 days if no improvement of acute infection is observed; do not use for more than 28 consecutive days; use with caution in animals receiving neuromuscular blocking agents as clindamycin may potentiate their action; prescribe with caution in atopic animals; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: May 14, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 85-12359 Filed 5-22-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8025]

Income Tax; Taxable Years Beginning After December 31, 1953; OMB Control Numbers Under the Paperwork Reduction Act; Returns Relating to Cash in Excess of $10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the requirement of reporting cash in excess of $10,000 received in a trade or business. Changes to the applicable law were made by the Tax Reform Act of 1984. The regulations affect any person who, in the course of a trade or business in which such person is engaged, receives cash in excess of $10,000 in 1 transaction (or 2 or more related transactions). The regulations provide these persons with the guidance necessary to comply with the law. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATES: The regulations apply to cash payments received after December 31, 1984, and are effective May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3238 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the reporting of cash in excess of $10,000 received in a trade or business under section 6050I of the Internal Revenue Code of 1954, as added by section 146 of the Tax Reform Act of 1984 (98 Stat. 685). The regulations provide that any person engaged in a trade or business who receives, in the course of that trade or business, cash in excess of $10,000 in 1 transaction (or 2 or more related transactions) must file an information return with respect to that transaction. The regulations also provide that a person who makes an information return must furnish a statement to each person identified on the return. The temporary regulations will remain in effect until superseded by final regulations on this subject. The regulations are issued under the authority of sections 6050I and 7805 of the Internal Revenue Code of 1954 (98 Stat. 685 26 U.S.C. 6050I; 68 Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Section 6050I provides that an information return must be made by any person engaged in a trade or business who receives, in the course of that trade or business, cash in excess of $10,000 in 1 transaction (or 2 or more related transactions). The return must be filed with the Service by the 15th day following the date of receipt of the reportable cash payment. Any person required to make an information return under section 6050I must also furnish a statement to any person identified on the return showing the aggregate amount of reportable cash received from that person. The statement must be furnished on or before January 31 of the year following the calendar year in which the cash is received.

Section 6050I(c)(1)(A) provides that the reporting requirements of section 6050I will not apply to cash received in a transaction reported under Title 31 of the United States Code if the Secretary determines that reporting under section 6050I would duplicate the reporting to the Treasury under Title 31. On February 6, 1985, final regulations effective on May 7, 1985, which classify casinos with gross annual gaming revenue in excess of $1,000,000 as financial institutions subject to reporting and recordkeeping requirements of the

Bank Secrecy Act provisions of Title 31, were published in the Federal Register (50 FR 5065). In light of the issuance of the Title 31 regulations, special rules are provided with respect to cash received by casinos with gross annual gaming revenue in excess of $1,000,000.

Although these temporary regulations require attorneys to report with respect to the receipt of cash in excess of $10,000, the Service will entertain comments from the legal community concerning the possibility of developing an exception to the reporting requirement for information on transactions which might fall within the scope of the attorney-client privilege.

Because of the January 1, 1985, effective date of section 6050I, there is a need for immediate guidance. Therefore, these regulations have been drafted in question and answer format in order to facilitate their timely publication. No inference should be drawn, however, regarding issues not raised herein or regarding the inclusion of certain questions, and not others, in these regulations.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

The Commissioner of the Internal Revenue has determined that this regulation is not a major rule as defined in Executive Order 12291, or the Treasury and OMB implementation of the Order dated April 29, 1983. No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and a Regulatory Impact Analysis is not required for this rule. The collection of information requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act.

List of Subjects in 26 CFR 1.6001—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. These regulations are issued under the authority contained in 26 U.S.C. 7805 and 26 U.S.C. 6050I. The authority citation for Part 1 is amended by adding, "§ 1.6050I–1T also issued under 26 U.S.C. 6050I."

Par. 2. The following new § 1.6050I–1T shall be added at the appropriate place.

§ 1.6050I–1T Returns relating to cash in excess of $10,000 received in a trade or business (Temporary).

The following questions and answers relate to the requirement of reporting cash in excess of $10,000 received in a trade or business under section 6050I of the Internal Revenue Code of 1954, as added by section 146 of the Tax Reform Act of 1984 (98 Stat. 685).

In General

Q–1: What does section 6050I require with respect to the reporting of cash received in a trade or business?

A–1: Section 6050I requires that an information return must be made by any person (as defined in section 7701 (a) (1)) who, in the course of a trade or business in which such person is engaged, receives cash in excess of $10,000 in 1 transanction (or 2 or more related transactions). For purposes of these questions and answers the person receiving the cash is referred to as the "recipient."

Q–2: What is the definition of "cash"?

A–2: "Cash" is the coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued. Cash includes United States silver certificates, United States notes, and Federal Reserve notes, but does not include bank checks, traveler's checks, bank drafts, wire transfers or other negotiable or monetary instruments not customarily accepted as money.

Trade or Business Requirement

Q–3: Under what circumstances is a person considered to be engaged in a trade or business?

A–3: For purposes of this section, a person is engaged in a trade or business if such person is engaged in a trade or business within the meaning of section 162 of the Internal Revenue Code of 1954.

Q–4: Must cash in excess of $10,000 which is not received in the course of a person's trade or business be reported?

A–4: No. The receipt of cash in excess of $10,000 by a person, other than in the course of the person's trade or business, is not reportable. Thus, for example, an individual in the trade or business of selling real estate need not report the receipt of cash in excess of $10,000 arising from the sale of the individual's motorboat, if the motorboat was not used in any trade or business in which such individual was engaged. For purposes of this section, any cash received in a transaction by a corporation is considered to be received in connection with a trade or business in which the corporation engages.

Q–5: Must cash in excess of $10,000 which is received by a service provider (such as an attorney, accountant, financial advisor, architect, engineer, or doctor) from a client be reported?

A–5: Yes. The receipt of cash in excess of $10,000 by a service provider from a client as payment for services rendered, or as reimbursement for expenses incurred in connection with the performance of services, must be reported in accordance with this section. In addition, as discussed in A–6 of this section, the receipt of cash in excess of $10,000 by a service provider from a client for use on behalf of the client (such as in establishing a trust fund for the benefit of the client or the client's designee) must be reported.

Q–6: Must cash in excess of $10,000 received by a person for the account of another person be reported?

A–6: Yes. The requirements of this section apply regardless of whether cash is received for the recipient's own account or for the account of another person. For example, a person who collects delinquent accounts receivable for an automobile dealer must report with respect to the receipt of cash in excess of $10,000 from the collection of a particular account whether the cash is received for the collector's own account (*i.e.*, where the collector has purchased the delinquent account from the automobile dealer at a discount), or for the account of the automobile dealer (*i.e.*, where the rights to the proceeds from the account are retained by the automobile dealer and the collection is made on a fee-for-service basis).

Q–7: Must cash in excess of $10,000 received by an agent from its principal be reported?

A–7: A person engaged in a trade or business, who in connection with such trade or business acts as an agent (or in some other similar capacity) and receives cash in excess of $10,000 from a principal, must report with respect to the receipt of cash in accordance with this section unless the following exception applies. An agent who receives cash from a principal and uses the cash within 15 days in a cash transaction (the "second cash transaction") which is reportable under section 6050I or section 5312 of Title 31 of the United States Code and the regulations under section 5312 (31 CFR Part 103), and who discloses the name, address, and taxpayer identification number of the principal to the recipient in the second

cash transaction need not report with respect to the initial receipt of cash from the principal. For example, if a person (the "principal") gives an attorney $75,000 in cash to purchase real property on behalf of the principal, and within 15 days the attorney purchases the property for cash from a real estate developer and discloses to the real estate developer the principal's name, address, and taxpayer identification number, the attorney need not report the initial receipt of $75,000 in cash. If, however, the attorney pays for the property by means other than cash, or effects the purchase more than 15 days following receipt of the cash from the principal, or fails to disclose the principal's name, address, and taxpayer identification number (assuming the agent does not know that the recipient has the principal's address or taxpayer identification number), or purchases the property from a person not engaged in a trade or business, then the attorney would be required to report with respect to the initial receipt of $75,000 in cash from the principal. An agent will be deemed to have met the disclosure requirements of this paragraph if the agent discloses only the name of its principal and the agent knows that the recipient has the principal's address and taxpayer identification number.

Transactions Subject to Reporting

Q–8: What is a "transaction" for purposes of this section?

A–8: For purposes of this section a transaction is the underlying event precipitating the payer's transfer of cash to the recipient. A transaction may be (but is not limited to) a sale of goods or services; a sale of real property; a sale of intangible property; a rental of real or personal property; an exchange of cash for other cash; the establishment or maintenance of or contribution to a custodial, trust, or escrow arrangement; a payment of preexisting debt; a conversion of cash to a negotiable instrument; or the making or repayment of a loan.

Q–9: Can single transactions be divided into multiple transactions?

A–9: (a) No. A single transaction may not be divided into multiple transactions in order to avoid reporting under this section.

(b) The following examples illustrate the application of the principle of this A–9:

Example 1. A person has a tacit agreement with a gold dealer to purchase $36,000 in gold bullion. The reporting requirement of this section cannot be avoided by recasting the single sales transaction into 4 separate $9,000 sales transactions.

Example 2. An attorney agrees to represent a client in a criminal case with the attorney's fee to be determined on an hourly basis. In the first month in which the attorney represents the client, the bill for the attorney's services comes to $8,000, which the client pays in cash. In the second month in which the attorney represents the client, the bill for the attorney's services comes to $4,000, which the client again pays in cash. The aggregate amount of cash paid ($12,000) relates to a single transaction, the sale of legal services relating to the criminal case, and must be reported under the provisions of this section.

Example 3. A person has an intention of contributing a total of $45,000 to a trust fund, and the trustee of the fund knows or has reason to know of that intention. The reporting requirement of this section cannot be avoided by the person making five separate $9,000 cash contributions to a single fund or by making five $9,000 cash contributions to five separate funds administered by a common trustee.

Q–10: What are "related transactions"?

A–10: Any transactions conducted between a payer (or its agent) and a recipient in a 24-hour period are related transactions, and must be aggregated and reported as a single transaction (if the aggregate amount exceeds $10,000). Thus, for example, if an individual attends a one-day auction and purchases two items, at a cost of $9,240 and $1,732.50 respectively (tax and buyer's premium included), the auction house is required to report the aggregate amount of cash received from the related sales ($10,972.50), even though the auction house accounts separately on its books for each item sold and presents the purchaser with separate bills for each item purchased. In addition to the general rule stated in the first sentence of this A–10, transactions conducted between a payer (or its agent) and a recipient during a period of more than 24 hours are related if the recipient knows or has reason to know that each transaction is one of a series of connected transactions. For example, if a coin dealer makes a cash sale of $9,000 worth of gold coins to the same person on each of three successive days, the three $9,000 transactions are related transactions aggregating $27,000 if the dealer knows, or has reason to know, that each transaction is one of a series of connected transactions.

Q–11: Are separate departments of a business treated as a single recipient for purposes of aggregating the cash payments received by each?

A–11: For purposes of these questions and answers, each store, division, branch, department, headquarters, or office ("branch") (regardless of physical location) comprising a portion of a person's trade or business shall be deemed to be a separate recipient, unless the branch that receives a cash payment (or a central unit linking such branch with other branches) would in the ordinary course of business have reason to know the identify of payers making cash payments to other branches of such person. For example, assume that N, an individual, purchases regulated futures contracts worth $7,500 and $5,500, respectively, through two different branches of Commodities Broker X on the same day. N pays for each purchase with cash. Each branch of Commodities Broker X transmits the sales information regarding each of N's purchases to a central unit of Commodities Broker X (which settles the transactions against N's account). Commodities Broker X must report with respect to the two related regulated futures contracts sales in accordance with this section.

Q–12: How are multiple payments relating to the same transaction (or two or more related transactions) reported?

A–12: Cash deposits or installment payments (or other similar methods of payment of prepayment) relating to a single transaction (or two or more related transactions) are reported in three different ways depending on the size of the initial and subsequent payments. (a) If the initial payment exceeds $10,000 and any subsequent payment exceeds $10,000, the recipient must report each payment that exceeds $10,000. These payments must be reported separately (or if the payments are made less than 15 days apart, the recipient may (if it so elects) make a single report with respect to the aggregate amount of the initial and subsequent payment or payments). (b) If the initial payment exceeds $10,000 but no subsequent payment exceeds $10,000, the recipient must report with respect to the initial $10,000 payment (within 15 days after the payment is received, as required by A–19), but need not report with respect to any subsequent payment. (c) If the initial payment does not exceed $10,000, the recipient must aggregate the initial payment and subsequent payments made within one year of the initial payment until such aggregate amount exceeds $10,000, and report with respect to the aggregate amount within 15 days after receipt of the payment that causes the aggregate amount to exceed $10,000. Any subsequent payment which by itself exceeds $10,000 must be separately reported.

Exceptions to the Reporting Requirement

Q–13: Must all recipients of cash in excess of $10,000 report under this section?

A–13: No. Financial institutions, as defined in subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), and (S) of section 5312 (a) (2) of Title 31, United States Code, are not required to report the receipt of cash exceeding $10,000 under this section.

Q–14: What are the reporting requirements of this section with respect to financial institutions defined in subparagraphs (H), (I), (L), (M), (N), (O), (P), (Q), and (T) of section 5312(a)(2) of Title 31, United States Code?

A–14: The regulations under 31 CFR Part 103 do not require these financial institutions to report currency transactions under the Bank Secrecy Act. Accordingly, these financial institutions are required to report under this section with respect to transactions in which cash in excess of $10,000 is received.

Q–15: Are casinos which report certain cash transactions to the Treasury Department under 31 CFR 103.22(a)(2) and 103.25 required to report the same transactions under section 6050I and the regulations under section 6050I?

A–15: Casinos having gross annual gaming revenue in excess of $1,000,000 will become subject to reporting and recordkeeping requirements under Title 31 of the Code of Federal Regulations, as amended by 50 FR 7065 (February 6, 1985), on May 7, 1985. Under the authority granted by section 6050I(c)(1)(A), if a casino receives cash in excess of $10,000 and is required to report the receipt of such cash directly to the Treasury Department under 31 CFR 103.22(a)(2) and 103.25 and is subject to the recordkeeping requirements of 31 CFR 103.36, then the casino is not required to make a return with respect to the receipt of such cash under section 6050I and the regulations under section 6050I. This relief from reporting under section 6050I and the regulations under section 6050I applies only to cash received in the gaming business of a casino. See A–18 of these regulations.

Q–16: Are casinos which receive an exemption, under 31 CFR 103.45(c), from reporting certain cash transactions to the Treasury Department under 31 CFR 103.22(a)(2) and 103.25, required to report such transactions under section 6050I and the regulations under section 6050I?

A–16: The determination, under the authority granted by section 6050I(c)(1)(A), whether reporting will be required under section 6050I by casinos which are granted an exemption under 31 CFR 103.45(c) will be made on a case by case basis, concurrently with the granting of such an exemption.

Q–17: What are the reporting requirements of this section with respect to casinos having gross annual gaming revenue of $1,000,000 or less?

A–17: Since casinos having gross annual gaming revenue of $1,000,000 or less are not subject to the reporting and recordkeeping requirements of 31 CFR 103.22(a)(2), 103.25, and 103.36, such casinos are not eligible for the relief described in A–15 or A–16 and must report the receipt of cash in excess of $10,000 pursuant to the general requirements of section 6050I and the regulations under section 6050I.

Q–18: Are all transactions in which a casino with gross annual gaming revenue in excess of $1,000,000 receives cash in excess of $10,000 covered by A–15 or A–16?

A–18: No. Non-gaming businesses (such as shops, restaurants, entertainment, and hotels) at casino hotels and resorts are separate trades or businesses in which the receipt of cash in excess of $10,000 is reportable pursuant to the general requirements of section 6050I and the regulations under section 6050I. For example, if Casino A receives $12,000 in cash from a customer in payment for accommodations provided to that customer at Casino A's hotel, Casino A must report with respect to that transaction under section 6050I and the regulations under section 6050I.

Q–19: Is there a reporting requirement with respect to foreign cash transactions?

A–19: Generally, there is no reporting required with respect to a cash transaction if the entire transaction occurs outside the United States (the fifty states and the District of Columbia). An entire transaction consists of both the transaction as defined in A–8 of this section and the receipt of cash by the recipient. For example, assume that an airplane dealer reaches an agreement, which is formulated in part in the United States, to sell an airplane, with delivery of and payment for the airplane to be made in Mexico. If the dealer receives cash in excess of $10,000 in connection with the sale, the dealer must report in accordance with this section. If, however, no part of the agreement to sell had been formulated in the United States, the dealer would not be required to report with respect to the transaction. See A–20.

Q–20: Is there an exception to the rule that no reporting is required with respect to entire transactions occurring outside the United States?

A–20: Yes. If any part of an entire transaction occurs in the Commonwealth of Puerto Rico or a possession or territory of the United States and the recipient of cash in that transaction is subject to the general jurisdiction of the Internal Revenue Service under Title 26 of the United States Code and the recipient receives cash in excess of $10,000, then the recipient is required to report the transaction under this section.

Time, Manner, and Form of Reporting

Q–21: When must the reports required by this section be filed with the Internal Revenue Service?

A–21: In general, the reports required by this section must be filed with the Internal Revenue Service by the later of the 15th day after the date the reportable cash payment is received or the 15th day after the date of publication of these temporary regulations. If a person elects to report one payment several independently reportable payments, received within a 15-day period (as allowed in A–12), the report must be filed with the Internal Revenue Service by the 15th day after the initial payment is received.

Q–22: What form must a recipient use to report as required by section 6050I (a) and A–1 of these regulations?

A–22: A recipient must make an information return on Form 8300, which can be obtained from any Internal Revenue Service Forms Distribution Center.

Q–23: What information must be contained in a return described in A–22?

A–23: A return of information must contain the name, address, and taxpayer identification number of the person from whom the cash was received; the name, address, and taxpayer identification number of the person on whose behalf the transaction was conducted (if the recipient knows or has reason to know that the person from whom the cash was received conducted the transaction as an agent for another person); the amount of cash received; the date and nature of the transaction; and any other information required by Form 8300.

Q–24: Must a recipient follow any procedures to ensure that the information contained in a return is complete and correct?

A–24: Yes. Before effecting any transaction with respect to which a report is required under section 6050I (a) and A–1, a recipient must verify the identity of the person from whom the reportable cash is received. Verification of the identity of a person who purports

to be an alien must be made by examination of such person's passport, alien identification card, or other official document evidencing nationality or residence. Verification of the identity of any other person may be by examination of a document normally acceptable as a means of identification when cashing or accepting checks (for example, a driver's license or a credit card). In addition, a return will be considered incomplete if a recipient knows (or has reason to know) that an agent is conducting the transaction for a principal, and the return does not identify both the principal and the agent.

Q–25: Where must the recipient file the return?

A–25: A recipient must file Form 8300 by mailing it to the address shown in the instructions to the form.

Q–26: Must a recipient keep a copy of each Form 8300 that it files?

A–26: Yes. A recipient must keep a copy of each Form 8300 that the recipient files for five years from the date of filing.

Requirement of Furnishing Statements to Customers

Q–27: What statements must be furnished to persons identified on a return filed by a recipient?

A–27: Any person required to make an information return under section 6050I must furnish a single, annual, written statement to each person whose name is set forth in a return ("identified person") filed with the Internal Revenue Service.

Q–28: What information must be included on the statement?

A–28: The statement must include the following information:

(a) The name and address of the person making the return;

(b) The aggregate amount of reportable cash received by the recipient during the calendar year in all cash transactions relating to the identified person; and

(c) A legend stating that the information contained in the statement is being reported to the Internal Revenue Service.

Q–29: Must the statement be in a particular form or format?

A–29: No.

Q–30: Is the statement considered to be furnished to an identified person if it is mailed to the identified person at the identified person's last known address?

A–30: Yes.

Q–31: When is a statement required to be furnished to an identified person?

A–31: A statement is required to be furnished to an identified person on or before January 31 of the year following the calendar year in which the cash is received.

Penalties

Q–32: Are there penalties for failing to comply with the requirements of section 6050I and the regulations thereunder?

A–32: Yes. The penalty for failing to make any information return under section 6050I with respect to any identified person is provided in section 6652. The penalty for failing to furnish a statement to any identified person is provided in section 6678. Criminal sanctions also apply to willful failures to make a return under section 6050I.

Effective dates

Q–33: When is section 6050I effective?

A–33: Section 6050I is effective with respect to cash payments received after December 31, 1984.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.6050I–1 * * * 1545–0892".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 533 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 26, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–11902 Filed 5–21–85; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 41, 48, and 602

[T.D. 8027]

Excise Taxes; Heavy Vehicle Use Tax, Credits and Refunds of the Tax on the Sale of Diesel Fuel, OMB Control Numbers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the imposition of the tax on the use of heavy vehicles and relating to credits and refunds of the tax imposed on the sale of diesel fuel. Changes to the applicable tax law regarding heavy vehicles were made by the Surface Transportation Assistance Act of 1982 and the Tax Reform Act of 1984. Changes to the applicable tax law regarding credits and refunds of the diesel fuel tax were made by the Tax Reform Act of 1984. The regulations would affect owners of highway motor vehicles, State motor vehicle administrations, and users of diesel fuel and would provide them with the guidance needed to comply with those Acts.

EFFECTIVE DATES: May 23, 1985, except as otherwise provided in this document, the amendments to the regulations are applicable after June 30, 1984.

FOR FURTHER INFORMATION CONTACT: William A. Jackson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T LR–31–83, (202–566–4336), not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1984, the **Federal Register** published proposed amendments to the Excise Tax Regulations (26 CFR Part 41) under sections 4481, 4482, and 4483 of the Internal Revenue Code of 1954 (Code) (49 FR 44300). These amendments were proposed to conform the regulations to section 513 of the Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982) (Pub. L. 97–424, 96 Stat. 2177) and sections 901, 902, and 903 of the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984) (Pub. L. 98–369, 98 Stat. 1003) and are to be issued under the authority contained in sections 4482(b) (70 Stat. 390, 26 U.S.C. 4482(b)), 4483(d) (96 Stat. 2178, 26 U.S.C. 4483(d)), and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Code. That document also provided proposed amendments to the Excise Tax Regulations (26 CFR Part 41) to conform the regulations to section 143(a) of the Surface Transportation Assistance Act of 1982. Those amendments to the regulations were proposed to provide guidance regarding the proof of payment of the Federal heavy vehicle use tax that a State is required to receive as a condition for issuing a registration for a vehicle. In addition, that document contained proposed amendments to the Excise Tax Regulations (26 CFR Part 48) under section 6427(b)(2) of the Code relating to

an exemption from the tax imposed by section 4041 of the Code in the case of fuel used in certain buses, and under section 6427(g) of the Code relating to an income tax credit or refund for original purchasers of diesel-powered automobiles and light trucks. These last two amendments were proposed to conform the regulations to sections 911(b), of 915 of the Tax Reform Act of 1984, respectively. A public hearing was held on December 14, 1984. After consideration of all comments regarding the proposed regulations, the amendments are adopted as revised by this Treasury decision.

Summary of Revisions

Canadian Vehicles Used in the United States

The proposed regulations provided that the Federal heavy vehicle use tax is imposed on any highway motor vehicle that is registered in a Canadian province and is also proportionally registered in the United States under the International Registration Plan (IRP). Several commentators suggested that the imposition of the tax on Canadian vehicles should be suspended pending the completion of the trans-border trucking study by the Department of Transportation. This study was ordered by section 932 of the Tax Reform Act to study the significance of the heavy vehicle use tax on trans-border trucking operations. The regulations have been revised to provide that for taxable periods beginning after June 30, 1985, a vehicle that is issued a "base plate" by a Canadian province will not be subject to the tax merely because it is proportionally registered in the United States under the IRP or similar agreement and is used on the public highways in the United States. Accordingly, Rev. Rul. 81–86 (1981–1 C.B. 504), which held that such vehicles are liable for the tax, will be revoked.

Taxable Gross Weight

Section 41.4482(b)–1(e) of the proposed regulations provided that the taxable gross weight of a highway motor vehicle shall be the highest gross weight at which the vehicle is registered in any State during the taxable period. Under the proposed regulations, if a vehicle were registered only in a state or states that register vehicles on the basis of the unladen weight of the vehicle, the taxpayer would declare the taxable gross weight of the vehicle based on its gross operating weight. Several commentators pointed out that certain states that register vehicles on the basis of gross weight have large registered weight brackets and the highest registered weight of a vehicle may be several thousand pounds higher than the actual gross weight declared for the vehicle for purposes of registration. This would have made it possible for two identical vehicles having the same declared gross weight to have different taxable gross weights in different states depending on the size of each state's registered weight brackets.

Under the final regulations, the taxable gross weight of a highway motor vehicle is the weight which is declared by the taxpayer on the basis of the definition of taxable gross weight in § 41.4482(b)–1(a) regardless of whether or not the States in which the vehicle is registered register vehicles on the basis of the vehicle's unladen weight. Such declaration of taxable gross weight must be no less than the highest specific gross weight of the vehicle declared by the registrant at any time during the taxable period for any purpose including the registration of the vehicle in any State or the payment of any other fees or taxes. If no declaration by the registrant of a specific gross weight amount is required with respect to a vehicle, then the taxable gross weight must fall within the highest gross weight registration catagory for which such vehicle is registered if the vehicle is registered in any state that registers vehicles on the basis of gross weight.

Trucks Used in Logging

The final regulations clarify the requirement under § 41.4483–6(b) that a vehicle must be registered as a highway motor vehicle used exclusively in the transportation of harvested forest products under the laws of the State where such vehicle is required to be registered in order to qualify for a 25 percent reduction in the heavy vehicle use tax. This clarification states that if a vehicle is registered as a vehicle used in the transportation of harvested forest products under a State statute or legally valid regulations then such vehicle will be considered to be so registered under the laws of the State. In addition, the final regulations clarify that no special license plate or tag identifying a vehicle as being used in the transportation of harvested forest products is required. The final regulations also clarify a similar State registration requirement under § 41.4483–3(g)(1) regarding the 7,500 mile exemption for agricultural vehicles.

Proof of Payment

Section 41.6001–2 of the proposed regulations has been substantially revised in response to the many comments received regarding the proof of payment requirements. This section of the proposed regulations implemented section 143(a) of the Surface Transportation Assistance Act of 1982, which provided that a State must receive proof of payment of the Federal heavy vehicle use tax as a condition of registering a highway motor vehicle subject to the tax. Failure to require such proof of payment shall result in a reduction of that State's Federal-aid highway funds. In order to allow the State governments sufficient time to comply with the proof of payment requirements, the final regulations provide that the States will not be required to receive proof of payment as a condition of vehicle registration until October 1, 1985.

The final regulations under § 41.6001–2(b)(1) provide generally that a State to which an application is made to register a highway motor vehicle must receive from the registrant proof of payment of the heavy vehicle use tax. Such proof of payment must be received by a "base state" when issuing an "apportioned plate" under the International Registration Plan (IRP) (or similar agreement) for a highway motor vehicle, but no proof of payment is required to be presented to the other states for which the vehicle is proportionally registered and which are listed on the IRP cab card issued by the base state. Further, no proof of payment is required to be received by a State with respect to the issuance of certain special temporary travel permits.

In the case of a State that registers vehicles on the basis of gross vehicle weight, § 41.6001–2(b)(2)(i) of the final regulations provides that proof of payment is required to be received by such State with respect to any highway motor vehicle that has a declared gross weight in that State of 55,000 pounds or more. No proof of payment is required for any vehicle that has a declared gross weight in that State of less than 55,000 pounds. If no declaration of a specific gross weight is made with respect to a vehicle registered on the basis of gross weight, then the State must require proof of payment with respect to such vehicle if the minimum weight of the registered weight category for such vehicle is 55,000 pounds or more. In the case of a State that registers vehicles other than on the basis of gross vehicle weight, § 41.6001–2(b)(2)(ii) of the final regulations provides that such State may register a highway motor vehicle without receiving proof of payment with respect to such vehicle if the State receives a written statement stating that during the taxable period which includes the date on which the State receives the application for registration.

such vehicle had a taxable gross weight of less than 55,000 pounds. In addition, such State may register a highway motor vehicle without receiving either proof of payment or a written statement if such vehicle has an unladen weight of 8,000 pounds or less.

Generally, the final regulations provide that proof of payment with respect to a highway motor vehicle must be received by a State before such State issues a registration for such vehicle. However, § 41.6001–2(b)(3) of the final regulations is designed to allow States with computerized registration systems to implement a "suspension" registration system. Under the system provided in the final regulations, a State may register taxable highway motor vehicles without receiving proof of payment at the time the application for registration is received. Registration under a suspension system must be on the condition that the State receive proof of payment with respect to a taxable vehicle no later than 4 months after the beginning of the registration period. If the State does not receive the proof of payment within the required time then the State must suspend the registration of such vehicle until such time as proof of payment is received.

Section 41.6001–2(b)(6) of the final regulations provides that a description of the supporting documentation and records required by the Federal Highway Administration to verify compliance by the states of the proof of payment requirements is set forth in 23 CFR Part 669. The proposed regulations had provided that the States were not required to retain records of having received proof of payment. However, a lack of such records will make it difficult for the Federal Highway Administration to verify compliance by the States of the proof of payment requirements. For this reason, the final regulations have been revised to allow the Federal Highway Administration to prescribe rules stating what records it will require for its verification procedures.

The final regulations provide that in general, the vehicle identification numbers of the vehicles sought to be registered must appear on the proof of payment received by the State. However, § 41.6001–2(c)(1)(ii) of the final regulations provides that if a receipted Schedule 1 is submitted as proof of payment for registering one or more highway motor vehicles and the total of the number of vehicles on such Schedule 1 for which the tax has not been suspended under § 41.4483–3 exceeds 21 and the name of the taxpayer on such Schedule 1 is one of the names in which such vehicles are sought to be registered, then such Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than such total, and a list of the vehicle identification numbers is not required as part of the proof of payment. The same rule applies if the total of the number of vehicles on the Schedule 1 for which tax is suspended under § 41.4483–3 exceeds 9. If a receipted Schedule 1 does not include a list of vehicles for which tax is being reported and the name of the taxpayer on such Schedule 1 is not one of the names in which a vehicle is sought to be registered, then such Schedule 1 may be accepted as proof of payment with respect to such vehicle if it is accompanied by a written statement executed by the taxpayer containing the vehicle identification number of the vehicle sought to be registered and a statement that the tax was paid on such vehicle.

Finally, the final regulations regarding proof of payment do not require a State to verify the correctness of the taxable gross weights for vehicles listed on the proof of payment. The proposed regulations had provided that proof of payment received by a State on or after September 1, 1985 (other than a Schedule 1 on which the vehicles are not required to be listed), shall only serve as valid proof of payment for a vehicle whose vehicle identification number appears on the Schedule 1 and which is being registered at a weight equal to or less than the taxable gross weight listed on the Schedule 1 for such vehicle. The requirement that such vehicle not be registered at a weight which is higher than the taxable gross weight shown on the Schedule 1 is deleted from the final regulations.

Computer Tape Proof of Payment Verification

Several commentators suggested that the states by allowed to satisfy the proof of payment requirement through the exchange of computer tape between the State and the Internal Revenue Service. Although no system of this type is provided for in these final regulations, the Internal Revenue Service is continuing to actively consider the implementation of a computer tape proof of payment system. Such a system, and the procedures for complying with it, would be provided by Revenue Procedure.

Paperwork Reduction Act

The collection of information requirements contained in these final regulations have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. These regulations have been approved by OMB (control number 1545–0143).

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is William A. Jackson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR Part 41

Excise taxes, Motor vehicles.

26 CFR Part 48

Agriculture, Arms and ammunition, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

26 CFR Part 602

Reporting and recordkeeping requirement.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 41, 48, and 602 are amended as follows:

PART 41—[AMENDED]

Paragraph 1. The authority citation for Part 41 is revised to read as follows:

Authority: 26 U.S.C. 7805; § 41.4482(b)–1 also issued under 26 U.S.C. 4482(b); § 41.4483–3 also issued under 26 U.S.C.4483(d).

Par. 2. Section 41.4481–1 is revised to read as set forth below:

§ 41.4481–1 Imposition of tax.

(a) *In general.* (1) A tax is imposed under section 4481(a) of the Code for each taxable period beginning after June 30, 1984, on the first use on the public highways in the United States during such period of any highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds, at the rate specified in paragraph (b) of this section. The tax is imposed on the use of such a highway motor vehicle only if, at the time of the use of such vehicle, it is registered or required to be registered in the name of a person (whether or not such person is the person who uses the vehicle). See, however, §§ 41.4483–1, 41.4483–2, and 41.4483–3 relating respectively to exemptions from the tax in the case of highway motor vehicles used by a state or any political subdivision thereof, certain transit-type buses, and vehicles used for 5,000 or fewer miles (7,500 or fewer miles in the case of agricultural vehicles) on public highways. See § 41.4483–6 relating to a reduction in tax in the case of certain trucks used in logging. For definitions of the terms "registered", "highway motor vehicle", "taxable gross weight", "taxable period", "use", and "customary use", see §§ 41.4481–4, 41.4482(a)–1, 41.4482(b)–1, and paragraphs (b), (c), and (d) of § 41.4481(c)–1 respectively.

(2) For taxable periods beginning after June 30, 1985, any highway motor vehicle that is issued a base plate by a Canadian province under the International Registration Plan (IRP) or similar agreement and has a proportional registration under such agreement to satisfy the registration laws of any of the United States shall be exempt form the tax imposed by section 4481(a).

(b) *Rate of tax.* (1) For taxable periods after June 30, 1956, and before July 1, 1984, the tax is computed on each 1,000 pounds of taxable gross weight or fraction thereof for each highway motor vehicle the use of which at any time during the taxable period is subject to the tax. Thus, any fraction of 1,000 pounds of taxable gross weight is treated as 1,000 pounds for purposes of the computation of the tax. Following are the rates of tax in effect for taxable periods after June 30, 1956 and before July 1, 1984:

Period of vehicle use	Rate of tax per 1,000 pounds or fraction thereof of taxable gross weight
For each taxable year period commencing after June 30, 1956, and ending before July 1, 1961	$1.50
For each taxable year period commencing after June 30, 1961, and ending before July 1, 1984	3.00

(2) For taxable periods after June 30, 1984, the tax is computed on each 1,000 pounds of taxable gross weight or fraction thereof of each highway motor vehicle the use of which at any time during the taxable period is subject to the tax as set forth in paragraph (a)(1) of this section. Thus, any fraction of 1,000 pounds of taxable gross weight in excess of 55,000 pounds of taxable gross weight is treated as 1,000 pounds for purposes of the computation of the tax. Following are the rates of tax in effect for taxable periods after June 30, 1984:

Taxable gross weight	Rate of tax
At least 55,000 pounds but not over 75,000 pounds	$100 per taxable period plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 75,000 pounds	$550.

For the taxable period beginning July 1, 1988, and ending September 30, 1988, the annual rate of tax shall be determined by substituting "$25" for "$100", "$5.50" for "$22", and "$137.50" for "$550", in the table in this paragraph (b)(2). However, if the tax imposed by section 4481(a) is extended to apply to use after September 30, 1988, the rate of tax for taxable periods after June 30, 1988, shall be as provided in section 4481(a).

(c) *Computation of tax.* (1) Except as provided in paragraph (c)(2) of this section, the tax on the use of a particular highway motor vehicle for taxable periods beginning after June 30, 1984, is computed as follows:

(i) For vehicles with a taxable gross weight of at least 55,000 pounds, but not over 75,000 pounds, add to $100 an amount equal to $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds; and

(ii) For vehicles with a taxable gross weight over 75,000 pounds, the tax is $550.

(2) If the first taxable use of a particular highway motor vehicle is made after the first month of the taxable period, the tax on the use of such vehicle for such taxable period is computed by multiplying the amount of tax that would be due for a full taxable period as computed under paragraph (c)(1) of this section, by a fraction. Such fraction shall have as its numerator the number of months in the taxable period beginning with the month of first taxable use and as its denominator the number of months in the entire taxable period. For purposes of determining the fraction, any part of a month is counted as a full month. (See example (2) of paragraph (e) of this section.)

(3) If a Form 2290 has been filed for a taxable period for a highway motor vehicle based on a particular taxable gross weight, and such taxable gross weight increases during the same taxable period, then the taxpayer shall file a new Form 2290 and pay (either in full or by installments) any additional tax imposed as a result of the increased taxable gross weight. Such additional tax shall be equal to the amount calculated according to the following formula:

$$\left[\left(T_1 \times \frac{P}{12}\right) + \left(T_2 \times \frac{R}{12}\right)\right] - T_1.$$

where:

T_1 = Tax imposed for a full taxable period (or partial taxable period as determined under paragraph (c)(2) of this section) at the vehicle's previously reported taxable gross weight.

T_2 = Tax imposed for the same taxable period as used in T_1 at the vehicle's increased taxable gross weight.

P = The number of months in the taxable period during which the vehicle's taxable gross weight was as previously reported for such taxable period. This number does not include the month in which the vehicle's taxable gross weight increased.

R = The number of months remaining in the taxable period including the month in which the vehicle's taxable gross weight was increased.

If tax was imposed for a partial taxable period as determined under paragraph (c)(2) of this section, the additional tax is determined by substituting the number of months in such partial taxable period for "12" in the above formula.

(4) If in any taxable period the taxable gross weight of a highway motor vehicle

is decreased, the computation of tax is not affected and no right to credit or refund of any tax paid under section 4481 arises.

(5) If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in the taxable period, and is not subsequently used during such taxable period, the tax shall be calculated proportionately from the first day of the month in the period in which the first taxable use of the highway motor vehicle occurs to and including the last day of the month in which the highway motor vehicle was destroyed or stolen. Any tax paid under section 4481(a) on such a highway motor vehicle in excess of the tax calculated in the preceding sentence, shall be an overpayment for which a credit or refund of tax may be claimed. For purposes of this paragraph (c)(5), a highway motor vehicle is destroyed if the vehicle is damaged due to an accident or other casualty to such an extent that it is not economical to rebuild.

(6) If the use of a highway motor vehicle during the taxable period is discontinued (for reasons other than destruction or theft as described in paragraph (c)(5) of this section) or is converted to a use which is exempt from the tax imposed by section 4481(a), the computation of the tax is not affected and no right to a credit or refund of any tax paid under section 4481 arises.

(d) *Credit or refund of tax under section 4481(a).* (1) Any claim for refund of an overpayment of tax under section 4481(a) due to destruction or theft or the vehicle shall be made in accordance with the applicable provisions of this section and § 301.6402–2 (Regulations on Procedure and Administration) and shall be filed by the person in whose name the vehicle is registered or required to be registered when the vehicle is destroyed or stolen. A claim for refund of the tax imposed by section 4481(a) is to be filed on Form 843 (Claim).

(2) Any person entitled to claim a refund of tax under paragraph (d)(1) of this section may, in lieu of claiming a refund of such tax, claim a credit for such tax on the next Form 2290 required to be filed.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In the taxable period beginning July 1, 1984, the first taxable use of a particular highway motor vehicle, a bus, having a taxable gross weight of 56,000 pounds, occurs on July 10, 1984, at which time the vehicle is registered in the name of X. A tax of $122 ($100+$22) is imposed on X for the use of such vehicle for such taxable period.

Example (2). On July 1, 1984, X has registered in his name a highway motor vehicle having a taxable gross weight of 60,000 pounds. The vehicle is in "dead storage" until August 10, 1984, at which time X starts using the vehicle on the public highways in carrying on his trucking business. On August 10, 1984, the vehicle is still registered in X's name. Since the first taxable use of this highway motor vehicle during the taxable period occurred on August 10, 1984, X is required to pay a tax of $192.50 ([$100+(5×$22)]×11/12) for such taxable period.

Example (3). On April 15, 1985, a vehicle with a taxable gross weight of 70,000 pounds and registered in the name of Y is completely destroyed. Y had purchased the vehicle from X who had paid the tax for the taxable period beginning July 1, 1984. Y is entitled to a refund of tax for those full months after destruction in the taxable period ending June 30, 1985. Thus, Y may file a claim for a refund of $71.67—2/12 of the total tax of $430 ($100+(15×$22)).

§ 41.4481–1T [Removed]

Par. 3. Section 41.4481–1T is removed.

§ 41.4481–1aT [Redesignated as § 41.4481–T]

Par. 4. Section 41.4481–1aT is redesignated as § 41.4481–1T.

Par. 5. Section 41.4481–2 is amended as follows:

(a) Paragraph (a)(2) and the example contained therein are revised to read as set forth below.

(b) The material following the first sentence of paragraph (b) is revised to read as set forth below.

§ 41.4481–2 Persons liable for tax.

(a) * * *

(2) The application of paragraph (a)(1) of this section may be illustrated by the following example:

Example. In the taxable period beginning July 1, 1985, the first taxable use of a particular highway motor vehicle having a taxable gross weight of 60,000 pounds occurs on July 10, 1985, at which time the vehicle is registered in the name of Y. On September 1, 1985, Y sells the vehicle to X who registers and uses the vehicle before the end of such taxable period. Since the vehicle was registered in the name of Y at the time of its first taxable use, Y is liable for the total tax of $210 ($100+(5×$22)) imposed on the use of the vehicle for the taxable period. X is also liable for $210 tax or any part thereof, but only to the extent that Y does not pay it. To the extent that either X or Y pays the tax the other party is relieved of such liability.

(b) * * * Such person shall also obtain and keep as evidence a statement from the transferor as to whether there was in effect, at the time the vehicle was acquired, a suspension under § 41.4483–3(a) of the tax imposed by section 4481(a). The evidence may take the form of a written statement, signed and dated by the person from whom the vehicle was acquired, showing whether there was or was not a prior taxable use of the vehicle and whether there was a suspension of tax in the taxable period. If the vehicle is acquired from a dealer in highway motor vehicles, the statement may be obtained from such dealer or from the person from whom the dealer acquired such vehicle. If evidence is not obtained showing whether there was or was not a prior taxable use of such vehicle and whether there was a suspension of tax in the taxable period, such person shall keep as a part of his records a written statement of the reason why he was unable to obtain such evidence.

* * * * *

Par. 6. Section 41.4482(b)–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (d) is amended by revising the heading to read as set forth below and by substituting "after June 30, 1969, and before July 1, 1984" for "beginning on or after July 1, 1969", at the end of the first sentence.

(c) New paragraphs (e) and (f) are added to read as set forth below.

§ 41.4482(b)–1 Definition of taxable gross weight.

(a) *In general.* The tax imposed on the use of a highway motor vehicle (of a taxable gross weight of at least 55,000 pounds) is based on the taxable gross weight of such highway motor vehicle. Taxable gross weight of a highway motor vehicle is determined with reference to the sum of (1) the actual unloaded weight of such highway motor vehicle (fully equipped for service); (2) the actual unloaded weight of any trailers or semitrailers (fully equipped for service) customarily used in combination with such highway motor vehicle; and (3) the weight of the maximum load customarily carried on such highway motor vehicle and on any trailers or semitrailers customarily used in combination with such highway motor vehicle. In order to determine the taxable gross weight of a particular vehicle for a particular taxable period, use the appropriate method described in either paragraphs (c), (d), or (e) of this section, or § 41.4482(b)–1T.

* * * * *

(d) *Schedule of taxable gross weights for taxable periods beginning after June 30, 1969, and ending before July 1, 1984.* * * *

(e) *Determination of taxable gross weight for taxable periods after June 30, 1985*—(1) *In general.* For purposes of the tax imposed by section 4481(a), the taxable gross weight of a highway motor vehicle shall be equal to the sum of the weights referred to in paragraph (a) of

this section. The taxable gross weight of a highway motor vehicle shall be reported by the taxpayer on Form 2290 for any vehicle that has a taxable gross weight of 55,000 pounds or more. In the case of a highway motor vehicle that is registered in at least one State that requires a declaration of gross weight to be stated as a specific amount for any purpose (including proportional or prorate registration or the payment of any other fees or taxes), the taxable gross weight of such vehicle must be no less than the highest gross weight declaration (or combined gross weight declaration in the case of a tractor-trailer or truck-trailer combination) made by the registrant in any State with respect to such vehicle. If a highway motor vehicle is registered in at least one State that requires vehicles to register on the basis of gross weight and such vehicle is not registered in any State that requires a declaration of gross weight to be stated as a specific amount by the registrant, the taxable gross weight of such vehicle must fall within the highest gross weight category of such State for which such vehicle is registered during the taxable period. Declarations of weight made in order to obtain special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered or prorated, (ii) operate at more than a State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State, shall not be considered in determining the taxable gross weight of a vehicle.

(2) *Buses.* For purposes of the tax imposed by section 4481(a), the taxable gross weight of a bus shall be the sum of the weights referred to in paragraph (a) of this section except that "the weight of the maximum load customarily carried" on a bus shall be equal to 150 pounds times the number of units of seating capacity provided for passengers and driver.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of a truck-tractor. On January 1, 1985, A registers the truck-tractor in three states—X, Y, and Z. For purposes of registering the vehicle in State X, A declares the gross operating weight of his truck-tractor to be 60,000 pounds. The declaration of the gross weight of the vehicle at 50,000 pounds places A's truck-tractor in the State X registration category of 55,000 to 62,000 pounds gross weight. Thus, the registered weight of A's vehicle in State X is 62,000 pounds. At the same time as A registers the vehicle in State X, A also proportionally registers the vehicle under the IRP in State Y. A uses the same declared gross weight of 60,000 pounds for purposes of the State Y proportional registration. Registration in State Y at this declared gross weight places A's truck-tractor in the State Y gross weight registration category of 58,000 to 68,000 pounds. Finally, A registers the truck-tractor in State Z. Registration of vehicles in State Z is based on the unladen weight of the vehicle. During the taxable period beginning on July 1, 1985, A's truck-tractor is not registered in any other state. For the taxable period beginning on July 1, 1985, A must declare a taxable gross weight of no less than 60,000 pounds for purposes of the tax imposed by section 4481(a) because that is the highest declared gross weight for state registration or other purposes. Should A declare to any State agency a higher gross operating weight with respect to the truck-tractor during the same taxable period (except for a special temporary permit), A would then be liable for additional tax as determined under paragraph (c)(3) of § 41.4481–1.

Example (2). Assume the same facts as in example (1), except that on one occasion during the taxable period, A was issued a special 2-day permit to use his truck-tractor in State Y to haul a load which would give A's unit a total gross weight of 80,000 pounds. A may still declare the taxable gross weight of his unit to be no less than 60,000 pounds because special permits to haul heavier loads on a temporary basis are not considered in determining the taxable gross weight of a vehicle.

Example (3). C owns and has registered in his name 2 trucks which are identical in all respects and which are used to carry the same type of load. The first vehicle is registered only in State X at a registered weight of 73,000 pounds based on a declared gross weight of 70,000 pounds. The second vehicle is registered only in State Y at a registered weight of 66,000 pounds based on a declared gross weight of 65,000 pounds. No other declarations of gross weight are made with respect to either vehicle. For purposes of the Federal heavy vehicle use tax, the taxable gross weight of the vehicle registered in State X may be declared at no less than 70,000 pounds and the taxable gross weight of the vehicle registered in State Y may be declared at no less than 65,000 pounds even though the vehicles are identical.

Par. 7. Section 41.4482(c)–1 is amended by substituting "1988" for "1979" every place it appears in paragraph (b) and by adding a new paragraph (d) immediately after paragraph (c) to read as set forth below:

§ 41.4482(c)–1 Definition of State, taxable period, use and customary use.

* * * * *

(d) *Customary use.* For taxable periods beginning after June 30, 1984, the term "customary use" as used in the regulations in this part, means that a semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow such semitrailer or trailer.

Par. 8. Examples (1), (2), and (3) of § 41.4483–2(f) are amended by substituting "1984" for "1962" wherever it appears, by substituting "1985" for "1963" wherever it appears, by substituting the phrase "at least 55,000 pounds" for "more than 26,000 pounds" wherever it appears, and by substituting the phrase "less than 55,000 pounds" for "26,000 pounds or less" wherever it appears.

§ 41.4483–2T [Removed]

Par. 9. Section 41.4483–2T is removed.

§ 41.4483–3T [Removed]

Par. 10. Section 41.4483–3 is redesignated as § 41.4483–4, § 41.4483–3T is removed, and a new § 41.4483–3 is inserted immediately after § 41.4483–2 to read as set forth below:

§ 41.4483–3 Exemption for trucks used for 5,000 or fewer miles and agricultural vehicles used for 7,500 or fewer miles on public highways.

(a) *Suspension of tax.*—(1) *In general.* Liability for the tax imposed by section 4481(a) is suspended during a taxable period if it is reasonable to expect that the vehicle will be used for 5,000 or fewer miles on public highways during such taxable period and the owner furnishes in the time and manner required the information required under paragraph (a)(2) of this section. See paragraph (g) of this section regarding special rules for agricultural vehicles. See § 41.4482(c)–1(c) for the meaning of "use" on the public highways.

(2) *Information to be supplied in support of suspension of tax.* The owner of a highway motor vehicle who reasonably expects that the vehicle will be used for 5,000 or fewer miles on public highways during a taxable period shall furnish on the first Form 2290 (Federal Heavy Vehicle Use Tax Return) filed during the taxable period for such motor vehicle, such information as is required by the Form in order to support the suspension of tax under paragraph (a) of this section.

(b) *Cessation of suspension from tax.* If a highway motor vehicle on which the tax under section 4481(a) is suspended for a particular taxable period under paragraph (a)(1) of this section is used for more than 5,000 miles on public highways during such taxable period, the owner of the vehicle shall pay the tax for the entire taxable period in accordance with section 4481(a). The tax shall be reported on a Form 2290, which must be filed on or before the last day of the month immediately following the month in which the use of the vehicle during the taxable period exceeds 5,000 miles. If such Form is filed within the

time required by the preceding sentence, it shall be treated as timely filed.

(c) *Exemption.* If at the end of any taxable period during which the tax under section 4481(a) on a highway motor vehicle was suspended under paragraph (a)(1) of this section the vehicle has not been used for more than 5,000 miles on public highways, the vehicle shall be exempt from the tax for that taxable period. The owner of the vehicle shall verify that the vehicle was used for less than 5,000 miles in such ended taxable period on the first Form 2290 filed for the next taxable period.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of 6 highway motor vehicles, each of which has a taxable gross weight in excess of 55,000 pounds. None of these 6 vehicles are agricultural vehicles. The vehicles are placed in use during July 1984. Because of the nature of his business, A reports on the first Form 2290 filed after June 30, 1984, that he reasonably expects that none of the vehicles will be used for more than 5,000 miles on public highways. Accordingly, the tax imposed by section 4481(a) is suspended for A's 6 vehicles for the taxable priod July 1, 1984, through June 30, 1985.

Example (2). Assume the same facts as in example (1) except that during the month of February 1985, the use of one of A's vehicles exceeds 5,000 miles on public highways. A is liable for the full tax for the taxable period July 1, 1984, through June 30, 1985, for that vehicle at the rate set forth in § 41.4481–1(b), and must so report on a Form 2290 filed on or before March 31, 1985, the last day of the month following the month in which the use exceeds 5,000 miles.

(e) *Credit or refund of tax for highway motor vehicle used 5,000 or fewer miles.* (1) If a highway motor vehicle on which the tax imposed by section 4481(a) has been paid for a given taxable period is used for 5,000 or fewer miles on public highways during such taxable period, the person who paid the tax may file a claim for refund of an overpayment of the tax at the end of the taxable period. Claims for refunds of tax made under this paragraph (e) shall be filed in the same manner as claims for refunds filed under § 41.4481–1(d). Refunds of tax made under this paragraph (e) shall be without interest.

(2) Any person entitled to claim a refund of tax under paragraph (e)(1) of this section may, in lieu of claiming a refund of such tax, claim credit for such tax on the first Form 2290 filed for the next taxable period.

(f) *Relief from liability for tax under certain circumstances.* If the tax imposed by section 4481(a) on a highway motor vehicle is suspended for any taxable period under paragraph (a) of this section and the vehicle is transferred while the suspension is in effect, the transferor will not be liable for any tax on such vehicle for such taxable period if such transferor furnishes a statement to the transferee on which is included the transferor's name, address and taxpayer identification number, the vehicle identification number, the date of transfer of the vehicle, the number of miles the vehicle has been used on the public highways during the taxable period, the odometer reading at the time of the transfer, and the name, address and taxpayer identification number of the transferee. The statement required in the preceding sentence shall be attached by the transferee to a Form 2290 which must be filed on or before the last day of the month following the month in which such vehicle is transferred. The suspension from tax under paragraph (a) continues until the vehicle is used on the public highways for more than 5,000 miles during the taxable period (including use by the transferor for the portion of the taxable period prior to the transfer). If the transferor has furnished the statement required in this paragraph (f), the transferee and not the transferor is liable for the entire tax under section 4481(a) for the taxable period in which the transfer was made. If the transferor has not furnished such statement to the transferee, then the transferor is also liable for the tax on the use of such vehicle for such taxable period to the extent that the tax or an installment payment of the tax has not been previously paid. See paragraph (b) of this section relating to cessation of suspension from tax.

(g) *Special rule for agricultural vehicles—(1) In General.* In applying the provisions of this section to an agricultural vehicle, "7,500" shall be substituted for "5,000" each place it appears in paragraphs (a) through (f) of this section.

(2) *Meaning of terms*—(i) *Agriculture vehicle.* An agricultural vehicle is any highway motor vehicle—

(A) Used (or expected to be used) primarily for farming purposes, and

(B) Registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used for farming purposes.

A highway motor vehicle is used primarily for farming purposes if more than one-half of such vehicle's use (determined on the basis of mileage) during the taxable period is for farming purposes. Further, the highway motor vehicle must be registered (under the laws of the State or States where such vehicle is required to be registered) as a highway motor vehicle used for farming purposes for the entire taxable period in order to qualify as an agricultural vehicle. See § 41.4482(a)–(1) for the definition of "highway motor vehicle". A vehicle will be considered to be registered under the laws of the State as a highway motor vehicle used for farming purposes if such vehicle is so registered under a State statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used for farming purposes is required.

(ii) *Farming purposes.* For purposes of this section, "farming purposes" means the transporting of any farm commodity to or from a farm, or the use directly in agricultural production.

(iii) *Farm commodity.* A "farm commodity" is any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, fur-bearing animals, or wildlife. A farm commodity does not include a commodity which has been changed by a processing operation from its raw or natural state. For example, juice which has been extracted from fruits or vegetables is not a farm commodity for purposes of this paragraph (g).

(iv) *Farm.* The term "farm" includes stock (including feed yards for fattening cattle), dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of any agricultural or horticultural commodity. Greenhouses and other similar structures used primarily for purposes other than the raising of agricultural or horticultural commodities (for example, display, storage, or fabrication of wreaths, corsages, and bouquets) do not constitute "farms".

(v) *Agricultural production*—(A) *In general.* A highway motor vehicle is considered to be used directly in agricultural production only if it is used as indicated in the following paragraphs.

(B) *Use of a highway motor vehicle in connection with cultivating, raising, and harvesting.* A highway motor vehicle is considered to be used directly in agricultural production if such vehicle is used in connection with cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and fur-bearing animals and wildlife. A highway motor vehicle which is used in connection with operations such as canning, freezing, packaging, or other processing operations will not be considered to be used directly in agricultural production.

(C) *Use of a highway motor vehicle in connection with planting, cultivation, caring for, cutting, etc., of trees.* A highway motor vehicle is used directly for agricultural production if it is used in connection with planting, cultivating, caring for, or cutting of trees, or in connection with the preparation (other than milling) of trees for market; but only if such operations are incidental to farming operations. These farming operations include felling trees and cutting them into logs or firewood, but do not include sawing logs into lumber, chipping, or other milling operations. The operations specified in this paragraph (g)(2)(v)(C) will be considered "incidental to farming operations" only if they are of a minor nature in comparison with the total farming operations involved. Therefore, a treefarmer or timbergrower may not claim that a highway motor vehicle used in that trade or business is used directly in agricultural production.

(D) *Use of a highway motor vehicle in connection with the operation, management, conservation, improvement, or maintenance of a farm.* A highway motor vehicle is used directly for agricultural production if it is used in connection with the operation, management, conservation, improvement, or maintenance of a farm and its tools and equipment. Examples of these operations include clearing land, repairing fences and farm buildings, building terraces or irrigation ditches, cleaning tools or farm machinery, painting, and other activities which contribute in any way to the conduct of a farm as such, as distinguished from any other enterprise in which the owner of the highway motor vehicle may be engaged.

(3) *Mileage on farm not counted toward 7,500 mile limit.* For purposes of this section, the number of miles which a highway motor vehicle is driven on a farm and not on the public highways shall not be taken into account when determining whether the vehicle's mileage is in excess of 7,500 miles. Accurate records should be kept by taxpayers of the number of miles that a highway motor vehicle is operated on a farm.

(h) *Owner.* For purposes of this section the term "owner" means, with respect to any highway motor vehicle, the person described in section 4481(b).

Par. 11. New § 41.4483–5, and § 41.4483–6 are added immediately after newly designated § 41.4483–4 to read as set forth below:

§ 41.4483–5 Termination of exemptions.

The exemptions described in §§ 41.4483–1 and 41.4483–2 shall not apply on and after October 1, 1988.

§ 41.4483–6 Reduction in tax for trucks used in logging.

(a) *In general.* The tax imposed by section 4481 shall be reduced by 25 percent in the case of a truck used in logging.

(b) *Truck used in logging.* The term "truck used in logging" means any highway motor vehicle which—

(1) Is used exclusively during the taxable period for the transportation, to and from a point located on a forested site, of products harvested from such forested site, and

(2) Is registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used exclusively in the transportation of harvested forest products.

Products harvested from the forested site may include timber which has been processed for commercial use by sawing into lumber, chipping or other milling operations if such processing occurs prior to transportation from the forested site. A vehicle will be considered to be registered under the laws of a state as a highway motor vehicle used exclusively in the transportation of harvested forest products if such vehicle is so registered under a state statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used in the transportation of harvested forest products is required.

Par. 12. Section 41.6001–1 is amended as follows:

(a) Paragraphs (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7) are redesignated as paragraphs (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), and (a)(8) respectively; a new paragraph (a)(2) is added to read as set forth below; and the paragraph (a) introductory text, paragraph (a)(1), and newly designated paragraphs (a)(6) and (a)(7) are revised to read as set forth below.

(b) Paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) respectively.

(c) A new paragraph (c) is inserted immediately after paragraph (b) to read as set forth below.

(d) Newly designated paragraph (e)(2) is revised to read as set forth below.

§ 41.6001–1 Records.

(a) *Records to be kept.* Every person in whose name a highway motor vehicle having a taxable gross weight of at least 55,000 pounds is registered or required to be registered at any time during the taxable period shall keep records sufficient to enable the district director to determine whether such person is liable for the tax and, if so, the amount thereof. See § 41.4482(b)–1 for the definition of taxable gross weight. Such records shall show with respect to each such vehicle:

(1) A description of the vehicle (including serial number or manufacturer's number) in sufficient detail to permit positive identification of the vehicle.

(2) The weight of the loads carried by the vehicle in such form as is required under the laws of any State in which the vehicle is registered or required to be registered, in order to permit verification of such vehicle's taxable gross weight.

* * * * *

(6) In the case of any such vehicle disposed of otherwise than by sale or other transfer (including disposition by theft or destruction for taxable periods after June 30, 1984), the date and method of disposition of the vehicle.

(7) In the case of a secondhand highway motor vehicle acquired at any time in the taxable period, evidence showing whether there was a prior taxable use in such taxable period of the highway motor vehicle (see paragraph (b) of § 41.4481–2) or, for taxable periods after June 30, 1984, whether there was a suspension of tax in effect (see § 41.4483–3). For filing requirements of purchaser of second-hand vehicle, see paragraph (b) of § 41.6011(a)–1.

* * * * *

(c) *Exemption for vehicles used 5,000 miles or less.* The owner of a highway motor vehicle who reasonably expects the vehicle to be exempt from the tax under section 4481(a) by reason of § 41.4483–3(c) for a given taxable period shall keep records which indicate the reason that the use of the vehicle is not expected to exceed 5,000 miles on public highways.

* * * * *

(e) * * *

(2) Records required by paragraph (a) of this section shall be maintained for a period of at least 3 years after the date the tax becomes due or the date the tax is paid, whichever is the later. Records required by paragraphs (b) and (c) of this section shall be maintained for a period of at least 3 years after the end of the taxable period for which such exemption applies. Records required by paragraph (d) of this section (including any record required by paragraphs (a), (b), or (c) of this section which relates to a claim) shall be maintained for a period of at least 3 years after the date the claim is filed.

Par. 13. A new § 41.6001–2 is inserted immediately after § 41.6001–1 to read as follows:

§ 41.6001–2 Proof of payment for state registration purposes.

(a) *In general.* This section sets forth the circumstances under which a State must require proof of payment of the tax imposed by section 4481(a), and the required manner in which such proof of payment is to be received by the State as a condition of issuing a registration for a highway motor vehicle. A State must either comply with the provisions of this section or, in the alternative, comply with such other rules regarding the satisfaction of this proof of payment requirement as may be prescribed by the Commissioner (by Revenue Procedure or otherwise), in order to avoid a reduction of Federal-aid highway funds apportioned under 23 U.S.C. 104(b)(5). The rules of this section apply to highway motor vehicles for which applications for registration are received by a State on or after October 1, 1985. For purposes of this section, an application for registration which is mailed will be considered to be received by a State on the date on which it is postmarked.

(b) *Proof of payment required*—(1) *In general.* A State to which an application is made to register a highway motor vehicle must receive from the registrant proof of payment of the tax imposed by section 4481(a) (or proof of suspension of such tax under § 41.4483–3) unless otherwise provided in this paragraph (b)(1), or paragraph (b)(2) or (5) of this section. See paragraph (c) of this section for the meaning of "proof of payment". Such proof of payment must be received by the State before the State issues a registration for such vehicle unless the State is using a system of registration provided in paragraph (b)(3) of this section. The term "proof of payment", when used in this section, shall be considered to refer in appropriate cases to proof of suspension of the tax imposed by section 4481(a). Except as provided in paragraph (b)(4) of this section, any proof of payment presented to a State must relate to tax paid (or suspended under § 41.4483–3) for the taxable period which includes the date that the State receives the application for registration. A "base state" must be presented proof of payment when issuing an "apportioned plate" under the International Registration Plan (IRP) (or similar agreement) for a highway motor vehicle, but no proof of payment of the tax imposed by section 4481(a) is required to be presented to the other states for which the vehicle is proportionally registered and which are listed on the IRP cab card issued by the base state. Further, a State is not required to receive proof of payment in order to issue special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered (including proportional or prorate registration), (ii) operate at more than the State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State. Further, a State may register a highway motor vehicle without proof of payment if the person registering the vehicle presents the original or a photocopy of a bill of sale (or other document evidencing transfer) indicating that the vehicle was purchased by the owner either as a new or used vehicle during the preceding 60 days before the date that the State receives the application for registration of such vehicle.

(2) *States required to receive proof of payment with respect to vehicles subject to tax*—(i) *Registration in States that register vehicles on the basis of gross weight.* A State that registers vehicles on the basis of gross weight must require proof of payment with respect to any highway motor vehicle that has a declared gross weight in that State of 55,000 pounds or more. If no declaration of a specific gross weight is made with respect to a highway motor vehicle registered on the basis of gross weight, then the State must require proof of payment with respect to such vehicle if the minimum weight of the registered weight category for such vehicle is 55,000 pounds or more. No such proof of payment is required for any vehicle that does not have a declared gross weight in that State of 55,000 pounds or more.

(ii) *Registration in States that register vehicles other than on the basis of gross weight.* A State that registers vehicles other than on the basis of gross weight must require proof of payment in order to register a highway motor vehicle unless the State receives a written statement stating that during the taxable period which includes the date on which the State receives the application for registration, such vehicle had a taxable gross weight of less than 55,000 pounds. The written statement must state the number of vehicles being registered that have a taxable gross weight of less than 55,000 pounds and must be signed by the person registering the vehicles. A State may register a highway motor vehicle without receiving either proof of payment or a written statement as described above if such vehicle has an unladen weight of 8,000 pounds or less. However, the State must require proof of payment when issuing a "base plate" registration for a vehicle if a gross weight declaration of 55,000 pounds or more is made to the State with respect to such vehicle in order to proportionally register the vehicle in another State under the IRP.

(iii) *State may require additional proof.* Nothing contained in this section shall prohibit a State from refusing to register a highway motor vehicle without additional proof that the vehicle is not subject to tax under section 4481(a) even though the person registering the vehicle submits a written statement declaring that the taxable gross weight of such vehicle is less than 55,000 pounds.

(3) *Suspension registration system.* A State may issue a registration with respect to any or all highway motor vehicles subject to tax under section 4481(a) without receiving proof of payment if such vehicles are registered under a "suspension" registration system. Registration of a vehicle subject to tax under a suspension system must be on the condition that, (i) the State receive proof of payment with respect to such vehicle no later than 4 months (or any lesser time to be determined by the State) after the beginning of the vehicle's registration period, and (ii) the State's system provides for the automatic suspension (*e.g.* through the use of computer-generated notices) of such vehicle's registration if no proof of payment is received within the required time. Following such a suspension of registration, the State must not allow the vehicle to be registered until valid proof of payment is received. A State may either register all vehicles subject to tax under section 4481(a) in the manner described in this paragraph (b)(3) or adopt this manner of registration only in situations which the State deems appropriate. A State that registers vehicles other than on the basis of gross weight may also register vehicles not subject to tax under a suspension registration system for purposes of receiving the written statement described in paragraph (b)(2)(ii).

(4) *Registration during certain months.* In the case of a highway motor vehicle subject to tax under section 4481(a) for which a State receives an application for registration during the months of July, August or September, proof of payment for the immediately preceding taxable period may be used to verify payment of the tax imposed by section 4481(a).

(5) *Registration in a State several times during the taxable period.* A State is required to receive proof of payment with respect to a highway motor vehicle subject to tax under section 4481(a) only

once during a taxable period. Thus, in the case of a State that allows a highway motor vehicle to be registered on a quarterly basis, rather than annually, proof of payment will be required to be presented to the State only once during the taxable period. The State may designate any one of the four quarterly registration periods as the time for submitting proof of payment.

(6) *Proof of payment records.* See 23 CFR Part 669 for a description of the supporting documentation and records that will be required by the Federal Highway Administration (FHWA) in order to allow the FHWA to verify that the State is in compliance with the rules of this section.

(c) *Proof of payment*—(1) *In general.* (i) The proof of payment required in paragraph (b) of this section shall consist of a receipted Schedule 1 (Form 2290) that is returned by the Internal Revenue Service to a taxpayer who files a return of tax under section 4481(a) and pays the amount of tax (or installment thereof) due with such return. A photocopy of such receipted Schedule 1 shall also serve as proof of payment. Such Schedule 1 shall serve as proof of suspension of such tax under § 41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. Except as provided in paragraph (c)(1)(ii) of this section, the vehicle identification number of the vehicle being registered must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(ii) If a receipted Schedule 1 is submitted as proof of payment for the registration of one or more highway motor vehicles and—

(A) (*1*) The total of the number of vehicles on such Schedule 1 for which tax has not been suspended under § 41.4483–3 exceeds 21, or

(*2*) The total of the number of vehicles on such Schedule 1 for which tax has been suspended under § 41.4483–3 exceeds 9, and

(B) The name of the taxpayer appearing on such Schedule 1 is one of the names in which such vehicles are sought to be registered,

such Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than such total and a list of the vehicles (or their vehicle identification numbers) is not required as part of such proof of payment.

(iii) If a Schedule 1 which does not include a list of vehicle identification numbers is submitted as proof of payment for the registration of one or more highway motor vehicles and the name of the taxpayer appearing on such Schedule 1 is not one of the names in which such vehicles are sought to be registered then such Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than the total number of vehicles on such Schedule 1 provided the Schedule 1 is accompanied by a written statement executed by the taxpayer. Such written statement shall contain the vehicle identification numbers of the vehicles sought to be registered and a statement that the tax under section 4481(a) has been paid with respect to such vehicles for the taxable period. The statement must be signed by the taxpayer whose name appears on the Schedule 1.

(2) *Acceptable substitute for receipted Schedule 1.* For purposes of this section, a State shall accept as proof of payment a photocopy of the Form 2290 (with the Schedule 1 attached) which was filed with the Internal Revenue Service for the vehicle being registered with sufficient documentation of payment of tax due at the time the Form 2290 was filed (such as a photocopy of both sides of a cancelled check). This substitute proof of payment may be used to register a vehicle when, for example, the receipted Schedule 1 has been lost, or when at the time required for registration of a vehicle, a receipted Schedule 1 has not been received by a taxpayer who has filed a Form 2290 with respect to such vehicle. The rules of paragraph (c)(1)(ii) of this section regarding the circumstances in which a list of vehicle identification numbers is not required as part of a valid proof of payment, apply to a non-receipted Schedule 1 received by a State with a Form 2290 as a substitute proof of payment under this paragraph (c)(2).

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). A applies to register a 3-axle single unit truck in State R, a member of the International Registration Plan, on November 1, 1985. State R registers vehicles based on unladen weight. At the same time, A applies for a proportional registration under the IRP to use the truck in State S. State S does not register vehicles on the basis of unladen weight. For purposes of the proportional registration in State S, A declares the gross weight of his truck at 50,000 pounds. A does not register the truck in any other states. A's truck has a taxable gross weight, as determined under § 41.4482(b)–1(e), of less than 55,000 pounds and therefore is not subject to tax under section 4481(a). A submits a written statement along with his application for registration in State R. The written statement states that A's vehicle has a taxable gross weight of less than 55,000 pounds and is signed by A. State R may register A's truck and issue a proportional registration for A to use his truck in State S without receiving proof of payment.

Example (2). Assume the same facts as in example (1) except that A applies for proportional registration under the IRP in State S and declares the truck to have a gross weight of 60,000 pounds. The taxable gross weight of A's truck, as determined under § 41.4482(b)–1(e) is 60,000 pounds. State R may not register A's truck unless it receives proof of payment within the meaning of paragraph (c) of this section.

Example (3). On October 10, 1985, C applies to register 9 vehicles in State U and declares the gross weight of each vehicle to be 70,000 pounds. C has not applied for registration in any other states. At the time of applying for registration, C presents a photocopy of a receipted Schedule 1 (Form 2290) that shows a total of 9 vehicles which are subject to tax under section 4481(a) and for which tax is not suspended under § 41.4483–3(a). The vehicle identification numbers of the vehicles that C is seeking to register must be listed on the Schedule 1 in order for State U to register the vehicles.

Example (4). On November 10, 1985, B applies to register 10 vehicles in State T jointly in the names of B and F (a fleet operator) and declares each to have a gross weight of 70,000 pounds. B submits along with the registration application, a photocopy of a receipted Schedule 1 (Form 2290) that shows a total of 100 vehicles which are subject to tax under section 4481(a). F is the taxpayer named on the Schedule 1. No vehicle identification numbers are listed on the Schedule 1 and no list of such numbers is attached. State T may consider the Schedule 1 as proper proof of payment under paragraph (c)(1)(ii) of this section and may register B's vehicles.

Par. 14. The authority citation for Part 48 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 15. Sections 48.6427–1T and 48.6427–2T are removed and new §§ 48.6427–2 through 48.6427–7 are inserted immediately after § 48.6427–1 to read as follows:

§§ 48.6427–2 Through 48.6427–5 [Reserved]

§ 48.6427–6 Limitation on credit or refund of tax paid on fuel used in intercity, local or school buses after July 31, 1984.

(a) *Limitation on amount of credit or refund*—(1) *In general.* In the case of fuel sold or used after July 31, 1984, on which tax was imposed under section 4041(a), the amount of credit or refund under section 6427(b)(1) shall not exceed 12 cents per gallon except where fuel is used in a bus while such bus is being operated as a "qualified local bus" in which case the credit or refund shall be the full amount of tax paid under section 4041(a) on such fuel.

(2) *Qualified local bus.* A bus is considered to be operated as a "qualified local bus" if such bus—

(i) Is engaged in furnishing (for compensation) intracity passenger land transportation that is available to the general public and is scheduled and along regular routes,

(ii) Has a seating capacity of at least 20 adults (not including the driver), and

(iii) Is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)(4)) to furnish such transportation.

A company that operates qualified local buses is eligible for a full refund or credit only with respect to fuel used while such buses are operating as qualified local buses. For example, a company that operates its buses along subsidized intracity routes and also on intercity or unsubsidized intracity routes may obtain a full refund or credit only with respect to fuel used while operating the subsidized intracity routes.

(b) *Meaning of terms*—(1) *Contract with a State or local government.* A bus is under contract with a State or local government only if the contract imposes a bona fide obligation on the operator of the bus to furnish the transportation to which the contract relates.

(2) *More than a nominal subsidy.* A subsidy is more than nominal if the subsidy is reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used while operating on subsidized routes.

(3) *Intracity passenger land transportation.* The term "intracity passenger land transportation" means the land transportation of passengers to and from points located within the same metropolitan area. The term includes transportation along routes that cross State, city or county boundaries provided such routes remain within the metropolitan area.

§ 48.6427-7 Credit of refund of the increased diesel fuel tax to the original purchaser of a diesel-powered automobile or light truck.

(a) *In general.* A credit or refund of the diesel fuel differential amount may be claimed under section 6427(g) for a qualified diesel-powered highway vehicle purchased after January 1, 1985, and before January 1, 1988. A credit or refund of a fraction of the diesel fuel differential amount may be claimed for certain qualified diesel-powered highway vehicles held on January 1, 1985. Any person who is, or is treated as, an original purchaser of a qualified diesel-powered highway vehicle is eligible to claim a credit or refund of the diesel fuel differential amount (or fraction thereof). No interest is payable on the diesel fuel differential amount (or fraction thereof).

(b) *Original purchaser*—(1) In general. Generally, an original purchaser is the first person to purchase a new qualified diesel-powered highway vehicle after January 1, 1985 for a use other than resale. In addition, a person holding a qualified diesel-powered highway vehicle for a use other than resale at the end of January 1, 1985, is treated as an original purchaser. For purposes of determining the holder of the vehicle at the end of January 1, 1985, the owner of the vehicle for federal income tax purposes is treated as the holder of the vehicle. However, State or local governments (as defined in section 4221(d)(4)) or nonprofit educational organizations (as defined in section 4221(d)(5)), do not qualify as original purchasers or as holders who are treated as original purchasers.

(2) *Use other than resale*—(i) *Use of a vehicle by a dealer as a demonstrator.* The use of a new vehicle by a dealer as a demonstrator will not be treated as a use other than resale, nor will it cause the vehicle to be treated as other than new when sold by a dealer. Thus, a dealer may not claim a credit or refund under this section for a vehicle used as a demonstrator vehicle; rather, the first person to purchase the demonstrator vehicle for a use other than resale will qualify as the original purchaser of the vehicle.

(ii) *Treatment of leased vehicles.* The lease or rental of a vehicle is treated as a use other than resale both in the case of vehicles purchased after January 1, 1985, and vehicles held at the end of such date. Thus, for example, a person who purchases a qualified diesel-powered highway vehicle on January 15, 1985, and leases the vehicle under either a long-term or short-term lease under which the lessee is not treated as the owner for Federal income tax purposes, is eligible to claim a credit or refund for the diesel fuel differential amount. In addition, a person who is the owner-lessor of a vehicle leased to a lessee under a long-term or short-term lease in effect at the end of January 1, 1985, will be treated as the holder of such vehicle at the end of January 1, 1985 (unless the lease is treated as a sale for Federal income tax purposes).

(3) *Vehicles subject to a lien.* If a person purchases a vehicle subject to a lien and registers the vehicle in the name of the lienholder, the purchaser is eligible to claim the credit or refund even if the lienholder holds nominal title to the vehicle.

(c) *Qualified diesel-powered highway vehicle.* A qualified diesel-powered highway vehicle is any diesel-powered highway vehicle (as defined in § 48.4041-7(b)) which—

(1) Has at least 4 wheels,

(2) Has a gross vehicle weight rating (within the meaning of § 48.4061(a)-1(f)(3)) of 10,000 pounds or less, and

(3) Is registered for highway use in the United States under the laws of any State.

(d) *Diesel fuel differential amount*—(1) *In general.* The diesel fuel differential amount is $102 in the case of a vehicle other than a truck or van and $198 in the case of a truck or van. A van for this purpose is a vehicle which had no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(2) *Amount of credit or refund.* The amount of credit or refund allowable to a person holding a qualified diesel-powered highway vehicle on January 1, 1985, depends upon the model year of the vehicle. The table below sets forth the applicable amounts:

Model year of qualified diesel-powered highway vehicle	Amount	
	Other than truck or van	Truck or van
1984 or 1985	$102	$198
1983	85	165
1982	68	132
1981	51	99
1980	34	66
1979	17	33

No credit or refund is allowed in the case of a 1978 or earlier model year vehicle. The model year designated by the manufacturer for the vehicle is the model year for purposes of the above table.

(e) *Reduction in basis.* For purposes of subtitle A of the Internal Revenue Code, the basis of any qualified diesel-powered highway vehicle is reduced (but not below zero) by the diesel fuel differential amount (or fraction thereof) allowable with respect to such vehicle. For example, if a qualfied diesel-powered highway vehicle is purchased for business purposes by an original purchaser on January 2, 1985, the basis of such vehicle for purposes of determining depreciation, investment tax credit, and the amount of gain or loss to be recognized upon a disposition of the vehicle is reduced by $102 in the case of a vehicle other than a truck or van, and $198 in the case of a truck or van. Such basis reduction shall be

considered to occur on the date of purchase or, in the case of a vehicle held on January 1, 1985, on such date.

(f) *Deduction for business purposes.* The availability or claiming of the diesel fuel differential amount (or fraction thereof) as a credit or refund has no effect on the availability to the taxpayer of any otherwise allowable deduction for the cost of diesel fuel purchased by the taxpayer.

(g) *Claiming the credit or refund*—(1) *One-time claim.* The diesel fuel differential amount (or fraction thereof) may be claimed only once for a qualified diesel-powered highway vehicle. The claim is made by the original purchaser or person treated as the original purchaser, and is claimed as an income tax credit, unless such person is eligible under section 6427(j) to file a claim for refund in lieu of an income tax credit.

(2) *Procedure for claiming the diesel fuel differential amount as an income tax credit.* The amount of credit determined under paragraph (d) of this section is entered on Form 4136 together with any other credits to be entered on such Form. The Form 4136 is then attached to the original purchaser's income tax return.

(3) *Time of claiming credit.* In the case of a qualified diesel-powered highway vehicle purchased by an original purchaser after January 1, 1985, and before January 1, 1988, the credit is claimed on the income tax return for the taxable year during which the vehicle was purchased. In the case of a person who is treated as an original purchaser by reason of holding the vehicle at the end of January 1, 1985, the credit is claimed on the income tax return for the taxable year which includes December 31, 1984, *i.e.*, the tax return for 1984 in the case of a calendar year taxpayer.

(4) *Procedure of claiming the diesel fuel differential amount as a refund.* The diesel fuel differential amount may be claimed by the original purchaser or person treated as the original purchaser, as a refund by filing Form 843 (Claim) with the Internal Revenue Service.

Par. 16. The authority citation for Part 602 continues to read a follows:

Authority 26 U.S.C. 7805.

Par. 17. Section 602.101(c) is amended by inserting in the appropriate places in the table:

"§ 41.4481–1	1545–0143"
"§ 41.4481–2(b)	1545–0143"
"§ 41.4483–3	1545–0143"
"§ 41.6001–1	1545–0143"
"§ 41.6001–2	1545–0143"
"§ 48.6427–7	1545–0143"

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: May 16, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–12427 Filed 5–22–85; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Extension of Study on Alabama's Program Provisions Concerning Disposal of Excess Spoil

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

ACTION: Final rule.

SUMMARY: The Director, OSM, is extending the trial period for a study of provisions for the disposal of excess spoil on abandoned mine sites contained in Alabama's approved permanent program for the regulation of surface coal mining and reclamation operations and the surface effects of underground mining under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The Alabama program was conditionally approved by the Secretary of the Interior on May 20, 1982 (47 FR 22030). By that notice, the Secretary announced that a one year trial period would be held in order to evaluate the adequacy of Alabama's plan for disposal of excess spoil on abandoned mine sites. The one year period expired May 10, 1983, and was extended to August 20, 1984 (48 FR 34026). The extension was granted because few permit applications requesting approval to use the excess spoil provisions had been received, and the data was therefore insufficient to allow OSM to make a meaningful evaluation of the plan at that time.

On November 1, 1984, the State submitted to OSM, a status report "to fulfill the provisions of terms of approval of the Alabama Program" concerning excess spoil disposal. After providing opportunity for public comment and conducting a thorough review of the status report, OSM has decided that a further extension of time is necessary to build sufficient data upon which to base an evaluation of the excess spoil disposal program. Therefore, OSM is extending the trial study period until August 20, 1989, for the reasons set forth in this notice. The Federal rules at 30 CFR Part 901.15 are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22058 (May 20, 1982) and 48 FR 34026 (July 27, 1983). In the May 20, 1982 notice under Finding 18.1 (47 FR 22038–39), the Secretary approved, with certain restrictions, Alabama's plan to allow the disposal of excess spoil generated by current operations on areas which have been previously disturbed but not adequately reclaimed. The provisions of Alabama's plan were set forth at state rule section 805.11. (That section has now been recoded as 880–X–9B–11 under a State generic recodification scheme.) No comparable provision is contained under the Federal rules.

The Secretary's findings on Alabama's provision noted that under the State's plan, the previously disturbed area must be included within the currently permitted bond area, but an additional bond amount would not be required. In an attempt to ensure the reclamation of the entire area in the event an operator defaults on his obligations and abandons the job, the State regulations provide that the condition of the entire area will be considered before full bond release is granted. The Federal regulations at 30 CFR 800.11(b)(1) require that all operations to be conducted within the permit area during the life of the mine be covered by a performance bond. By that definition, those areas to be used for excess spoil disposal must be included in the performance bond. In his decision findings the Secretary expressed concern that the State's plan might

spread bond amounts too thin, resulting in less, rather than more, reclamation. However, since the plan has possibilities for increased reclamation activities, the Secretary proposed to allow its implementation on a controlled basis for an appropriate trial period.

A one year trial period was established during which the State was allowed to put its plan into effect under the following conditions:

(1) Prior to approval of any application involving this spoil disposal plan, the State Regulatory Authority must notify the OSM Field Office and submit to that Office a report stating the relevant particulars concerning the request indicating that the State approved;

(2) The OSM Field Office will then review the matter and notify the State within 30 days of its approval or objection;

(3) At the end of one year, the State shall submit to the OSM Field Office a report on the project;

(4) The OSM Field Office will then review the State report, add data or material as needed and transmit the material to OSM Headquarters;

(5) A decision will then be made concerning the success or failure of the trial.

The Secretary's findings also stated that it was recognized that a one year trial period may not be sufficient to adequately evaluate the initial results and that OSM may extend the trial period as needed until sufficient data for appropriate evaluation is obtained. Alabama agreed to the above restrictions.

On November 1, 1984, the Alabama Surface Mining Commission (ASMC) submitted a report to OSM on the excess spoil project. OSM published a notice in the **Federal Register** on March 29, 1985, announcing receipt of the report, the procedures for the public comment period and for requesting a public hearing on the report and on the proposed action to be taken by OSM concerning extension of the trial period (50 FR 12569). The public comment period ended April 29, 1985. Since no one requested a public hearing, the hearing, scheduled for April 23, 1985, was not held.

II. Director's Findings

In a **Federal Register** notice published July 27, 1983 (48 FR 34027), the Director extended the trial period for the subject study to August 20, 1984, due to the lack of data on which to base an evaluation. At that time, only six sites had been approved for implementation of a plan for disposal of excess spoil on abandoned mine sites, and none of these sites had progressed to a point where adequate data could be collected.

On November 1, 1984, the ASMC submitted a report to OSM on the excess spoil project. After reviewing the State's report and discussing it with the State, OSM has determined that additional data is necessary to do an adequate review.

To date, only six applications for consideration under the State's excess spoil provisions have been approved. Of these, one is not scheduled for mining for 2 to 3 years, one will not begin spoil placement for 3 to 4 years, three are currently either inactive or under temporary cessation, and one is nearing completion. Therefore, an accurate evaluation of the relative success or failure of the trial study period cannot be made at this time.

The State has indicated to OSM that a continuation of the trial to August 1985, would allow for a completion of one or more of these projects. However, OSM believes that an extension to August 1985, would be insufficent to provide adequate data for OSM to accurately analyze the success of the trial. The completion of even 2 or 3 projects, which is the maximum number expected to be completed by that time, would not be sufficient. The completion of all six projects, and preferably others as well, would be required to provide adequate data to enable OSM to complete an accurate analysis.

III. Public Comment

No comments were received in respose to the notice of proposed rulemaking published on March 29, 1985.

IV. Director's Decision

Therefore, the Director has determined that the trial study period will be extended until August 20, 1989. The Director is extending this period with the following stipulations:

1. The Director, at his discretion, may terminate the trial study period at any time during the extended period, if sufficient data becomes available. Upon termination of the trial study period and OSM's analysis of the data, the Director may then approve or disapprove the subject excess spoil provisions.

2. At any time during the trial period the Director may, at his discretion, place a moratorium on new permit applications which include consideration of the excess spoil provisions.

3. The State is required to continue to report to the OSM Birmingham Field Office annually on August 20, on the status of all permits and permit applications which include consideration under the excess spoil provisions.

The Federal rules at 30 CFR Part 901 are being amended to implement this decision.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 901

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

Dated: May 20, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

PART 901—ALABAMA

1. The authority citation for part 901 continues to read as follows:

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

2. 30 CFR 901.15 is amended by deleting paragraph (a)(2).

3. 30 CFR 901.15 is amended by adding a new paragraph (e) as follows:

§ 901.15 Approval of regulatory program amendments.

(e) The trial period for Alabama's excess spoil plan is further extended from August 20, 1984, to August 20, 1989.

The trial study is extended this period with the following stipulations:

(1) The Director, at his discretion, may terminate the trial study period at any time during the extended period, if sufficient data becomes available. Upon termination of the trial study period and OSM's analysis of the data, the Director may then approve or disapprove the subject excess spoil provisions.

(2) At any time during the trial period the Director may, at his discretion, place a moratorium on new permit applications which include consideration of the excess spoil provisions.

(3) The State is required to continue to report to the OSM Birmingham Field Office annually on August 20, on the status of all permits and permit applications which include consideration under the excess spoil provisions.

[FR Doc. 85-12444 Filed 5-22-85; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 935

Approval of Permanent Program Amendments for the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On July 11, 1984, the Ohio Division of Reclamation (the Division) submitted to OSM a proposed program amendment consisting of proposed rules of procedure for the Ohio Reclamation Board of Review. OSM published a notice in the **Federal Register** on August 9, 1984, inviting public comment on the adequacy of the proposed amendment (49 FR 31912).

On August 24, 1984, the Division submitted revisions to the proposed rules of procedure. Accordingly, OSM reopened and extended the comment period on Ohio's July 11, 1984, proposed amendment as modified on August 24, 1984 (49 FR 35961).

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 935 which codify decisions on the Ohio program are being amended to implement these sections.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to conform their program with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232, Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982, **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

II. Discussion of the Amendments

On July 11, 1984, OSM received a set of proposed regulations from the Ohio Division of Reclamation pertaining to the Ohio Reclamation Board of Review (RBR or the Board) intended to establish procedures for the RBR. The amendments add the following sections to the Ohio Administrative Code: (OAC) 1513-3-01 through 1513-3-22, Rules of Procedure.

OSM published a notice in the **Federal Register** on August 9, 1984, announcing receipt of the amendments and inviting public comment on the adequacy of the proposal (49 FR 31912). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. On August 24, 1984, Ohio submitted revisions to the July 11, 1984 set of regulations and refiled them with OSM. Revisions were made to OAC 1513-3-02, 1513-3-04, 1513-3-06, 1513-3-13, 1513-3-14, 1513-3-22, and the following sections were refiled: 1513-3-03, 1513-3-08, 1513-3-16, and 1513-3-21. Announcement of the receipt of these changes was made in the **Federal Register** of September 13, 1984 (49 FR 35961). In the same **Federal Register** notice, the comment period was reopened and extended. The public comment period ended on September 28, 1984.

During review of the revised amendments, OSM identified two concerns: (1) Ohio's proposed rules did not require that Board decisions include findings of fact and conclusions of law as required by 43 CFR 4.1127; and (2) Ohio's proposed rules provided for the awarding of costs and expenses to the permittee from the State regulatory authority or any person when the permittee participates in a proceeding upon a finding that the permittee made a substantial contribution to a full and fair determination of the issues. Furthermore, the Ohio proposed rules provided for awarding of costs and expenses to the Division from any person initiating or participating in any proceeding upon a finding that the Division made a substantial contribution to a full and fair determination of the issues. Both of these standards were inconsistent with 43 CFR 4.1294.

OSM notified Ohio about these concerns by letter dated February 12, 1985. Ohio responded by submitting revisions to the proposed amendments on February 27, 1985. The revisions to proposed Rule 1513-3-19 now require that the Board's decisions include findings of fact and conclusions of law. Proposed Rule 1513-3-21 has been amended to provide that award of costs and expenses may be made to a permittee from any person or the State of Ohio if the permittee demonstrates that the person or the State acted in bad faith and for the purposes of harassing or embarrassing the permittee. This rule was also amended to provide that award of costs may be made to the Ohio Division of Reclamation if it demonstrates that any person applied for review or participated in a proceeding in bad faith and for the purpose of harassing or embarrassing the Division of Reclamation.

On April 1, 1985, OSM reopened and extended the comment period for 15 days to solicit public comment on Ohio's revised amendments (50 FR 12833). The comment period closed April 16, 1985, and one comment was received.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on July 11, 1984, and modified on August 24, 1984 and February 12, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed in

the findings below. However, some of the Ohio rules have not been promulgated as final rules. The Chief of the Division has indicated that Ohio intends to adopt the new rules by emergency rulemaking as soon as they are approved by OSM. The Director is approving the rules provided that they are fully promulgated in identical form to the rules submitted to and reviewed by OSM.

Ohio Administrative Code Rules (OAC) 1513-3-01 Through 1513-3-22, Reclamation Board of Review Rules of Procedure

The rules of procedure for the Ohio Reclamation Board of Review (RBR) include provisions for appeals, intervention, temporary relief, discovery, hearings, decisions, and award of costs. The August 24, 1984 submission made revisions to the following rules: 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-06, 1513-3-08, 1513-3-13, 1513-3-14, 1513-3-16, 1513-3-21, and 1513-3-22. The revisions were primarily editorial, with the exception of the revisions to Rule 1513-3-21, concerning the award of costs and expenses. Paragraph (E) of the rule was amended to provide that costs may be awarded to a permittee or the Division participating in a proceeding upon a finding that the permittee or Division has made a substantial contribution to a full and fair determination of the issues.

In accordance with OSM's findings while reviewing the program amendments, rule 1513-3-19, Decisions of the Board, was revised on February 27, 1985, to require that all decisions of the RBR include findings of fact, conclusions of law, and an order granting or denying relief. Rule 1513-3-21, Appeals from Board Decisions, was also amended in response to OSM's concerns. It now provides that award of costs and expenses may be made to a permittee from any person or the State of Ohio if the permittee demonstrates that the person or the State acted in bad faith and for the purposes of harassing or embarrassing the permittee. The rule also provides that award of costs may be made to the Ohio Division of Reclamation if it demonstrates that any person applied for a review or participated in a proceeding in bad faith and for the purpose of harassing or embarrassing the Division of Reclamation.

The Director finds the amendments are in accordance with SMCRA and no less effective than the Federal regulations at 43 CFR Part 4.

IV. Public Comments

One comment was received from the Ohio Mining and Reclamation Association (OMRA). The commenter believes that the standards that apply to a person participating in a proceeding should apply to a permittee. However, the Federal regulations at 43 CFR 4.1294 have established different and higher standards for permittees to meet for the award of costs and expenses. As initially submitted on July 11, 1984, Ohio's proposed rule was inconsistent with the Federal regulations. However, the rule was amended on February 27, 1985, to be consisent with Federal requirements. The commenter also remarked that rules formally adopted by the State but without Federal approval as part of the Ohio program should be enforced by the State. The Director, pursuant to 30 CFR 732.17(g), finds that State rules must be approved by OSM before they are considered part of the approved State program.

Acknowledgements were received from the following Federal agencies: Soil Conservation Service, Mine Safety and Health Administration, and the Department of the Army, Office of the Chief Engineer. The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the July 11, 1984 amendments as modified on August 24, 1984 and February 27, 1985. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments. However, as noted above, because some of the Ohio rules have not been fully promulgated, the rules will not take effect for purposes of the Ohio program until the revised rules have been promulgated as final rules by Ohio.

VI. Procedural Matters

1. Compliance With the National Environmental Policy Act

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

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

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

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 935

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

Dated: May 20, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 935 continues to read as follows:

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

2. In Part 935, § 935.15 is amended by adding a new paragraph (p) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(p) The following amendments submitted to OSM on July 11, 1984, and modified on August 24, 1984 and February 27, 1985, are approved effective upon promulgation of the revised rules by the State, provided the rules are adopted in identical form as submitted to OSM: Ohio Administrative Code Sections 1513-3-01 through 1513-3-22.

[FR Doc. 85-12242 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Permanent Program Amendment From the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On July 23, 1984, the Ohio Department of Natural Resources Division of Reclamation submitted to OSM proposed amendments to Ohio rule 1501:13–14–01 on inspection frequency and compliance reviews. OSM published a notice in the **Federal Register** on August 14, 1984, announcing receipt of the amendments (49 FR 32404). The public comment period ended September 13, 1984.

OSM's review of Ohio's proposed amendments identified concerns relating to reduction of inspection frequency on abandoned mine sites where bond has been forfeited and to Ohio's procedures for compliance conferences. OSM notified the Division of Reclamation about its concerns on January 2, 1985. Ohio responded by revising the proposed amendment. Accordingly, on April 22, 1985, OSM reopened the comment period on Ohio's July 23, 1984 proposed amendments as modified on April 3, 1985 (50 FR 15759).

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 935, which codify decisions on the Ohio program, are being amended to implement these sections.

The final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j), and (k)(1)–(k)(5). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

II. Discussion of the Amendments

On July 23, 1984, OSM received proposed regulations from the Ohio Division of Reclamation pertaining to inspection frequency and procedures for compliance conferences. The amendments are to Ohio Administrative Code Section 1501:13–14–01.

OSM published a notice in the **Federal Register** on August 14, 1984, announcing receipt of the amendments and inviting public comment on the adequacy of the proposal (49 FR 32404). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. The public comment period ended on September 13, 1984. In response to OSM's concerns, Ohio submitted modifications to the amendments on April 3, 1985. The public comment period was reopened and extended in the April 22, 1985 **Federal Register** (50 FR 1579). The comment period closed on May 7, 1985. No comments were received.

On June 5, 1984, OSM approved an amendment submitted by Ohio on December 28, 1983, to revise rule 1501:13–14–01 on inspection frequency and compliance reviews (49 FR 23178). The rule was in proposed form at that time and the notice stated that approval of the amendment would not be effective until promulgation of the rule. The State did not promulgate the rule and instead, submitted to OSM a rule which is similar to the rule OSM approved June 5, 1984, but which has been revised to include some additional provisions. The specific provisions of the revised rule are described below.

By letter dated July 23, 1984, Ohio submitted proposed regulations to revise the inspection frequency requirement and to revise the provision concerning compliance reviews. Specifically, the proposed amendment includes the following revisions to Ohio rule 1501:13–14–01 Inspection:

(1) Paragraph (A) is revised to include definitions for "inactive coal mining and reclamation operation," and "compliance review technician";

(2) Paragraph (C) concerning partial inspections is revised to require such partial inspections of inactive operations as necessary to ensure effective enforcement and to allow aerial inspections;

(3) Paragraph (D) concerning complete inspections is revised to require an average of at least one complete inspection per calendar quarter of each active and inactive operation; and

(4) Paragraph (K) concerning compliance review is revised to conform to the Federal rule at 30 CFR 840.16.

OSM's review of Ohio's proposed amendments identified concerns relating to reduction of inspection frequency on abandoned sites and sites where bond has been forfeited and to Ohio's procedures for compliance conferences. OSM notified the Division of Reclamation of its concerns on January 2, 1985. Ohio responded by revising the proposed amendment on April 3, 1985.

The Division of Reclamation's revisions delete language that would allow abandoned sites or sites on which bond has been forfeited to be declared inactive and inspected less frequently. Ohio has also amended the proposed rules to clarify the manner in which aerial inspections will be carried out. Ohio withdrew all proposed changes to paragraph (K) concerning compliance review procedures.

On April 22, 1985, OSM reopened and extended the comment period for 15 days to solicit public comment on Ohio's revised amendments (50 FR 15759). The comment period closed May 7, 1985, and no comments were received.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on July 23, 1984, and modified on April 3, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed in the findings below. However, the Ohio rules have not been promulgated as final rules. The Chief of the Division has indicated that Ohio intends to adopt the new rules by emergency rulemaking as soon as they are approved by OSM. The Director is approving the rules provided that they are fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

Ohio Administrative Code Rules (OAC) 1501:13–14–01, Inspections

OAC 1501:13–14–01(A) contains language defining an inactive surface coal mining and reclamation operation that is consistent with the Federal regulations at 30 CFR 840.11(f).

OAC 1501:13–14–01(C) includes specific requirements for aerial

inspections that reflect the requirements provided in 30 CFR 840.11(d). Therefore, the Ohio rule is no less effective than the Federal regulations.

OAC 1501:13-14-01(K) remains unchanged. The State withdrew the proposed amendments concerning compliance review procedures. Therefore, the existing rule is no less effective than the Federal rule at 30 CFR 840.16.

The Director finds the amendments in accordance with SMCRA and no less effective than the Federal regulations at 30 CFR Part 840.

IV. Public Comments

No public comments were received on the proposed amendments.

Acknowledgements were received from the following Federal agencies: Soil Conservation Service, Mine Safety and Health Administration, the Department of the Army, Office of the Chief Engineer, and Farmers Home Administration. The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director based on the above findings, is approving the July 23, 1984 amendments as modified on April 3, 1985. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments. However, as noted above, the Ohio rules have not been fully promulgated; therefore, the rules will not take effect for purposes of the Ohio program until the revised rules have been promulgated as final rules by Ohio.

VI. Procedural Matters

(1) *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

(2) *Executive Order No. 12291 and Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

(3) *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Dated: May 20, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 935 continues to read as follows:

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

2. 30 CFR 935.15 is amended by adding a new paragraph (q) as follows:

§ 935.15 Approval of Regulatory Program Amendments.

* * * * *

(q) The following amendments submitted to OSM on July 23, 1984, and modified on April 3, 1985, are approved effective upon promulgation of the revised rules by the State, provided the rules are adopted in identical form as submitted to OSM: Ohio Administrative Code Section 1501:13-14-01.

[FR Doc. 85-12443 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 85-03]

Marine Event; California Cup Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will establish special local regulations during the Annual California Cup Race. This four day event usually takes place in the summer of each year in the waters of Santa Monica Bay, California. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the race.

EFFECTIVE DATE: These regulations become effective on 24 May 1985 and terminate on 27 May 1985.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: On 11 April 1985, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (50 FR 14257). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Comments

Although no comments were received, interested persons wishing to comment may do so by submitting written arguments to the office listed under **"FOR FURTHER INFORMATION CONTACT"** in this preamble. Commenters should include their names and addresses, identify this notice (CGD11 85-03), and give reasons for their comments. Based on comments received, the regulation may be changed.

Discussion of Regulation

The California Yacht Club sponsors the California Cup Race each year in the navigable waters approximately one mile southwest of Santa Monica, California, beginning at 11:00 AM till 7:00 PM. This event usually has 4 to 12 ocean racing and cruising sailboats, 70 feet in length, that could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic and is in force for only a short period of time.

Since the impact of this proposal is expected to be minimal, the Coast

Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects In 33 CFR Part 100

Marine safety, Navigation (water)

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing Part 100 of Title 33, Code of Federal Regulations, is amended by adding the following section:

§ 100.35 11-85-03 California Cup, Santa Monica, CA

The California Cup Race is conducted annually in the summer months, usually from 11:00 AM to 7:00 PM on the navigable waters off Santa Monica, California. Further information on exact time, date and location are published by the Eleventh Coast Guard District in the Local Notice to Mariners and/or Special Local Regulations promulgated at least 30 days prior to the event. The special local regulations are effective usually for a four day period overlapping on a weekend. Special local regulations for this year's event read as follows:

(a) *Regulated Area:* (1) The following area will be closed intermittently to all vessel traffic. That portion of the Santa Monica Bay, California, enclosed by the following coordinates:

(i) 34 degrees 01.4' N, 118 degrees 31.8' W.

(ii) 33 degrees 59.7' N, 118 degrees 37.9' W.

(iii) 33 degrees 59.2' N, 118 degrees 37.7' W.

(iv) 33 degrees 59.5' N, 118 degrees 33.4' W.

(v) 33 degrees 57.0' N, 118 degrees 30.9' W.

(vi) 33 degrees 57.2' N, 118 degrees 30.1' W.

(vii) 34 degrees 01.4' N, 118 degrees 31.8' W.

(2) The actual race course area (including the regulated area) is enclosed by the following coordinates:

(i) 34 degrees 01.4' N, 118 degrees 31.8.' W.

(ii) 33 degrees 59.7' N, 118 degrees 37.9' W.

(iii) 33 degrees 55.5' N, 118 degrees 36.1' W.

(iv) 33 degrees 57.2' N, 118 degrees 30.1' W.

(b) *Effective Dates:* These regulations will be effective from 11:00 AM to 7:00 PM on 24 thru 27 May 1985.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in citation for failure to comply.

(3) All vessels in close proximity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property.

He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(33 U.S.C. 1233; 33 U.S.C. 1236); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: May 13, 1985.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 85-12458, Filed 5-22-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Western Alaska Reg 85-01]

Safety Zone; Kodiak Harbor, Kodiak Island, AK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around the construction barge, HAAKON, while it is engaged in the erection of the Near Island Bridge which is being built over the Kodiak Harbor Channel (locally referred to as the Near Island Channel) between Kodiak Island and Near Island, Alaska in the approximate position of 57°47'20" N. latitude, 152°23'40" W. longitude. The safety zone is needed to protect vessels transiting Kodiak Harbor between Kodiak and Near Island from a safety hazard associated with the erection of the Near Island Bridge overwater spans by the construction barge, HAAKON, and its mooring cables, cranes and associated heavy equipment. The construction operations will take place 12 hours a day, 6 days a week for approximately one month, from 28 May 1985 to 30 June 1985. Limiting access to this area will serve to protect both vessels and workers involved in the construction operation and other vessels and crews operating in the area.

EFFECTIVE DATE: May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Edward E. Page, U.S. Coast Guard, U.S. Coast Guard Marine Safety Office, Anchorage, Alaska (907) 271-5137.

SUPPLEMENTARY INFORMATION: On 1 April 1985 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (50 FR 12838). Interested persons were requested to submit comments and two comments were received.

Drafting Information

The drafters of these regulations are Lieutenant Commander Edward E. Page, Project Officer for the Port Operations Department, U.S. Coast Guard Marine Safety Office, Anchorage, and LT A.O. Denny, Project Attorney, Seventeenth Coast Guard District Legal Office, Juneau.

Discussion of Comments

One individual representing a seafood company whose dock was located in the proposed safety zone expressed concern over the possibility that the safety zone would close down their operations through preventing vessels from offloading their cargo at the pier. The safety zone regulation included the statement "Vessels desiring to transit this area may contact the Captain of the Port about specific restrictions or to obtain permission to transit the safety zone . . ." The Captain of the Port intends to permit vessels to transit to and from the loading pier and conduct their normal operations while the safety zone is in effect. However, some delays may be encountered to allow for slacking of the mooring cables securing the construction barge; therefore, coordination of vessel movements will be required to be made with the Coast Guard patrol craft.

The contractor for the bridge construction commented that the time frame of the overwater erection operation was moved up by one month with operations scheduled to take place from 28 May to 30 June and the construction barge involved will be the HAAKON in lieu of the JAN B. In

response to these changes and to the fact that no objection to the proposed safety zone was raised by the public, appropriate changes are made in the final rule from the proposed rule, amending the effective dates of the safety zone and the name of the vessel around which the safety zone will be established. The late receipt for the information on the schedule change prohibits publishing the final rule 30 days prior to the effective date.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This is based on the fact that transits to and from all facilities in Kodiak Harbor will be permitted while this safety zone is in effect and the impact on maritime operations will be restricted to occasional rerouting of vessel transits around Near Island which would be no greater than 4 miles and in most cases less.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measure, Vessels, Waterways.

Final Regulations

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.T1701 to read as follows:

§ 165.T1701 Kodiak Harbor.

(a) A safety zone is established to include all waters extending 100 yards from the construction barge HAAKON while engaged in the erection of Near Island Bridge, Kodiak Harbor, Alaska.

(b) Except as indicated below, no vessel may navigate, transit, fish, anchor or drift in the waters within this safety zone without prior permission of the Captain of the Port.

(c) Unless otherwise notified, vessels may transit the area encompassed by the safety zone without specific approval of the Captain of the Port during nonworking hours: Monday through Saturday evenings after 7:00 p.m. to 6:30 a.m. the following morning and Sunday from 6:30 a.m. to 6:30 a.m. the following Monday morning.

(d) Any vessel within the zone shall follow the directions of the patrolling vessel. If instructed to leave, the vessel will do so immediately.

(e) Information about specific restrictions or permission to transit the safety zone may be obtained from the Captain of the Port by contacting one of the following Coast Guard units:

(1) Coast Guard Marine Safety Detachment Kodiak at: (907) 487–5750, or

(2) Coast Guard Communication Station Kodiak, via VHF channel 21 (preferred) or channel 16.

(f) This regulation is effective on 28 May 1985 and remains continuously in force until 30 June 1985 unless otherwise modified by the Captain of the Port, Western Alaska.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; and 33 CFR 160.5)

Dated: May 10, 1985.

G.E. Haines,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 85–12462 Filed 5–22–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Wilmington, NC Regulation 85–02]

Safety Zone Regulations; Trent River, New Bern, NC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: At the request of WAZZ Radio and the Commanding Officer, U.S. Coast Guard Group, Fort Macon, North Carolina, the Coast Guard Captain of the Port will establish a safety zone closing the Trent River to all traffic from Union Point, New Bern, NC to the US Route 70 Highway Highrise Bridge during the period of the WAZZ Great Trent River Raft Race on Saturday, June 15, 1985. The regulations are needed to reduce river congestion and protect the lives and property of festivity participants. Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This rule becomes effective at 9:30 a.m. on Saturday, 15 June 1985, and will remain in effect until 5:00 p.m. on Saturday 15 June 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant J.C. Hendrix, Chief, Operations Department, Coast Guard Marine Safety Office, Wilmington, North Carolina. Phone: (919) 343–4892.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and the regulation is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action was needed to prevent injury and possible loss of life to personnel during this operation.

Drafting Information

The drafter of this notice is Lieutenant J.C. Hendrix, project officer for the Captain of the Port.

Discussion of Regulation

The circumstance requiring this regulation is the potentially hazardous mix of the numerous race participants in hand powered rafts and race watchers in power vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T502, to read as follows:

§ 165.T502 Safety zone.

(a) *Location.* The following area is a safety zone: The Trent River from Union Point, New Bern, North Carolina to US Route 70 Highway Highrise Bridge.

(b) *Regulations.* (1) In accordance with General Regulation in Subparagraph 165.23 of this part, entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: May 20, 1985.

D.H. Whitten,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, NC.

[FR Doc. 85–12461, Filed 5–23–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 166

[CGD 81–040]

Ports and Waterways Safety, Shipping Safety Fairways, Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors contained in the description of three shipping safety fairways in 33 CFR Part 166. Five geographical positions used in the fairway and anchorage descriptions are extraneous, incomplete or imprecise. Correction of these errors does not affect the actual dimensions of any fairway or anchorage area, but merely clarifies the description of the current designation. Specifically, three extraneous positions are being deleted, one inaccurate position is being corrected, and one additional position is being added to complete the description of an anchorage area.

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Ensign Daphne Reese, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 245-0108.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was not published since this document merely corrects minor plotting errors contained in the descriptions of currently designated fairways and anchorages. Notice and public procedure hereon are unnecessary in accord with 5 U.S.C. 553(b)(B) since no substantive change or new designations are accomplished.

Discussion

The provisions of 33 CFR Part 166 define and describe shipping safety fairways established under the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1223). Section 33 CFR 166.200 contains the descriptions of fairways in the Gulf of Mexico. These fairways and anchorages were originally promulgated by the U.S. Army Corps of Engineers in 33 CFR 209.135. Under authority of the PWSA they were adopted by the U.S. Coast Guard and renumbered. Notice of this action was published in the **Federal Register** on May 13, 1982 (47 FR 20580), and reorganized later in the **Federal Register** on June 30, 1983 (48 FR 30108). The Coast Guard has recently been informed of five minor errors in these descriptions.

1. *Port Mansfield Safety Fairway.* This fairway is described at 33 CFR 166.200(d)(3). The sixth position in the description (28°22'16", 96°17'40") is extraneous and unrelated to the fairway. That position serves no purpose and is deleted.

2. *Matagorda Entrance Safety Fairway.* This fairway is described at 33 CFR 166.200(d)(6). The sixth position in the description (27°38'19", 95°49'48") is in error and is corrected to 27°38'02", 95°49'39". This correction makes the point identical to the eighth point in the description of the Aransas Pass to Southwest Pass safety fairway [33 CFR 166.200(d)(27)] where the two fairways meet.

3. *Matagorda Entrance Anchorage Areas.* This anchorage area is described at 33 CFR 166.200(d)(7); however, one point is omitted from the description. To avoid any confusion in defining the bounds of this anchorage, the first position in the description (28°22'16", 96°17'40") should be repeated as the fifth position. This correction clarifies that the anchorage is enclosed by the boundary described.

4. *Aransas Pass to Calcasieu Pass Safety Fairway.* This fairway is described at 33 CFR 166.200(d)(14)(ii). The eleventh position in the description (29°02'48", 94°36'30") is extraneous to the fairway and is deleted. This point was originally a corner position for the Galveston Entrance Anchorage Areas [33 CFR 166.200(d)(11)]. These anchorages were modified by the Corps of Engineers on September 4, 1979 (44 FR 51586, corrected at 44 FR 54047 and 44 FR 55865). This amendment shifted the boundary of the anchorage area away from the boundary of the Aransas Pass to Calcasieu Pass fairway. Therefore this position no longer serves a purpose and is deleted.

5. *Panama City Safety Fairways.* This fairway is described at 33 CFR 166.200(d)(44). The sixth position in the description (30°06'59", 85°46'12") is deleted as extraneous and unrelated to the fairway. The twelfth position in the description (30°05'16", 85°44'45") is on the rhumb line of the fairway but does not correspond to a course change along the boundary of the fairway. This position serves no purpose and is deleted. Two of the remaining positions are not listed in sequential order. The positions have been resequenced to provide a clear description of the rhumb lines that make up the fairway.

Drafting Information

The drafters of this document are LTJG Daphne Reese, Project Manager, Office of Navigation, and LT Dave Shippert, Project Counsel, Office of Chief Counsel.

Evaluation

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely corrects and clarifies the geographical descriptions of certain existing fairways and anchorages, and results in no changes to these designated areas. Since the impact of this final rule is minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways, Shipping Safety Fairways.

In consideration of the foregoing, Part 166 of Title 33 CFR is revised as follows:

1. The authority citation for Part 166 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

§ 166.200 [Amended]

2. Section 166.200 is amended by revising paragraphs (d)(3); (d)(6); (d)(7); (d)(14)(ii); and (d)(44) to read as follows:

* * * * *

(d) Designated Areas * * *

* * * * *

(3) *Port Mansfield Safety Fairway.* The area between a rhumb line joining points at:

Latitude	*Longitude*
26°33'39"	97°16'04"
26°33'43"	97°14'38"

and rhumb lines joining points at:

26°34'04"	97°16'05"
26°34'40"	97°15'47"
26°34'43"	97°14'40"

* * * * *

(6) *Matagorda Entrance Safety Fairway.* The areas between rhumb lines joining points at:

Latitude	*Longitude*
28°24'50"	96°19'38"
28°22'16"	96°17'40"
28°14'48"	96°09'42"
28°11'24"	96°06'06"
28°10'06"	96°04'42"
27°38'02"	95°49'39"

with rhumb lines joining points at:

Latitude	*Longitude*
28°25'31"	96°18'48"
28°23'38"	96°16'00"
28°16'12"	96°08'06"
28°12'30"	96°04'12"
28°11'13"	96°02'46"
27°38'12"	95°47'19"

* * * * *

(7) *Matagorda Entrance Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude	*Longitude*
28°22'16"	96°17'40"
28°14'48"	96°09'42"
28°12'42"	96°12'12"
28°20'12"	96°20'12"
28°22'16"	96°17'40"

and rhumb lines joining points at:

Latitude	*Longitude*
28°23'38"	96°16'00"
28°25'36"	96°13'36"
28°18'12"	96°05'36"
28°16'12"	96°08'06"
28°23'38"	96°16'00"

* * * * *

(14 *Coastwise Safety Fairways.* * * *

(ii) *Aransas Pass to Calcasieu Pass.* The areas between rhumb lines joining points at:

Latitude	*Longitude*
27°43'00"	96°55'27"
27°44'09"	96°53'25"
27°45'22"	96°51'19"
27°51'46"	96°40'12"
28°11'24"	96°06'06"
28°12'30"	96°04'12"
28°42'24"	95°12'00"
28°44'52"	95°07'43"
28°45'58"	95°05'48"
28°47'42"	95°02'42"
29°07'42"	94°27'48"
29°10'17"	94°22'30"
29°29'30"	93°58'24"
29°32'03"	93°46'44"
29°33'00"	93°46'26"
29°32'52"	93°43'00"
29°37'32"	93°21'25"

with rhumb lines joining points at:

27°40'38"	96°55'30"
27°42'47"	96°51'39"
27°44'35"	96°48'31"
28°10'06"	96°04'42"
28°11'13"	96°02'46"
28°43'32"	95°06'18"
28°44'39"	96°04'22"
29°06'24"	94°26'12"
29°06'24"	94°29'55"
29°07'41"	94°22'23"
29°09'06"	94°20'36"
29°27'40"	93°57'18"
29°30'39"	93°43'41"
29°31'13"	93°41'04"
29°33'56"	93°28'35"
29°32'57"	93°17'00"

(44) *Panama City Safety Fairways.* The areas between rhumb lines joining points at:

Latitude	*Longitude*
30°09'24"	85°40'12"
30°09'21"	85°41'40"
30°07'36"	85°44'20"
30°06'32"	85°47'33"
29°51'30"	85°47'33"
29°48'45"	85°47'33"
29°03'30"	85°47'33"

and rhumb lines joining points at:

Latitude	*Longitude*
30°08'34"	85°40'16"
30°07'55"	85°41'50"
30°06'49"	85°43'28"
30°04'40"	85°45'15"
29°55'27"	85°45'15"
29°51'20"	85°45'15"
29°49'19"	85°45'15"
29°00'00"	85°45'15"

Dated: May 20, 1985

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 85-12460 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: This regulation revises Sections 2(g), 3(2) and 3(3) of the St. Lawrence Seaway Tariff of Tolls which the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada established and administer jointly. The revisions will expand the definition of feed grains to include field crop seeds; require a vessel representative to pay tolls within thirty (30) days of the vessel's entry into the St. Lawrence Seaway and provide for the payment of tolls for the section of the St. Lawrence Seaway between the Port of Montreal and Lake Ontario to be 73 percent in Canadian dollars and 27 percent in United States dollars.

On January 29, 1985, the Corporation published in the **Federal Register** [50 FR 3926] proposed revisions to the Tariff of Tolls. No comments were received in response to the Corporation's request for comments. In view of the fact that no comments were received and that the amendments concern themselves with the implementation of the Tariff of Tolls for the 1985 navigation season which began on April 1, the Corporation finds good cause to make this rule effective upon publication in the **Federal Register.**

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, (202) 426-3325.

SUPPLEMENTARY INFORMATION: During the 1984 navigation season, it became apparent that the definition of "feed grains" in Section 2(g) [33 CFR 402.3(g)] of the St. Lawrence Seaway Tariff of Tolls was too restrictive in that as written only grains produced by cereal grass and other oilseeds were included. In view of the fact that there are field crop seeds other than those in the oilseed category such as alfalfa seeds, lupin seeds, clover seeds, millet seeds, canary seeds, mustard seeds, etc., which should be included in the feed grain's definition, the definition is expanded to include other field crop seeds. Accordingly, the word "oilseeds" is eliminated and the words "feed crop seeds" substituted therefor.

Section 3(2) [CFR 402.4(b)] of the Tariff of Tolls presently provides that tolls are payable within fourteen [14] days from the demand for payment by the Corporation or the St. Lawrence Seaway Authority of Canada. The basis for this demand is the bill of lading for the vessel's cargo which is provided by the representative of the vessel. Past experience has demonstrated that the time in which the bill of lading is received, demand for payment is made, and payment is received has exceeded thirty (30) days. Since normal business practices dictate that the payment of tolls should be made within thirty (30) days this section is revised by eliminating all the words after the word "and" and substituting therefor the words "payment will be made within thirty (30) days of the vessel's entry into the Seaway."

The Corporation and the St. Lawrence Seaway Authority of Canada agreed that for the 1985 St. Lawrence Seaway navigation season the toll revenues received from vessels transiting the Port of Montreal and Lake Ontario section of the Seaway will be divided as follows: 73 percent to the Authority and 27 percent to the Corporation. Therefore, Section 3(3) [33 CFR 402.4(c)] of the Tariff of Tolls is revised by changing "71 percent" to "73 percent" and "29 percent" to "27 percent," which reflects the provisions of this agreement between the Corporation and the Authority.

On May 3, 1985, the Governments of the United States and Canada exchanged diplomatic notes formalizing the amendments to the Tariff of Tolls.

This revision involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply to this rulemaking. The Saint Lawrence Seaway Development Corporation certifies that for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), since the impact of this proposal is expected to be minimal, it will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. Furthermore, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

For the reasons stated above, Part 402 is amended as follows:

1. The authority citation for 33 CFR Part 402 continues to read as follows:

Authority: 68 Stat. 93–96, 33 USC 981–990, as amended.

2. Section 402.3(g) is revised to read as follows:

§ 402.3 Interpretation.

* * * * *

(g) "Feed grains" means barley, corn, oats, flaxseed, rapeseed, soybeans and other field crop seeds, grain screenings, and mill feed containing not more than 35% of ingredients other than grain or grain products.

* * * * *

2. Section 402.4 (b) and (c) is revised to read as follows:

§ 402.4 Tolls.

* * * * *

(b) The tolls under this tariff are due from the representative of each vessel as soon as they are incurred and payment shall be made within thirty (30) days of the vessel's entry into the Seaway.

(c) The tolls for the section between Montreal and Lake Ontario shall be paid 73 percent in Canadian dollars and 27 percent in United States dollars. Payments for transit through locks in Canada only shall be in Canadian dollars, and payments for transit through locks in the United States only shall be in United States dollars.

* * * * *

Issued at Washington, D.C., on May 14, 1985.

Saint Lawrence Seaway Development Corporation

James L. Emery,

Administrator.

[FR Doc. 85–12130 Filed 5–22–85; 8:45 am]

BILLING CODE 4910–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

Editorial Amendments of Parts 0 and 1 of the FCC's Rules and Regulations

AGENCY: Federal Communications Commmission.

ACTION: Final rule.

SUMMARY: This action deletes obsolete language and corrects errors in the Parts 0 and 1 of the Commission's Rules and Regulations. The effect of the amendment is to simplify the rules.

EFFECTIVE DATE: May 30, 1985.

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

FOR FURTHER INFORMATION CONTACT: James Shaffer, Private Radio Bureau, Washington, D.C. 20554, (202) 632–7197.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 0

Organization and functions (Gov't agencies).

47 CFR Part 1

Administrative practice and procedure.

Order

In the matter of editorial amendments of Parts 0 and 1 of the Commission's Rules and Regulations.

Adopted: May 10, 1985.
Released: May 14, 1985.

1. We are editorially amending sections of Parts 0 and 1 of the Commission's Rules to delete obsolete language and correct errors. These changes are intended to simplify the remaining rules for the public, and to economize on the government's printing costs. The affected rules are: Sections 0.332, 0.334, 0.487, and 1.1115.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules. Because these rule amendments which clarify our rules are non-substantive, the notice and comment provisions as well as the affective date requirements of the Administrative Procedure Act are inapplicable.

3. Accordingly, it is ordered, that the rule amendments set forth in the attached Appendix are adopted effective May 30, 1985.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

The authority citations in Parts 0 and 1 continues to read:

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

PART 0—COMMISSION ORGANIZATION

§0.332 [Amended]

1. Section 0.332 (c) and (e) is amended by removing "Executive" and inserting in its place "Managing".

§0.334 [Removed]

2. Section 0.334 is removed.

§0.487 [Amended]

3. Section 0.487 is amended by adding "(b)" after the reference to "§0.121".

PART 1—PRACTICE AND PROCEDURE

§1.1115 [Amended]

1. Section 1.1115 is amended by removing the words "Safety and Special" from the heading, paragraphs (a), (b), (c)(2), (c)(8), and (c)(10) and inserting in its place the word "Private".

2. Section 1.1115(a) is amended by removing the following two lines in the table:

Special call sign (in addition to other applicable fee)..... 25

[FR Doc. 85–12284 Filed 5–22–85; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Revised Service Order No. 1500]

Rail Carriers; the Milwaukee Road Inc. Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Revised Service Order No. 1500.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes The Milwaukee Road Inc. to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carrier to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., May 22, 1985, and continuing in effect until 11:59 p.m., June 30, 1985, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M.F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1033

Railroads.

Decided: May 17, 1985.

Upon further consideration of Revised Service Order No. 1500 (50 FR 11366) and good cause appearing therefor:

§ 1033.1500 [Amended]

It is ordered. § 1033.1500 The Milwaukee Road Inc. Authorized to Use Tracks and/or Facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

Revised Service Order No. 1500 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended for an additional period of time, and shall expire at 11:59 p.m., June 30, 1985, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 22, 1985.

This action is taken under authority of 49 U.S.C. 10304–10305 and section 122, Pub. L. 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

James H. Bayne,

Secretary.

[FR Doc. 85–12385– Filed 5–22–85; 8:45 am]

BILLING CODE 7035–01–M

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49 CFR Part 1033

[Ex Parte No. 241 (Sub-1)]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rule.

SUMMARY: This proceeding was instituted to determine whether Car Service Rule 15 (49 CFR 1033.15), the Commission's last remaining car service rule, should be retained. After consideration of comments, the Commission has determined that mandatory application of Car Service Rule 15 (49 CFR 1033.15) is no longer necessary. The rule contains certain reporting requirements and provisions governing the relationship between line-haul and switching railroads when switching services are performed at the origin point of a freight movement. We find that the retention of Car Service Rule 15 is not necessary for the fulfillment of any regulatory purpose and is not in the public interest, and that it should be rescinded. The specific rule in § 1033.15 is rescinded.

EFFECTIVE DATE: This decision is effective on June 24, 1985.

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

SUPPLEMENTARY INFORMATION: Proposed rules in this proceeding were published at 47 FR 58325, December 30, 1982.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to T.S. InforSystems, Inc., Room 2229, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800) 424–5403.

Rescission of this rule may have some adverse impact upon small businesses which are suppliers of freight cars, but it should benefit a much larger number of small businesses that pay railroad freight charges. Any impact would not only be small in monetary terms, but would also be spread among many thousands of entities. Therefore, we certify that this decision will not have a significant adverse effect on a substantial number of small entities.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1033

Railroads.

PART 1033—[AMENDED]

In title 49 CFR Part 1033 the following changes are made.

1. The authority citation for Part 1033 is revised to read as follows.

Authority: 49 U.S.C. 10321, 11121; and 5 U.S.C. 553.

§ 103.15 [Removed]

2. Section 1033.15 is removed.

Dated: May 7, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Andre dissented.

James H. Bayne,

Secretary.

[FR Doc. 85–12386 Filed 5–22–85; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 50, No. 100
Thursday, May 23, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Special Salary Rate Schedules for Recruitment and Retention

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations concerning the establishment, adjustment, and termination of special salary rate schedules. Specifically, the proposed changes will include a description of the factors OPM considers when establishing, adjusting, or terminating special salary rate schedules, and will provide that such special salary rate schedules be published in the **Federal Register**. In addition, the regulations are being updated and reorganized for clarity.

DATE: Comments must be received on or before: June 24, 1985.

Because the proposed revisions principally address policies and procedures already being followed, we find good cause to limit the comment period to 30 days.

ADDRESS: Send or deliver written comments to: U.S. Office of Personnel Management, Compensation Group, Allowances and Special Rates Division (FR), Room 3353, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Barry E. Shapiro, (202) 632-7471.

SUPPLEMENTARY INFORMATION:

Law

Section 5303 of title 5, United States Code, authorizes the President to establish special minimum rates of basic pay for one or more grades, occupational groups, series, classes, or subdivisions of classes subject to statutory pay schedules, in one or more areas or locations, when the pay rates in private enterprise are so substantially above the statutory pay rates for the positions concerned as to handicap significantly the Government's recruitment or retention of well-qualified persons.

Executive Order

Section 301(a) of Executive Order 11721 of May 23, 1973, as amended, authorizes the Office of Personnel Management to exercise the authority conferred upon the President by the provisions of section 5303 of title 5, United States Code, to establish and revise special minimum pay rates and to prescribe conversion rules for adjusting an employee's pay for positions classified under the General Schedule and certain other pay systems.

Regulations

We are proposing to revise our regulations in 5 CFR Part 530, Subpart C, to describe the factors we consider in determining whether special rates should be established or adjusted, and in deciding at what level to set such special rates. These factors are already being used in the administration of the special salary rate program; they are now found in various parts of the Federal Personnel Manual Issuance System.

We are also proposing to provide (in proposed § 530.303(a)) an additional option for the construction of special salary rate schedules. Since the enactment of the current special rates statute in 1962, we have always constructed full 10-step special rate schedules whenever special minimum rates are authorized. The law is, however, permissive rather than mandatory on this point. In some circumstances, it might make better sense to increase some, but not all, of the rates of the regular schedule (e.g., for occupations/grades where employees typically spend only one or two years before being promoted).

We are also proposing a number of technical and editorial changes that clarify and reorganize the existing regulations. These changes include:

—Clarification of the pay administration provisions (in proposed § 530.306) to take account of the grade and pay retention provisions of the Civil Service Reform Act of 1978 and the provisions of the Performance Management and Recognition System established under Chapter 54 of title 5, United States Code;

—Incorporation (in proposed § 530.303 (b) and (c) of the procedures agencies must follow when requesting that special rates be established or adjusted; this material now appears only in the Federal Personnel Manual;

—Establishment of the requirement that agencies initiate action to reduce or eliminate special salary rate schedules when they are no longer needed (proposed § 530.305); and

—Insertion of references to the related special rate authorities of the Veterans Administration (proposed § 530.302(b)).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, since it applies only to Federal employees and agencies.

List of Subjects in 5 CFR Part 530

Government employees, Wages, Administrative practice and procedure.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, OPM proposes to revise Subpart C of Part 530 of Title 5, Code of Federal Regulations, to read as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

* * * * *

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

Sec.

530.301 Applicability.
530.302 Authority.
530.303 Establishing and adjusting special salary rate schedules.
530.304 Annual review.
530.305 Revising or discontinuing special salary rate schedules.
530.306 Determining employee rates.

Authority: 5 U.S.C. 5303; E.O. 11721, as amended.

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

§ 530.301 Applicability.

This subpart applies to agencies having positions that would otherwise be covered by (a) the General Schedule, under section 5332(a) of title 5, United States Code, (b) the pay scales for certain employees in the Department of Medicine and Surgery of the Veterans Administration, under chapter 73 of title 38, United States Code, and (c) the pay schedules for personnel paid under section 403 of the Foreign Service Act of 1980.

§ 530.302 Authority

(a) In lieu of the pay schedules identified in § 530.301 of this subpart, OPM may establish, and agencies must pay, special salary rates under section 5303 of title 5, United States Code, Executive Order 11721, and this subpart.

(b) The Veterans Administration may use other authorities to establish and pay special salary rates. Special salary rates may be established for (1) Department of Medicine and Surgery General Schedule employees providing direct patient care or services incident to direct patient care under 38 U.S.C. 4107(g), and (2) nurses and certain other employees of the Department of Medicine and Surgery appointed under chapter 73 of title 38, United States Code.

§ 530.303 Establishing and adjusting special salary rate schedules.

(a) OPM may increase the minimum rates otherwise payable under the pay schedules identified in § 530.301 of this subpart in one or more areas or locations to the extent it considers necessary to overcome significant handicaps in the recruitment and retention of well-qualified personnel when these handicaps result from pay rates in private enterprise that are substantially above the pay rates of those schedules. When a minimum rate is increased under this authority, increases may also be made in one or more of the remaining rates of the affected grade or level. In no event may an increased minimum rate exceed the maximum rate prescribed by law for the grade or level. Notice of these special salary rate schedules will be published in the **Federal Register.**

(b) An agency may propose to OPM that special salary rates be established or adjusted. The agency initiating such a request, and all other agencies wishing to be included, are responsible for submitting complete supporting data, as specified by OPM, including, after consulting with OPM, a survey of prevailing pay rates in private enterprise in the relevant labor market.

(c) All requests to establish or adjust special salary rate schedules must be transmitted directly to OPM's central office by the agency's headquarters. Each request must include a certification by the head of the agency that the special salary rates are necessary to ensure staffing adequate to the accomplishment of the agency's mission and that funds are available to cover the increased expenditures for salaries and benefits that would result from approval of the request. (If the special salary rate request covers fewer than 200 employees and would increase annual salary costs by less than $200,000, this certification may be provided by a headquarters official designated to act on behalf of the head of the agency.)

(d) In establishing or adjusting special salary rate schedules, OPM considers:

(1) The number of vacant positions and the length of time they have been vacant;

(2) The number of employees who have quit, including the number quitting for higher paying positions in private enterprise;

(3) The number of vacancies the agency tried to fill compared with the number of hires and offers made;

(4) The degree to which the agency has considered relevant non-pay solutions to the staffing problems, such as conducting an adequate recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions; and

(5) The impact of the staffing problem on the agency's mission.

(e) In determining at what level to set special salary rates, OPM considers:

(1) The level of rates it believes necessary to recruit or retain an adequate number of well-qualified persons;

(2) The offsetting costs that will be incurred if special salary rate schedules are not authorized; and

(3) The level of rates paid by private enterprise for comparable positions.

(f) No one factor or combination of factors specified in paragraphs (d) or (e) of this section requires special salary rate schedules to be established or to be adjusted to any given level. Each agency request to establish or adjust special salary rate schedules is judged on its own merits.

§ 530.304 Annual review.

(a) OPM reviews special salary rate schedules annually to determine whether there is a continuing need for them. Notice of adjustments to existing special salary rate schedules made as a result of this review will be published in the **Federal Register.**

(b) In conducting the annual review, OPM will designate lead agencies for assistance in coordinating the collection of relevant data. All agencies are responsible for submitting complete supporting data upon request to OPM or the lead agency, as appropriate.

(c) An increase in a pay schedule identified in § 530.301 has no effect on special salary rate schedules authorized under this subpart.

§ 530.305 Revising or discontinuing special salary rate schedules.

OPM and agencies shall initiate action to discontinue or revise special salary rate schedules when it is determined that these schedules are no longer needed, or no longer needed at existing levels, to ensure satisfactory recruitment and retention. No employee's pay shall be reduced because of such discontinuation or revision. Notice of decreased or discontinued schedules will be published in the **Federal Register.**

§ 530.306 Determining employee rates.

(a) *Initial establishment and increases.* (1) Except as otherwise provided in this section, when an employee is in a position to which a special rate schedule becomes initially applicable or for which the special salary rate schedule is increased, the agency shall fix the employee's rate of basic pay at the step in the new or increased special salary rate schedule that corresponds to the employee's existing step of the grade or level.

(2) When a special salary rate schedule becomes initially applicable to, or increased for, a position occupied by an employee who is receiving basic pay at a rate in excess of the maximum rate of the applicable rate schedule, the agency shall increase the employee's rate of basic pay as follows:

(i) If the employee is retaining a rate under Part 536 of this chapter, the agency shall increase the employee's rate of basic pay by an amount equal to 50 percent of the increase in the maximum rate of the applicable rate range, except as provided in § 536.205(d) of this chapter.

(ii) If the employee is retaining a rate under an authority other than Part 536 of this chapter (including a retained special rate resulting from the reduction or termination of a special salary rate schedule before the first pay period beginning on or after January 11, 1979), the agency shall increase the employee's

rate of basic pay as provided in § 531.205(a)(3) of this chapter.

(3) When a special salary rate schedule becomes initially applicable to, or increased for, a position occupied by an employee covered by the Performance Management and Recognition System, the employee's rate of basic pay shall be determined under § 540.106 of this chapter.

(b) *Decreased and discontinued rates.* (1) Except as provided in paragraph (b)(2) of this section, when the special salary rate schedule for a position is discontinued or decreased, the agency shall determine the rate of basic pay for an employee in the position as follows:

(i) If the employee is receiving a rate of basic pay equal to one of the rates in the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at that rate.

(ii) If the employee is receiving a rate of basic pay at a rate between two rates in the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at the higher of the two rates.

(iii) If the employee is receiving a rate of basic pay at a rate in excess of the maximum rate for the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at his or her existing rate, and the employee shall be entitled to this rate as provided in § 536.104(a)(3) of this chapter.

(2) If the employee is receiving a rate of basic pay established under Part 540 of this chapter, the employee shall receive his or her existing rate. If the employee's existing rate exceeds the maximum rate for the regular or decreased special salary rate schedule for the employee's grade or level, the employee shall be entitled to this rate as provided in § 536.104(a)(3) of this chapter.

(c) *Initial appointments.* (1) The agency shall determine the rate of basic pay for an individual receiving an initial appointment (including an appointment after a break in service of at least one work day) to a position to which a special salary rate schedule applies under the regulations governing the pay system under which the employee is appointed without regard to the special salary rate schedule and shall use the step or rate thus determined to fix the employee's rate at the corresponding step or rate in the special salary rate schedule.

(2) A special salary rate may not be considered an employee's highest previous rate, except as provided in § 531.203(d)(3) of this chapter.

(d) *General exception.* Except as provided in paragraphs (e), (f), and (g) of this section, all other actions of promotion, reduction in grade, transfer, or reassignment are governed by the pay-fixing rules established for the appropriate pay system to which, or in which, the personnel action is taken.

(e) *Reassignments and transfers.* When an employee is reassigned or transferred at the same grade or level under the same pay system to a position to which a special salary rate schedule applies, the agency shall fix the employee's rate in the special salary rate schedule at the step or rate in the special salary rate schedule for the employee's grade or level which corresponds to the employee's existing step or rate in the salary rate schedule for the employee's grade or level.

(f) *Promotions.* When an employee in a position to which a special salary rate schedule does not apply is promoted to a position to which a special salary rate schedule applies, the agency shall first determine the employee's step or rate in the higher grade or level without regard to the special salary rate schedule, and then shall fix the employee's rate at the corresponding step or rate in the special salary rate schedule for the grade to which promoted.

(g) *Reductions in grade.* When an employee not entitled to a retained grade or rate under appropriate authority is reduced in grade to a position to which a special salary rate schedule applies, the agency shall first determine the employee's step or rate in the lower grade without regard to the special salary rate schedule, and then shall fix the employee's rate at the corresponding step or rate in the special salary rate schedule for the grade to which reduced.

[FR Doc. 85-12517 Filed 5-22-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Temporary Revision of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily a pooling provision of the Southwest Plains Federal milk order. The proposed action would reduce for the months of May through August 1985 the percentage of milk marketed by cooperative associations that must be physically received at pool distributing plants during the month in order for plants operated by cooperative associations to be pooled. The action was requested by Mid-America Dairymen, Inc., a cooperative association that operates plants and represents producers who supply the market, in order to prevent uneconomic movements of milk.

DATE: Comments are due not later than May 30, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, United States Department of Agriculture, Washington, D.C. 20250.

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

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1106.7(d) of the order, the temporary revision of a certain provision of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of May through August 1985.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should send two copies of such material to Dairy Division, AMS, Room 2968, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the **Federal Register**. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include May 1985 in the temporary revision period.

All written submissions made pursuant to this notice will be made

available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

The pooling provision proposed to be revised during May through August 1985 is the delivery percentage applicable to milk marketed by cooperative associations that is set forth in § 1106.7(c). The revision would reduce the percentage of milk marketed by a cooperative association that must be physically received at pool distributing plants during the month by 10 percentage points, from the present 50 percent to 40 percent, in order for plants operated by cooperative associations to be pooled under the order. Section 1106.7(d) of the Southwest Plains milk order allows the Director of the Dairy Division to increase or decrease the delivery percentage by up to 10 percentage points in order to obtain needed shipments for the market or to prevent uneconomic shipments of milk to distributing plants.

Mid-America Dairymen, Inc., a cooperative association which represents producers supplying the Southwest Plains market, has requested a temporary reduction of 10 percentage points in the quantity of milk that must be physically received at pool distributing plants. The cooperative states that for May through August 1985 the order would require a greater proportion of milk to be physically received at distributing plants than is necessary to meet the fluid, or bottling, requirements of the market. The cooperative contends that in the absence of a lowering of the delivery percentage, costly and inefficient movements of milk would likely be made solely for the purpose of pooling the milk of dairy farmers who supply the market.

Therefore, it may be appropriate to reduce the aforementioned provision of § 1106.7(c) by 10 percentage points for the months of May through August 1985 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Signed at Washington, D.C., on: May 20, 1985.

W. H. Blanchard,

Acting Director Dairy Division

[FR Doc. 85–12468 Filed 5–22–85; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Trade Regulation Rule; Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Request for public comment on Petition: Wisconsin.

SUMMARY: The Federal Trade Commission seeks public comment on the request by the State of Wisconsin for exemption from the trade regulation rule concerning the sale of used motor vehicles, 16 CFR Part 455. To facilitate public consideration and comment, the Commission has summarized the information in the Wisconsin petition. In addition, the Commission has outlined the exemption process it intends to follow. The Commission invites public comment on the petition generally and on certain questions specifically. As previously announced, the Commission has also stayed the effective date of the Used Car Rule for 120 days insofar as it applies within the State of Wisconsin (May 14, 1985; 50 FR 20094). The 120 day temporary stay of the effective date of the Used Car Rule as it applies within the State of Wisconsin is effective as of May 9, 1985.

DATE: Written comments will be accepted until June 24, 1985.

ADDRESS: Written comments should be addressed to the Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, Washington, D.C. 20580. Comments should be captioned: "Wisconsin Petition for Statewide Exemption from the Used Car Rule—FTC File No. 215–54."

Copies of the Petition can be obtained from the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 523–3598.

In addition, the Petition is available for inspection at the offices of the Wisconsin Department of Transportation, Room 149–B, 4802 Sheboygan Avenue, Madison, Wisconsin, between the hours of 7:45 am and 4:30 pm.

FOR FURTHER INFORMATION CONTACT: Lee J. Plave (202/376–2805), Lemuel W. Dowdy (202/376–2893), or Raouf M. Abdullah (202/376–2891), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 21, 1985, the Wisconsin Department of Transportation (the "Petitioner" or "WisDot") filed a petition for a statewide exemption (the "Petition") pursuant to § 455.6 of the Commission's Trade Regulation Rule Concerning the Sale of Used Motor Vehicles (the "Used Car Rule" or the "Rule"), 16 CFR Part 455.[1] If granted, the exemption would allow Wisconsin used vehicle dealers to use a disclosure label required by a Wisconsin administrative regulation in the place of the Buyers Guide required by the Commission's Used Car Rule.[2]

In this notice, the Commission publishes the procedures it will use for considering the Petition. The Commission also presents an analysis comparing the Wisconsin regulation to the Used Car Rule. This comparison is made to highlight differences between the two regulations that are relevant to the Commission's standards for granting exemptions. Finally, this notice also discusses why the Commission decided to stay the effective date of the Used Car Rule for 120 days, from May 9, 1985 to September 6, 1985, insofar as it applies within the State of Wisconsin.

II. Exemption Standards and Procedures

The Used Car Rule includes a specific provision setting forth the Commission's standards for exempting a state from the Rule's requirements. The state exemption provision in the Used Car Rule is § 455.6, which states:

(a) If, upon application to the Commission by an appropriate state agency, the Commission determines, that—

(1) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(2) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this Rule; then the Commission's Rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the state requirement.

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[1] The Wisconsin Petition has been placed on the public record and is identified as Document 100–1 in FTC File No. 215–54. It and other documents referred to in this notice are available for inspection at the Office of the Secretary of the Federal Trade Commission, at the address above, or at the offices of the Wisconsin Department of Transportation, 4802 Sheboygan Avenue, Room 149–B, Madison, Wisconsin.

[2] The Buyers Guide is the standard disclosure form which must be affixed to a side window of a used vehicle offered for sale by a dealer under § 455.2(a) of the Used Car Rule. Both the FTC and Wisconsin disclosure forms are printed at the end of this notice.

(b) Applications for exemption under Subsection (a) should be directed to the Secretary of the Commission. When appropriate, proceedings will be commenced in order to make a determination described in Subsection (a), and will be conducted in accordance with Subpart C of Part 1 of the Commission's Rules of Practice.[4]

The effect of a grant of exemption by the Commission to a state is that the Used Car Rule will no longer be in effect in that state for so long as the state administers and enforces its law.[5] The Commission has stated that it intends to determine the appropriate relationship between the Used Car Rule and state law on a case-by-case basis in the context of an exemption proceeding conducted pursuant to Section 1.16 of the Commission's Rules of Practice.[6]

Section 1.16 of the Commission's Rules of Practice is a general provision allowing any person to whom a trade regulation rule would otherwise apply to petition the Commission for an exemption. This provision provides no specific guidance to state agencies seeking statewide exemption from trade regulation rules.

Final staff guidelines for state exemption petitions have, however, been developed for the Commission's Trade Regulation Rule Concerning Funeral Industry Practices, 16 CFR Part 453 (the "Funeral Rule").[7] Because the Funeral Rule has an exemption provision that is virtually identical to the provision included in the Used Car Rule,[8] the Commission anticipates that state exemption guidelines for the Used Car Rule will be quite similar to the Funeral Rule guidelines. Therefore, for the purposes of this Petition, the Commission will follow the Funeral Rule exemption guidelines in handling the Wisconsin petition.

Specifically, those guidelines explain: (1) What materials states should submit as part of a complete exemption application; (2) what procedures are required by current Commission rules for considering exemption petitions; and (3) what specific procedures staff will recommend that the Commission use in granting, denying and revoking exemptions under the trade regulation rule.[9] Thus, the purpose of the guidelines is to give states and other interested parties as much guidance as possible.

In the Funeral Rule exemption guidelines, staff suggested that a complete application be comprised of the following information: (1) A copy of all relevant state statutes, rules, regulations and court cases; (2) a statement comparing the state law with the Commission's rule, on a provision-by-provision basis, which explains how the state law applies to the same transaction as the Commission's rule and how the state law affords an overall level of protection to consumers that is equal to or greater than the protection afforded by the Commission's rule; (3) sufficient information to demonstrate the state's willingness and ability to effectively administer and enforce its law; and (4) a statement from the state's attorney general that the state law provides adequate authority to support the rules, regulations, conclusions, interpretations, policies and procedures described in the statement submitted in the application for the statewide exemption from the Commission's rule.

The Funeral Rule exemption guidelines state that once a complete application for statewide exemption has been received, staff will recommend that the material be placed on the public record, and the Commission will publish a notice in the **Federal Register** and allow a period of time for interested parties to submit written comments. This notice invites interested parties to submit such comments on the Wisconsin Petition. Specific questions for public comment are set out throughout this notice and are summarized in Part IV(B) of this notice. The Commission intends to place these written comments on the public record.

The Commission's staff will also place on the public record any factual information received orally on which it relies in making its recommendation to the Commission concerning whether to grant the exemption. Moreover, under the procedures discussed in the Statement of Basis and Purpose,[8] this exemption proceeding will be subject to the restrictions on *ex parte* communications applicable to a Section 18 rulemaking "adapted in such form as may be appropriate to the circumstances of the particular proceeding."[9] The restrictions on *ex parte* communications applicable to a Section 18 rulemaking proceeding are set forth in 16 CFR 1.18(c). In brief, they require that a communication on the merits to a Commissioner from a person outside the Commission be placed on the public record of the proceeding, and that a communication on the merits to a Commissioner from the rulemaking staff be disclosed on the record to the extent that it contains any fact not already on the record.[10]

In the next part of this notice, the Commission will briefly describe the materials that were presented with the Petition and briefly summarize contacts its staff has had with the Wisconsin Department of Transportation after the Petition was filed.

III. The Petition

A. Background

As noted above, the State of Wisconsin filed its Petition on March 21, 1985. The Petition was filed by the Wisconsin Department of Transportation, which is the state agency charged with regulation of the used vehicle industry.[11] The appendices submitted with the Petition include the following information: (1) A provision-by-provision comparison of the Commission's Rule with the Wisconsin regulations, including a discussion of the inspection-disclosure requirement in the Wisconsin regulation and a presentation of information indicating Wisconsin's willingness and ability to enforce its laws ("Appendix A"); (2) the text of the Wisconsin regulation ("Appendix B"); (3) a sample Wisconsin disclosure label ("Appendix C"); (4) a sample Wisconsin motor vehicle purchase contract ("Appendix D"); (5) a sample Wisconsin dealer inspection report ("Appendix E"); and (6) a letter from the Wisconsin Attorney General regarding the Petition ("Appendix F").

B. Does the Wisconsin Regulation Apply to the Same Transactions to Which the Used Car Rule Applies?

Wisconsin regulates the sale of used motor vehicles by statute and by administrative agency regulations. The administrative regulations that govern motor vehicle trade practices are embodied in Chapter 139 of the Wisconsin Administrative Code.[12] To

[4] Statement of Basis and Purpose for the Used Car Rule, 49 FR 45692, 45711 (Nov. 19, 1984).

[5] *Id. See* 16 CFR 1.16.

[6] 50 FR 12521 (Mar. 29, 1985).

[7] 16 CFR 455.6. In the Statement of Basis and Purpose for the Used Car Rule, the Commission noted that the Used Car Rule state exemption provision "conform[s] to the congressional directive in the FTC Improvements Act of 1980 concerning state exemptions from the Funeral [Rule]." 49 FR 45711.

[8] 50 FR 12525.

[9] Statement of Basis and Purpose, at 45711.

[10] 16 CFR 1.26(b).

[10] *See also* FR 12522.

[11] The Attorney General of Wisconsin stated in a letter to the Commission's Secretary that the law of Wisconsin supports the enforcement of the Wisconsin used vehicle regulations by the Wisconsin Department of Transportation. *See* Petition, Appendix F.

[12] Wis. Admin. Code Chapt. Trans 139. WisDot has the authority to promulgate these regulations pursuant to Wis. Stat. Ann. sections 110.06, 218.01(5) and 227.014. *See also* Part III(D) of this notice, *infra*.

facilitate the public's review of the Petition, this notice will refer to the provisions contained in Chapter 139 of the Wisconsin Administrative Code as the "Wisconsin Regulation," and will clarify the source, when appropriate, by footnote.

In order to determine whether a state law applies to the same transactions to which the Used Car Rule applies, it is necessary to compare the scope of the Used Car Rule with that of the state law. The scope of the Used Car Rule is determined largely by the definitions of the key terms which are set out in § 455.1(d) of the Rule. Under the Used Car Rule, sales of used vehicles by dealers to anyone, except exclusively to other dealers, are covered. Under § 455.1(d)(2) of the Rule, a "used vehicle" is one that has been driven more than the limited distance necessary to move it to a new car dealership or to test drive it prior to delivery. Therefore, "demonstrators" (or company cars) are covered.

Specifically, the term "vehicle" covers all motorized vehicles that have a gross vehicle weight rating of under 8500 pounds, a curb weight of under 6000 pounds, and a frontal area of 46 square feet or less.[13] This includes the sale of most automobiles, light-duty vans, and light-duty trucks.[14] Motorcycles are excluded.[15] In addition, the Used Car Rule does not apply to the used vehicle sold only for scrap or parts, if the appropriate title documents are surrendered to the state and a salvage certificate is issued.[16]

A "dealer" is defined in § 455.1(d)(3) of the Rule as any individual or business that offers six or more used vehicles for sale in a twelve month period. The Rule does not, however, cover banks and financial institutions offering used vehicles that were forfeited as collateral on consumer loans.[17] The term "consumer" has been broadly defined to mean any purchaser (whether an individual or a business) that is not a used vehicle dealer.[18]

The Wisconsin Regulation, on the other hand, applies to "dealers and salespersons licensees."[19] The term "licensee" is defined to mean "any motor vehicle manufactured, distributor, dealers, or saleperson, or any combination thereof, licensed by the [Wisconsin Department of Transportation]."[20] However, the standards for dealer licensure are not set out in the Wisconsin Regulation or otherwise discussed in the Petition. Therefore, it is not clear whether the entities obligated to comply with the applicable Wisconsin law are the same as those covered by the Used Car Rule.[21]

Thus, although one might infer that the Wisconsin Regulation applies to the same transactions as does the Used Car Rule, in order to determine this issue, further clarification is needed from the Petitioner as to the standards for dealer licensure. Public comment is requested on whether the distinctions between the coverage of the Used Car Rule and the Wisconsin Regulation have any impact on whether the Wisconsin Regulation applies to the same transactions as the Used Car Rule.

C. Does the State Law Provide a Level of Protection to Consumers Which is as Great as or Greater Than That Provided by the Commission's Rule?

This portion of the notice will summarize the provisions of state law that are relevant to the question of whether or not state law affords an overall level of protection to consumers that is as great or greater than that provided by the Used Car Rule. Accordingly, the state law will be compared with the Used Car Rule on a provision-by-provision basis. Where appropriate, the Commission has noted the similarities and differences between the state law and the Used Car Rule. In addition, the Commission has identified a number of issues upon which public comment is requested.

1. Section 455.1—General Duties of Used Vehicle Dealers

Section 455.1(a)(1) of the Used Car Rule declares that the following acts or practices are deceptive when committed by used vehicle dealers in or affecting commerce: (1) Misrepresenting the mechanical condition of a used vehicle; (2) misrepresenting the terms of any warranty; and (3) representing that a used vehicle is sold with a warranty; when that is not true. Section 455.1(b) further declares that the following acts or practices are unfair when committed by used vehicle dealers in or affecting commerce: (1) Failing to disclose, prior to sale, that a used vehicle is sold without a warranty; and (2) failing to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle.

Wisconsin law (specifically Wis. Admin. Code section Trans 139.03) prohibits false, deceptive or misleading advertising or representations by a licensee to induce the purchase of a motor vehicle. The Wisconsin Regulation also requires certain warranty information to be disclosed on the purchase contract. Wis. Admin. Code section Trans 139.04(6)(a)(4) requires a written explanation of the basic terms of the warranty to appear on the Wisconsin Label which must be displayed within the used vehicle.

2. Section 455.2—Buyers Guide

(a) *Format.* The Used Car Rule and the Wisconsin regulation both require dealers to complete and display a disclosure form on each used vehicle offered for sale.[22] Both laws specify the exact format of the disclosure form. The FTC Buyers Guide is a two-sided form which must be displayed on a side window of the used vehicle so that the front side (with the caption "Buyers Guide") can be read from the outside.[23] The Wisconsin Label, however, is printed in a single-sided format.[24] The Petitioner acknowledges that the single-sided format necessitates the use of smaller print; however, Petitioner concludes that its disclosure form "is more effective [because] it reasonably contains all of the important provisions on the face of a single document" which is "directly exposed to the shopper."[25] However, it is unclear how this disclosure form is displayed. Wis. Admin. Code section Trans 139.04(6)(a) requires dealers to display the WisDot sticker "from within the vehicle [so it] shall be readable from the outside." Most significant is the fact that there is no specific requirement that the label be affixed to the window. Thus, as Wisconsin officials have confirmed, dealers can merely place the Wisconsin officials have confirmed, dealers can merely place the Wisconsin Label on the dashboard or the rear deck of the used vehicle without violating the Wisconsin

[13] 16 CFR 455.1(d)(1).
[14] Statement of Basis and Purpose, at 45707.
[15] 16 CFR 455.1(d)(1).
[16] 16 CFR 455.1(d)(2).
[17] 16 CFR 455.1(d)(3); Statement of Basis and Purpose, at 45708.
[18] 16 CFR 455.1(d)(4).
[19] Wis. Admin. Code section Trans 139.04(4).
[20] Wis. Admin. Code section Trans 139.02(6).
[21] The Commission notes that under the Wisconsin Regulation, the term "vehicle" is left undefined. However, for the purpose of requiring dealers to provide an odometer statement, the term "vehicle" includes all motor vehicles with a gross vehicle weight rating of 16,000 pounds or less, which are under 25 years old, and which are designed to operate at speeds over 30 mph. Wis. Admin. Code section Trans 139.04(7)(a). In addition, the term "motor vehicle" is vaguely defined in the Wisconsin statutes. *See* Wis. Stat. Ann. section 340.01(74). Accordingly, the exact definition of the term "motor vehicle" that applies to this regulation is not clear.
[22] *Compare* 16 CFR 455.2(a) *with* Wis. Admin. Code section Trans 139.04(6)(a).
[23] 16 CFR 455.2(a)(1).
[24] Wis. Admin. Code section Trans 139.04(6)(a).
[25] Petition, Appendix A, at 2.

Regulation.[26] Public comment is sought on the extent to which the format, print size and placement of the Wisconsin Label affects the level of protection afforded to consumers under state law.

(b) *Text of Buyers Guide.* The Used Car Rule Rule provides a uniform method for written disclosure of important information by means of a window sticker, called the "Buyers Guide." The Rule requires clear disclosure on the Buyers Guide of the existence of any warranty coverage and of the terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage and the percentage of total repair costs to be paid by the dealer.

The Rule also requires certain additional disclosures that are incorporated on the Buyers Guide, including: (1) A list of the fourteen major systems of an automobile and the problems that can occur in these systems; (2) a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; and, (3) a warning against reliance on spoken promises that are not confirmed in writing. The Buyers Guide must be displayed in a side window of the used vehicle at all times that it is offered for sale to the consumers. The Rule, however, permits the dealer to remove the form from the window during a test drive.

The Wisconsin Regulation also requires dealers to display a disclosure form in the used vehicles they offer for sale. The Wisconsin Label is printed in a one-sided format, as discussed in Part III(C)(2)(a) above, and must be displayed from within the vehicle so that it can be read from the outside of the vehicle.[27] The Wisconsin Label must contain the following information: (1) An explanation of the prior use of the vehicle;[28] (2) the odometer reading at the time the dealer obtained possession of the vehicles;[29] (3) the asking price, identification number, and type of engine;[30] (4) the basic terms and conditions of the warranty, if any;[31] (5) a disclosure concerning vehicles sold on an "as is" basis;[32] and (6) a disclosure of the defects discovered by the dealer during a mandatory inspection of the general condition and safety systems of the vehicle.[33]

(c) *The "As Is" Disclosure.* Section 455.2(b)(1)(i) of the Used Car Rule requires dealers to check the large box on the Buyers Guide when a used vehicle is offered on an "as is" basis.[34] The "As Is" disclosure is printed on the Buyers Guide in conspicuously large type. The purpose of the "As Is" disclosure is to inform consumers that the dealer will not be responsible for post-purchase repairs to the vehicle.[35] Moreover, as the Commission noted in the Statement of Basis and Purpose, the disclosure on the Buyers Guide should ensure that consumers are made aware of this information at a time when "the information can influence their purchasing decision."[36]

The Wisconsin Regulation has a corresponding disclosure requirement. Dealers are required to check a box on the Wisconsin Label that indicates whether the vehicle is offered "as is." However, the accompanying disclosure which appears on the Wisconsin Label is printed in much smaller type than on the Buyers Guide.[37]

The Commission seeks public comment on whether and how the differences between the FTC and the Wisconsin "as is" disclosures affect the comparative level of protection afforded to consumers by the state law.

(d) *The "Implied Warranties Only" Disclosure.* Section 455.2(b)(11)(ii) of the Used Car Rule addresses two practices. First, this provision informs dealers in those states that limit or prohibit "as is" sales that the FTC Used Car Rule does not override any such provision of state law. Second, this provision of the Rule requires that an "Implied Warranties Only" disclosure be used in place of the "As Is" disclosure in those states that prohibit "as is" sales and in those instances where a dealer *chooses* to sell a used vehicle with neither an express warranty nor an "as is" disclaimer. The "Implied Warranties Only" disclosure required under § 455.2(b)(1)(ii) must read as follows:

Implied Warranties Only

This means that the dealer does not make any specific promises to fix things that need repair when you buy the vehicle or after the time of sale. But, state law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

Wisconsin law does not limit or prohibit "as is" sales of used vehicles.[38] Wisconsin has therefore chosen not to include an implied warranties disclosure in the applicable regulations, although Wisconsin dealers may choose to offer their vehicles with only implied warranties. The Commission seeks public comment on the degree to which the absence of a disclosure provision in the state law affects the comparative level of protection afforded to consumers by the state law.

(e) *Information About Express Warranties.* Section 455.2(b)(2) of the Used Car Rule requires dealers that offer an express warranty to describe

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[26] Staff memo to file dated April 30, 1985. Staff discussed this issue with Mr. Philip Peterson, the Deputy General Counsel of WisDot. This document is identified as Document 101–4 in FTC File No. 215.54.

Under Wis. Admin. Code section Trans 139.04(6), the disclosure form is referred to as a "label." At times, however, the Petition refers to this docuemnt as a "window form." *See, e.g.,* Petition, Appendix A, at 7, 8 and 15. *Cf.* 16 CFR 455.2(a)(1) (Buyers Guide must be displayed in side window of vehicle).

[27] Wis. Admin. Code section Trans 139.04(6)(a).

[28] Wis. Admin. Code section Trans 139.04(6)(a)(1). In addition to prior use, the label must disclose whether the vehicle had been previously junked or flood damaged, provided the dealer could ascertain the condition with reasonable diligence. *Id.*

[29] Wis. Admin. Code section Trans 139.04(6)(a)(2). This disclosure must also state whether the odometer is accurate; whether the odometer was repaired, reset or replaced; whether the reading is in excess of 99,999 miles or kilometers; and it must disclose also that the name and address of the vehicle's prior owner are available upon request. *Id.*

[30] Wis. Admin. Code section Trans 139.04(6)(a)(3).

[31] Wis. Admin. Code section Trans 139.04(6)(a)(4).

[32] Wis. Admin. Code section Trans 139.04(6)(a)(5).

[33] Wis. Admin. Code section Trans 139.04(a)(6). Wis. Admin. Code sections Trans 139.04(4) and 139.04(5) require the dealer to conduct a walk-around and interior inspection, under-hood inspection, under-vehicle inspection and a test drive.

[34] Section 109(b) of the Magnuson-Moss Act directed the Commission to initiate a proceeding to determine whether there was a need for regulating warranty practices of the used vehicle industry. 15 U.S.C. 2309(b). In particular, Section 109(b) specifically directed the Commission to address, with regard to the used vehicle industry alone, the appropriate disclosure for sales in which no warranty is given to the consumer. In addition, the Baseline Study conducted during the rulemaking indicated that a disclosure of warranty information on a window sticker increases consumers' understanding of the dealer's post-sale repair responsibility. Statement of Basis and Purpose, at 45706.

[35] Statement of Basis and Purpose, at 45705.

[36] *Id.* at 45706. The Commission found that most state laws simply require disclosure of such warranty information at the consumation of the deal, in the "closing room." The Commission found that the "pressurized atmosphere of the closing room thwarted consumers' full understanding of the warranty coverage." *Id.* at 45702.

[37] The Buyers Guide format required in § 455.2(a) of the Used Car Rule includes the following "as is" disclosure (unless the vehicle is offered for sale with implied warranties only):

AS IS—No Warranty.

You will pay all costs for any repairs. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

Wis. Admin. Code section Trans 139.04(6)(a)(5) of the Wisconsin Regulation requires that the Wisconsin Label include the following "as is" disclosure:

Except for any express or implied warranty by the manufacturer or other third party which exists on this vehicle, the entire risk as to the quality and performance of the vehicle is with the purchaser and should the vehicle prove defective following purchase, the purchaser will assume the entire cost of all servicing and repair.

See also supra text accompanying notes 25 and 26. *See also* the copies of both the Buyers Guide and the Wisconsin Label which accompany this notice.

[38] *See* Petion, Appendix A, at 3.

the terms of the warranty on the Buyers Guide. This provision requires dealers to describe the following information: (1) Whether the warranty is full or imited; [39] (2) the specific systems that are covered by the warranty; [40] (3) the duration of the warranty; (4) the percentage of the labor and parts costs the dealer agrees to pay; and (5) an optional disclosure that the vehicle is still under the manufacturer's warranty. In addition, Section 455.2(b)(2) requires dealers to describe in writing any negotiated changes in warranty coverage.

The Wisconsin Regulation has a corresponding warranty disclosure requirement.[41] However, there are several distinctions. First, the Wisconsin Label does not give the dealer the option of offering a "full" warranty. Rather, the required Wisconsin disclosure states that "[the] vehicle has a *limited* warranty as follows * * *. (emphasis added)" Second, the Wisconsin Label need not indicate all of the terms of the warranty.[42] Third, the Wisconsin Regulation does not require dealers to indicate negotiated changes in warranty coverage on the Wisconsin Label.[43]

In its application, WisDot maintains that the disclosure requirements in the Wisconsin Regulation are more complete than those in the Used Car Rule.[44] First, Wisconsin notes that its regulation requires written disclosure in the warrant document of the purchaser's obligations for any vehicle defects or malfunctions.[45] The FTC Used Car Rule does not have a similar provision, but such a requirement is included in the Commission's regulations under the Magnuson Moss Act and provides equivalent protection.[46] Second, WisDot states that its regulation requires the warranty to include a written statement of the procedures a purchaser should follow to obtain performance of any warranty obligations.[47] Third, state law prohibits the use of terms such as "without charge" in connection with the warranty unless there are no costs or charges at all.[48] Fourth, state law requires dealers to extend the warranty beyond its expiration date for warranty claims that are timely filed.[49]

The Commission seeks public comment on whether the Wisconsin Regulation provisions concerning warranty disclosures provide consumers with as great or greater protection than provided by the Used Car Rule. Comments should focus on the provisions in the respective regulations and on the timing of warranty disclosures in these regulations.

(g) *Service Contract Availability.* Section 455.2(b)(3) of the Used Car Rule requires used vehicle dealers to disclose the availability of service contracts (except in those states where service contracts are regulated as the business of insurance) by marking a small box on the Buyers Guide. In addition, the following disclosures is required, if service contracts are available:

Service Contract. A service contract is available at an extra charge on this vehicle. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.[50]

The Wisconsin Label also discloses the availability of service contracts.[51] It does not include the implied warranty information included in the service contract disclosure on the FTC Buyers Guide. However, the Wisconsin form requires disclosure of the availability of mechanical breakdown insurance, which the Buyers Guide does not.[52] Public comment is sought on the degree to which the omission on the Wisconsin Label of the service contract information included in the FTC Buyers Guide service contract disclosure affects the level of protection afforded by state law. In addition, public comment is sought on the degree to which the inclusion of the mechanical breakdown insurance disclosure on the Wisconsin Label affects the level of protection afforded by state law.

(h) *Vehicle, Dealership and Complaint Information.* Section 455.2(c) of the Used Car Rule requires the dealer to fill in the name and address of the dealership (or the dealer's place of business or home address). This information is designed to enhance the value of the Buyers Guide as evidence of the agreement between the dealer and the consumer.[53]

The state law requires only the name of the dealership on the Wisconsin Label.[54] WisDot asserts that the address on the actual contract is sufficient, thus, it contends that the absence of the dealer's address from the Wisconsin Label is not significant.[55]

Section 455.2(d) of the Used Car Rule requires dealers to include certain vehicle information on the Buyers Guide, including the make, model, model year and vehicle identification number. Dealers may also include their stock number. These disclosures, like the dealership information discussed above, are designed to enhance the value of the Buyers Guide as evidence of the agreement between the dealer and the consumer.[56] The state form requires disclosure of the same information and, in addition, requires the dealer to indicate the asking price, the type of transmission and the type of engine.[57]

Section 455.2(e) of the Used Car Rule requires dealers to disclose on the Buyers Guide the name and telephone number of the person to be contacted if a consumer complaint arises after the

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[39] A "full" warranty is defined by the federal minimum standard for warranties set forth in Section 104 of the Magnuson-Moss Act, 15 U.S.C. 2304. The Magnuson-Moss Act does not apply to vehicles manufactured before July 4, 1975. Therefore, in offering such vehicles for sale, dealers may simply cross out the terms "full" and "limited", leaving just the term "warranty." However, all other provisions of the Used Car Rule apply to sales of such vehicles.

[40] The Rule prohibits the use of shorthand terms such as "drive train" or "power train" to describe covered systems. Dealers must name the specific systems (*e.g.*, engine, transmission, differential). The Commission found that shorthand phrases such as "drive train" or "power train" are not understood by consumers and therefore do not facilitate assessment of the value of the warranty. Additionally, these shorthand terms are not uniformly defined; they have different meanings for different people. Statement of Basis and Purpose, at 45710.

[41] Wis. Admin. Code section Trans 139.04(6)(a)(4). "The label shall clearly state in simple and concise language * * * [t]he basic terms and conditions of the warranty, if offered." *Id.*

[42] Wis. Admin. Code section Trans 139.04(b)(a)(4). This provision requires dealers to disclose only the basic terms and conditions of the warranty. The Petitioner contends that the lack of specific warranty information on the window sticker is cured by Trans. 139.06(1) which requires dealers to provide a written warranty to the purchaser at the time of delivery of the vehicle. *But see supra* note 38 and accompanying text (need for pre-purchase disclosure of warranty terms).

[43] *Contra* 16 CFR 455.2(b)(1)(i) and 455.2(b)(2)(v).

[44] Petition, Appendix A, at 4–5. In the Petition, WisDot notes that its regulation requires dealers to disclose whether the manufacturer's warranty is still effective; whereas, the Used Car Rule merely permits such a disclosure. *Id.* Wis. Admin. Code section Trans 139.05(10)(c). In addition, WisDot acknowledges that although the state law does not require dealers to disclose the percentage of repair costs they will pay, the regulation requires dealers to disclose what the warrantor will do in the event of a defect or malfunction and what party will bear the expense. *Compare* Wis. Admin. Code section Trans 139.06(1)(e) *with* 16 CFR 701.3.

[45] Wis. Admin. Code section Trans 139.06(1)(f). It appears that under the Wisconsin Regulation, the warranty document need not be provided to the purchaser until the time of delivery of the used vehicle. Wis. Admin. Code section Trans 139.06(1).

[46] 16 CFR 701.3 (2), (3) and (5).

[47] Wis. Admin. Code section Trans 139.06(1)(g).

[48] Such practices may constitute unfair or deceptive acts or practices pursuant to Section 5 of the FTC Act.

[49] Wis. Admin. Code section Trans 139.06(b).

[50] This disclosure alerts consumers to the automatic implied warranties which accompany a service contract, pursuant to Section 180(a) of the Magnuson-Moss Act, 15 U.S.C. 2308(a).

[51] Wis. Admin. Code section Trans 139.0(6)(a) (part of required format).

[52] *Id.*

[53] Statement of Basis and Purpose, at 45710.

[54] Wis. Admin. Code section Trans 139.05(2)(a).

[55] Petition, Appendix A, at 7.

[56] Statement of Basis and Purpose, at 45710.

[57] Wis. Admin. Code section Trans 139.04(6)(a)(3).

sale. This information helps the consumer identify the individual responsible for resolving disputes.[58]

Public comment is sought on the degree to which these differences in state and federal law affect the level of protection afforded by state law.

(i) *Statement Concerning Pre-Purchase Independent Inspections.* The FTC Buyers Guide includes a disclosure which suggests that consumers inquire about the availability of an independent, pre-purchase inspection.[59] There is no parallel provision in the Wisconsin regulation.[60] The Commission determined that prepurchase inspection by a third party can provide consumers with valuable information concerning the condition of a used car as well as enhancing the consumer's bargaining position.[61] There are additional benefits to such inspections. For example, consumers can evaluate a dealer's representations regarding the mechanical condition of a used car by the dealer's willingness to permit an independent inspection of the car by a competent mechanic.[62]

The most important factor in reaching a used car purchasing decision is the vehicle's mechanical condition at the time of sale.[63] Thus, consumer awareness of and interest in third-party inspections offers tangible benefits. Surprisingly, however, the rulemaking record reveals that few consumers seek independent inspections by qualified mechanics.[64] The record also demonstrates that certain dealer practices impede consumers from obtaining independent pre-purchase inspections. For example, dealers make representations that a used vehicle is in good condition, knowing that consumers tend to rely on such representations.[65] However, the rulemaking record demonstrates that misrepresenting a car's mechanical condition is a common dealer practice.[66] Further, dealers commonly engage in a practice known as "detailing," whereby the vehicles's interior, exterior, trunk, and engine compartment are thoroughly cleaned in order to enhance saleability.[67] Because many consumers believe that good looking cars are good running cars and thus, do not appreciate the need for an independent mechanical inspection, consumer injury can result when detailing obscures poor mechanical condition.[68]

The Commission seeks public comment as to how the absence of a third-party inspection disclosure affects the overall level of protection provided to consumers by the state law. In particular, commenters should discuss whether other provisions in the state law, such as the inspection-disclosure requirement, affect the level of protection afforded to consumers by state law.

(j) *Spoken Promises Warning.* A warning disclosure is included on the front of the FTC Buyers Guide to warn consumers that all oral promises should be reduced to writing.[69] The Wisconsin regulation does not, however, require a similar disclosure on the Wisconsin Label.

Widespread oral misrepresentations regarding warranties and mechanical condition of the car at the time of sale were among the principal abuses found by the Commission in the used vehicle industry.[70] The rulemaking record shows that although many dealers make oral promises to repair after sale, these promises may be untrue and are unenforceable because they are contradicted by "as is" warranty disclaimers or other terms of the sales contract.[71] Thus, consumers are frequently deceived by oral representations made at the point of sale.[72] Because consumers tend to rely on spoken promises, substantial injury has been the result.[73] By introducing this warning into the used vehicle market, the Commission anticipates that consumers will be less likely to rely upon oral promises by dealers and insist on written confirmation of all promises.[74]

The Commission seeks public comment on how the absence of a spoken promise warning in the state law affects the level of protection afforded to consumers by the state law.

(k) *List of Major Vehicle Systems.* The back of FTC Buyers Guide includes a list of the fourteen major mechanical and safety systems of an automobile and some of the major problems that can occur in these systems.[75] The Wisconsin Regulation includes an inspection-disclosure provision which is partly analogous to this list.[76] The Commission included the list of potential problems on the Buyers Guide because the rulemaking record demonstrated that dealer misrepresentations about the mechanical condition were often made on a system-by-system basis.[77] The components listed include those most likely to be represented by dealers as being in good condition without any confirmation of such representations in writing.[78] The list also counters specific dealer misrepresentations that certain consumer-noted problems are minor.[79] Further, the Commission intended that the list be used by consumers as a means to identify the potential problems to be checked in an independent pre-purchase inspection.[80]

The Wisconsin Label includes a list of several specific vehicle systems under the headings of "general condition" and "safety equipment condition."[81] Under the "general condition" category, dealers must mark a box for each of 31 specific conditions indicating whether that condition exists in the vehicle.[82] In the "safety equipment condition" category, dealers must mark a box to indicate that each of the 29 listed components are "ok" or "not ok."[83] The

[58] Statement of Basis and Purpose, at 45710.

[59] 16 CFR 455.2(a) (part of required format). This disclosure states:

Pre Purchase Inspection: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

[60] *See* Petition, Appendix A, at 15: "In [WisDOT's] experience, not many car shoppers are able or willing to invest the expense, time and energy necessary to inspect a vehicle away from a dealer's lot." *Id.* WisDot also contends that its regulations contain comparable provisions to the third-party inspection disclosure, but WisDot does not identify the provisions. *Id.*

[61] Statement of Basis and Purpose, at 45706.

[62] *Id.*

[63] *Id.* at 45700.

[64] *Id.*

[65] *Id.*

[66] Statement of Basis and Purpose, at 45700.

[67] *Id.* at 45701, 45706.

[68] *Id.*

[69] 16 CFR 455.2(a) (part of required format). This disclosure states: "Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form." *Id.*

[70] Statement of Basis and Purpose, at 45696.

[71] *Id.* at 45702.

[72] *Id.* at 45706.

[73] *Id.* at 45701-02, 45706.

[74] *Id.* at 45706.

[75] 16 CFR 455.2(a) (part or required format).

[76] Wis. Admin. Code sections Trans 139.04 (4), (5), (6)(a)(6). *See also* Petition, Appendix A, at 10-11.

[77] Statement of Basis and Purpose, at 45706. As discussed in the Statement of Basis and Purpose, industry members also recognized the need for this disclosure. *Id.* at 45706 n.211.

[78] *Id.* at 45706.

[79] *Id.*

[80] *Id.*

[81] Wis. Admin. Code sections Trans 139.04 (4), (5) and (6)(a)(6) *See* Petition, Appendix C. State law requires that safety equipment must be in good working order before a vehicle may be driven on Wisconsin highways. Therefore, the purpose of the disclosure of the condition of the safety components is to inform consumers whether the vehicle can be legally operated.

[82] Wis. Admin Code section Trans 139.04(4). Dealers must mark either a box on the window sticker labeled "yes" or "no" to indicate the existence of "all significant existing mechanical and structural defects and damage." *Id.*

[83] Wis. Admin. Code section Trans 139.04(5). There are fourteen major vehicle systems listed on the FTC Buyers Guide. These same systems are also

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Wisconsin Regulation requires that the dealer disclose the defects that can be determined through an inspection of "reasonable diligence, which shall consist of but is not limited to a walk-around and interior inspection, underhood inspection, under-vehicle inspection, and a test drive." [84]

In its Petition, WisDot acknowledges that the Commission considered and rejected a proposal to include a defect disclosure provision in the Used Car Rule.[85] Wisconsin contends that its inspection-disclosure requirement augments, rather than detracts from the protection afforded by the other state law disclosure requirements.[86]

The Commission solicits public comment on the degree to which this particular difference in the state law and the federal regulation affects the level of protection afforded to consumers under the state law.

3. Section 455.3—Use of the Buyers Guide

Section 455.3(a) of the Used Car Rule directs dealers to give purchasers of used vehicles a Buyers Guide that includes any changes in warranty coverage agreed upon.[87] Section 455.3(b) requires dealers to include the following disclosure which incorporates the information on the completed Buyers Guide into each contract of sale:

> The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

The above provision of the Rule serves several purposes. First, it ensures that the purchaser will obtain the disclosures required by the Rule because the consumer will be given the Buyers Guide.[88] Second, by incorporating the information into the contract of sale, the Commission intends that the Buyers Guide become part of the contract between the dealer and consumer.[89] Third, it permits consumers to rely on the information in the Guide because it invalidates contrary provisions in the contract. Fourth, this disclosure advises consumers to look to *both* the contract and the Buyers Guide for all of the terms of the sale.

Although the state law requires dealers to give consumers a copy of the Wisconsin Label, it does not automatically incorporate the agreements on the Wisconsin Label into the contract of sale.[90] Second, state law does not invalidate conflicting terms in the contract of sale. Third, the state law does not require contracts of sale to alert consumers to the evidentiary value of the window form, if any.[91]

The Commission seeks public comment on whether the use of the WisDot form as compared with the use of the Buyers Guide affects the level of protection afforded to consumers by the state law.

4. Section 455.4—Contrary Statements

Section 455.4 of the Used Car Rule prohibits dealers from making any statements, oral or written, or from taking other actions which alter or contradict the disclosures required by the Rule. Further, it permits dealers to negotiate with consumers over warranty coverage so long as the final warranty terms are indentified in the contract of sale summarized on the final Buyers Guide that is given to the consumer.

Although Wisconsin law prohibits the use of false, deceptive or misleading representations by dealers to induce the purchase of a motor vehicle,[92] it does not specifically prohibit dealers from taking any other actions which alter or contradict the disclosures on the WisDot form, and it does not specifically prohibit truthful statements which alter or contradict the disclosures on the WisDot form.[93]

The Commission seeks public comment on whether the difference between the federal and state contrary statements provisions affect the level of protection afforded to consumers by state law.

5. Section 455.5—Spanish Language Sales

The Used Car rule requires that if a dealer conducts a sale in Spanish, the Buyers Guide and the contract disclosures must be written in Spanish.[94] It further permits dealers to display both a Spanish-language and an English-language Buyers Guide on the same vehicle. The Spanish language requirement was added to the Rule because after English, Spanish is the language used most frequently in used vehicle transactions.[95]

The Wisconsin law does not include a similar provision.[96] WisDot concluded that requiring Spanish language forms in Wisconsin would be both burdensome and a waste of resources.[97] To support its conclusions, WisDot provided an analysis of the Spanish-speaking population residing in Wisconsin and in the rest of the nation.[98] The smaller percentage of Hispanic people in Wisconsin, compared to those in the areas that WisDot referred to as "regional centers" suggests that only rarely in Wisconsin will a non-English speaking Hispanic person, unaccustomed to dealing in English, attempt to purchase a used vehicle in Wisconsin.[99] Thus, the requirement of a Spanish-language version of the Wisconsin Label is considered by WisDot to be burdensome and a waste of resources.[100]

The Commission seeks public comment how the absence from the state law of a Spanish language window form affects the comparative level of protection afforded to consumers by the state law. In addition, the Commission specifically invites the submission of data and information concerning the

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included on the Wisconsin Label; seven under the category of "general condition" and seven under "safety equipment."

[84] Petition, Appendix A, at 10.

[85] *Id.* at 11. *See* the Statement of Basis and Purpose, at 45711–18. The Commission recognizes that the current Wisconsin inspection-disclosure requirement differs from the Used Car Rule known defect provision rejected by the Commission in that the Wisconsin provision requires dealers to disclose defects after a mandatory inspection. Wis. Admin. Code sections Trans 139.04 (4) and (5). The Commission rejected a requirement for mandatory inspections. *See* Statement of Basis and Purpose, at 45718–19.

[86] *Id.* at 11–16. WisDot also points out that its inspection-disclosure requirements have been changed since the Commission examined them in 1984. *Id.* at 16. WisDot notes that its regulations were amended so that as of April, 1983, *both* warranty and inspection-disclosures are required to appear on the Wisconsin Label. *Id.* Prior to that time, inspection-disclosures were included on a form provided to the purchaser, at the time of sale. *Id. See also* Statement of Basis and Purpose, at 45715 (discussion of Baseline Survey findings concerning Wisconsin inspection-disclosure requirement).

[87] The Rule permits the dealer to give consumers an accurate copy in place of the original form.

[88] Statement of Basis and Purpose, at 45710–11.

[89] *Id.* In the event of disputes between dealer and consumer, the information on the Buyers Guide will not be subject to the parole evidence rule of contract law. *Id.*

[90] Wis. Admin. Code section Trans 139.04(6)(a). *See* Petition, Appendix A, at 8.

[91] *See* Petition, Appendix A, at 9. *cf.* Wis. Admin. Code section Trans 139.03(1).

[92] Wis. Admin. Code section Trans 139.03(1).

[93] *Compare* Wis. Admin. Code section Trans 139.03(1) *with* 16 CFR 455.4.

[94] 16 CFR 455.5. In addition to the Spanish language requirement, the Rule provides a format for a Spanish-language Buyers Guide. *Id.* A copy of the Spanish-language Buyers Guide is printed at the end of this notice.

[95] Statement of Basis and Purpose, at 45711.

[96] *See* Petition, Appendix A, at 9–10.

[97] Petition, Appendix A, at 10.

[98] *Id.*

[99] *Id.* WisDot suggests that no such "regional center" of Hispanic population exists within the State of Wisconsin. However, no census or population data is provided to support this analysis. The Commission notes, however, that Milwaukee, the largest city within the State of Wisconsin, is located within 90 miles of Chigago, a city WisDot acknowledged to be such a "regional center."

[100] Petition, Appendix A, at 9–10.

nature and composition of the Hispanic population within the State of Wisconsin.

D. Does the State Evidence a Willingness and Ability to Enforce Its Laws?

The final requirement for obtaining and retaining a statewide exemption from the Rule, pursuant to Section 455.6, is a showing that a state enforces effectively the state requirement that would replace the FTC Rule. Accordingly, the Funeral Rule state exemption guidelines ask states to submit sufficient information to show a willingness and ability to enforce their laws effectively.[101]

Specifically, the guidelines state that the following information is relevant to this determination:[102]

(a) The fiscal arrangements and funding of the state agency (or agencies) which is charged with enforcing the state law, or other information showing that the state agency had adequate funding to properly enforce the law.

(b) The number and qualifications of persons engaged in the enforcement and administration of the state law, or other information indicating the state has adequate qualified personnel to administer and enforce the law.

(c) The state's current or planned enforcement procedures.

(d) The state's past history of enforcement of statutes which are comparable to the Commission's rule.

(e) The level of compliance with any state statutes or regulations governing the practices covered by the Commission's Rule, insofar as this information is relevant to the state's enforcement history.

This section of the notice summarizes the information in the Petition concerning enforcement of the Wisconsin Regulation.[103]

As noted earlier, WisDot is the state agency charged with primary enforcement of motor vehicle trade practice requirements, including warranty and defect disclosure requirements.[104] The Dealer Inspection Unit ("DIU"), a division within WisDot, enforces the Wisconsin Regulation program.[105] All consumer complaints against motor vehicle dealers are handled by the DIU.[106] There are approximately 3,000 motor vehicle dealers in Wisconsin.

The information provided by Wisconsin in the Petition concerning the state's willingness and ability to administer and effectively enforce its laws and regulations is summarized below.[107]

1. Funding

WisDot expended $506,270 in fiscal year 1984 administering the DIU program. This included salaries, fringe benefits, travel, office supplies, office space and overhead. The application does not explain how the funds were allocated.

2. Staffing

DIU employs eleven field investigators and two area field investigators based throughout Wisconsin. This unit also employs a field unit supervisor, two consumer specialists, and a program assistant.[108]

3. Enforcement Procedures

The elevent field investigators make an average of about 135 inspections a year, for a total of approximately 1,500 inspections annually.[109] Depending on the size of a dealership, an inspection takes from two hours to two days. During an inspection, investigators review all the dealer's records and disclosure statements, and they inspect a random sample of the used vehicles offered for sale to see if they correspond to the information on the applicable disclosure statements.

The sample "Dealer Inspection Report," attached to the Petition as Appendix E, shows the items DIU investigators examine when they perform dealership inspections. Most notably for purposes of this Petition, item 23 of the Dealer Inspection Report requires a DIU investigator to determine whether window disclosure statements are in place as required by Wis. Admin. Code section Trans 139.04(6) and item 24 requires the investigator to determine whether the dealer has substantially complied with the pre-sale inspection and disclosure requirements of the Wisconsin Regulation.

DIU investigators are authorized to initiate and conduct investigations which in subsequent proceedings can lead to suspension, revocation or denial of dealer licenses or to cease and desist orders. In addition, DIU investigators work with county district attorneys to bring criminal actions and civil suits for damages to correct dealer misconduct.

The Petition states that "investigators get the dealer to buy back the vehicle or to rescind the contract approximately seven percent of the time; dealers agree to fix the vehicle at no cost to the consumer approximately 29 percent of the time; and dealers agree to share repair costs with the customer approximately 30 percent of the time."[110] WisDot records show that approximately 70 percent of the complaints received are satisfactorily resolved. Other complaints are either invalid (10 percent) or result in civil, criminal or administrative action against the dealer (13 percent).

4. Sanctions

WisDot is empowered to deny, suspend or revoke the license of a used vehicle dealer for violations of WisDot rules.[111] In addition, WisDot can seek injunctions to prevent dealers from fraudulently misrepresenting the condition of a vehicle.[112] If, during an inspection of a dealership, the field inspector uncovers evidence of unlawful activity, the field inspector, according to the Petition, usually reports the finding to a county district attorney for possible criminal prosecution.[113] A civil penalty between $25 and $500 may be requested by a county district attorney or the state attorney general for violations of Wisconsin law by dealers.[114]

Any dealer who is the subject of a complaint is entitled to a hearing before a WisDot hearing officer. The Commissioner of WisDot is empowered to decide such cases on the advice of a hearing officer.[115] Appeal is provided to the Wisconsin circuit court.[116]

Remedies under the state law should be compared with remedies under the Used Car Rule. Under Section 5(m)(1)(A) of the Federal Trade Commission Act, the Commission may seek civil penalties in an United States District Court against any individual found in violation of the Used Car Rule. The civil penalties

[101] 50 FR 12525.
[102] *Id.*
[103] Petition, Appendix A, at 12–20.
[104] *See supra* text accompanying note 12.
[105] Petition, Appendix A, at 13.
[106] *Id.*
[107] The information discussed in this Part of the Memorandum is taken largely from the Petition, Appendix A, at 12–20, unless otherwise noted.
[108] *Id* at 17. The field investigators perform the on site investigations. Most of them are former state troopers who are trained in examining civil and criminal complaints. They attend a week long civil investigation course that focuses on investigating motor vehicle dealers. *Id.*
[109] *Id.* at 18. The Petition notes that the motor vehicle dealers that are subjects of consumer complaint receive more frequent inspections than dealers without complaints against them. *Id.*
[110] *Id.* at 19.
[111] Wis. Stat. Ann. section 218.01(3)(a).
[112] Wis. Stat. Ann. section 218.01(3)(b)
[113] Petition, Appendix A, at 17.
[114] Wis. Stat. Ann. section 218.01(8).
[115] *See* Wis. Stat. Ann. section 227.014 (Wisconsin Administrative Procedure Act).
[116] *Id.*

imposed may not exceed $10,000 for each violation.[117] Moreover, the Commission, pursuant to section 13(b) of the Federal Trade Commission Act, may seek mandatory injunctions in an United States District Court for violations of the Used Car Rule.

5. Private Rights of Action

Consumers who have suffered monetary loss from dealers who have violated the Wisconsin Regulation may seek civil penalties equal to the loss, with costs and reasonable attorney fees in any court of competent jurisdiction.[118] There is no comparable provision under the Use Car Rule or the FTC Act.

6. History of Enforcement

WisDot received 1,915 motor vehicle consumer complaints in 1982, 2,585 in 1983 and 2,862 in 1984. Of the 1984 complaints, 1,849 dealt specifically with used vehicles. DIU investigations resulted in 17 administrative hearings and 12 special orders against dealerships in 1983 and in 18 hearings and 8 special orders against dealerships in 1984. In 1984, consumers received $154,000 from motor vehicle manufacturers and over $500,000 from Wisconsin dealers for complaints concerning used vehicles.

IV. Conclusions

A. Public Comment Period

In the Commission's opinion, the Petition contains sufficient information to initiate a proceeding on whether to grant an exemption to Wisconsin pursuant to Section 455.6 of the Used Car Rule. Accordingly, the Commission requests public comment on whether to grant a statewide exemption to the State of Wisconsin from the Used Car Rule. To assist the Commission in making its decision on the merits of the Petition, public comment is elicited on the Petition generally and specifically on the questions set forth below.

B. Questions for Public Comment

These questions are designed to elicit public comment on whether the Wisconsin Regulation provides a level of protection to consumers that is equal to or greater than that provided by the Commission's Used Car Rule. In addition, the questions are designed to determine whether the state has and will continue to adequately enforce state law. To that end, commenters are encouraged to support their conclusions with any factural material that they may have.

1. Does the Wisconsin Regulation apply to the same transactions to which the Used Car Rule applies?

(a) Is the defintion of "dealer" in the Wisconsin Regulation less inclusive than the definition of "dealer" in the Used Car Rule?

(b) Does the Wisconsin Regulation cover all of the vehicles that are covered by the Used Car Rule definitions of the terms "vehicle" and "used vehicle?"

(c) Does the Wisconsin Regulation cover sales to all consumers as the term is defined in the Used Car Rule?

2. Does the Wisconsin Regulation and other state law provide a level of protection as great as or greater than the protection afforded in the Commission's Used Car Rule?

(a) To what extent do the differences in the Wisconsin Label and the Commission's Buyers Guide with respect to format, print size and placement on the vehicle affect the level of protection afforded to consumers under Wisconsin law?

(b) Do the differences in the "as is" disclosure on the Commission's Buying Guide and the Wisconsin Label affect the level of protection afforded to consumers by state law?

(c) Does the fact that the Commission's Used Car Rule provides an "Implied Warranties Only" disclosure and that the Wisconsin Regulation does not provide for such a disclosure affect the level of protection afforded to consumers under state law?

(d) Do the warranty disclosures required on the Wisconsin Label afford consumers the same or greater level of protection as that afforded by the warranty disclosures required on the Used Car Rule Buyers Guide?

(e) Do the warranty disclosures that must be provided to consumers at the time of sale under the Wisconsin Regulation afford the same or greater protection as that afforded by the warranty disclosures in the Used Car Rule Buyers Guide?

(f) Do the service agreement and mechanical breakdown insurance disclosure on the Wisconsin Label afford consumers the same or greater level of protection than that afforded by the service contract disclosure required on the Used Car Rule Buyers Guide?

(g) Does the information pertaining to the location of the dealer on the Wisconsin Label provide a level of protection equal to or greater than the information provided on the Used Car Rule Buyers Guide?

(h) Does the Wisconsin Label provide a level of protection to consumers that is equal to or greater than that provided by the Used Car Rule Buyers Guide in view of the fact the Wisconsin Label does not contain a disclosure suggesting that consumers inquire about the availability of an independent inspection?

(i) Does the Wisconsin Label provide a level of protection to consumers that is equal to or greater than that provided by the Used Car Rule Buyers Guide in view of the fact the Wisconsin Label does not contain a warning to consumers that all oral promises should be reduced to writing?

(j) Does the Wisconsin Label provide a level of protection to consumers that is equal to or greater than that provided by the Used Car Rule Buyers Guide in view of the fact the Wisconsin Regulaton does not require that the information on the Wisconsin Label be incorporated into the terms of the contract?

(k) Does the Wisconsin Label provide a level of protection to consumers that is equal to or greater than that provided by the Used Car Rule Buyers Guide in view of the fact that the Wisconsin Regulation does not specifically prohibit dealers from making any statements, oral or written, or from taking other actions which alter or contradict the disclosures?

(l) Does the Wisconsin Label provide a level of protection to consumers that is equal to or greater than that provided by the Used Car Rule Buyers Guide in view of the fact the Wisconsin Regulation does not require that a Spanish language version of the label be provided to a consumer if the sale is conducted in Spanish? In addition, the Commission specifically invites the submission of data and information concerning the nature and composition of the Hispanic population within the State of Wisconsin.

(m) How does the inspection-disclosure requirement of the Wisconsin Regulation affect the overall level of protection afforded to consumers under state law?

3. Does the state evidence a willingness and ability to enforce its laws?

(a) Does WisDot have adequate staff to enforce the state law?

(b) Does WisDot have adequate funding to enforce the state law?

(c) Does WisDot have adequate authority to enforce the state law?

(d) Do the sanctions available under state law provide a sufficient deterrent against violations of the Wisconsin Regulation?

(e) Have the sanctions imposed provided a sufficient deterrent against violations of the Wisconsin Regulation?

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[117] 15 U.S.C. 45(m)(1)(A).

[118] Wis. Stat. Ann. section 218.01(9)(b).

(f) How do the private rights of actions affect the ability of consumers to obtain protection under the state law?

(g) Has WisDot adequately enforced the state law?

(h) Has WisDot demonstrated its intention to enforce the state law in the future?

The exemption guidelines also state that additional procedures for public participation may be scheduled if necessary for a full and fair presentation of significant issues.[119] For example, the guidelines state that oral hearings may be necessary if there are significant factual issues which can be adequately presented only through an oral hearing, such as where cross-examination is necessary to fully and fairly present significant factual issues.[120] In the Commission's opinion, a determination as to whether such procedures will be necessary can not be made at this time. However, interested parties may request that the Commission schedule an oral hearing or a period for rebuttal comments.

[119] 50 FR 12523, 12525–12526.

[120] 50 FR 12525.

List of Subjects in 16 CFR Part 455

Used cars, trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

BILLING CODE 6750-01-M

USED VEHICLE DISCLOSURE LABEL

Dealer Name	Vehicle Stock No	Asking Price
		$

Vehicle Year	Make	Identification No	Engine Type	Transmission

VEHICLE USE This vehicle was previously used as a

- ☐ Privately Driven Vehicle
- ☐ Leased Vehicle
- ☐ Demonstrator Vehicle
- ☐ Executive Driven Vehicle
- ☐ Driver Education Vehicle
- ☐ Company Vehicle
- ☐ Rental Vehicle
- ☐ Government Owned Vehicle
- ☐ Police Vehicle
- ☐ Taxi-Driven Vehicle
- ☐ Unknown

OTHER VEHICLE HISTORY

- ☐ Flood Damaged Vehicle
- ☐ Junked Vehicle

☐ Vehicle has limited warranty as follows. (Ask salesperson to see a copy of warranty) _____

☐ AS IS - No warranty, express or implied EXCEPT FOR ANY EXPRESS OR IMPLIED WARRANTY BY THE MANUFACTURER OR OTHER THIRD PARTY WHICH EXISTS ON THIS VEHICLE, THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE VEHICLE IS WITH THE BUYER, AND SHOULD THE VEHICLE PROVE DEFECTIVE FOLLOWING THE PURCHASE, THE BUYER WILL ASSUME THE ENTIRE COST OF ALL SERVICING AND REPAIR

ODOMETER read _____ miles/kilometers at the time of trade-in or purchase, which is corroborated by the prior owner's statement which will be shown to you, the purchaser, and, to the best of dealer's knowledge (CHECK ONE)

- ☐ The reading is actual mileage/km
- ☐ The reading is not actual mileage/km
- ☐ The odometer was repaired or replaced and calibrated to a reading identical to the odometer before service
- ☐ The odometer was repaired or replaced and was reset or installed at zero and the original miles/km were _____
- ☐ The reading is in excess of 99,999 miles/km

See salesperson for name and address of prior owner.

☐ **Service Agreement available for purchase, ask salesperson for details.**

☐ **Mechanical Breakdown Insurance available for purchase, ask salesperson for details.**

DISCLOSURE STATEMENT - I have exercised reasonable diligence in inspecting this vehicle, including at least a review of any repair records, the prior owner's disclosure, a walk around and interior inspection, an under-hood inspection, an under-vehicle inspection, and a test drive. On the basis of such inspection, I declare the apparent existing condition to be as indicated in the boxes below (REQUIRED BY TRANS 139.04(4), (5) WIS. ADMIN. CODE)

GENERAL CONDITION

YES	NO	
		FRAME OR UNIBODY
☐	☐	Apparent cracks or corrective welds on frame or supportive portion of unibody
☐	☐	Dogtracks, bent or twisted frame or unibody
☐	☐	Apparent weakened frame or unibody due to damage or rust
		ENGINE
☐	☐	Known or visible oil leakage, excluding normal seepage
☐	☐	Cracked block or head
☐	☐	Belts missing or inoperable
☐	☐	Knocks or misses
☐	☐	Abnormal visible exhaust discharge
		TRANSMISSION & DRIVE SHAFT
☐	☐	Improper fluid level or visible leakage, excluding normal seepage
☐	☐	Cracked or damaged case, which is visible
☐	☐	Abnormal noise or vibration
☐	☐	Improper shifting into or functioning in all gears
☐	☐	Manual clutch slips or chatters
		DIFFERENTIAL
☐	☐	Improper fluid level or visible leakage, excluding normal seepage
☐	☐	Cracked or damaged housing, which is visible
☐	☐	Abnormal noise or vibration
		COOLING SYSTEM
☐	☐	Improper fluid level or visible leakage
☐	☐	Leaky radiator
☐	☐	Improperly functioning water pump
☐	☐	Inadequate antifreeze strength for season of year
☐	☐	Improperly functioning cooling system - fan
		ELECTRICAL SYSTEM
☐	☐	Improper fluid level or visible leakage of battery
☐	☐	Battery fails to start engine
☐	☐	Improperly functioning alternator, generator, starter or ignition system
		ACCESSORIES — INOPERATIVE
☐	☐	Gauges and warning devices
☐	☐	Radio
☐	☐	Heater
☐	☐	Air Conditioner
☐	☐	Dash Lights
☐	☐	Windows
☐	☐	Spare tire, wheel and jack not furnished

Explain probable cause for malfunction or defect on all items marked "Yes"

SAFETY EQUIPMENT CONDITION

ALL REQUIRED safety equipment items below, except those marked "Not OK," are in legal operating condition. If the dealer does not correct all such defects prior to delivery of the vehicle to the retail purchaser, the required warning statement must be made on the contract, the vehicle must be towed or hauled, the title application shall be marked "THIS VEHICLE MAY NOT BE LEGALLY OPERATED ON WISCONSIN HIGHWAYS AND NO REGISTRATION WILL BE ISSUED," and sent by the dealer to the Division of Motor Vehicles on behalf of the purchaser.

OK	NOT OK	
☐	☐	Headlamps and Aim
☐	☐	Parking Lamps
☐	☐	Directional Lamps
☐	☐	Flashing Warning Lamps
☐	☐	Sidemarker Lamps and Reflectors
☐	☐	Tail Lamps
☐	☐	Back Up Lamps
☐	☐	Brake Lamps
☐	☐	License Plate Lamp
☐	☐	Steering System
☐	☐	Suspension System
☐	☐	Bumpers and Fenders
☐	☐	Hood and Trunk Latches
☐	☐	Emission System
☐	☐	Door Latches and Locks
☐	☐	Tires
☐	☐	Exhaust System
☐	☐	Fuel System
☐	☐	Windshield
☐	☐	Windows: Vent, Side, Rear
☐	☐	Windshield Wipers and Washers
☐	☐	Windshield Defroster, Defogger
☐	☐	Horn
☐	☐	Mirror
☐	☐	Speed Indicator
☐	☐	Odometer
☐	☐	Restraining Devices and Seats
☐	☐	Service Brake System
☐	☐	Parking Brake
☐	☐	Floor and Trunk Pans

Explain all items marked "Not OK"

NOTE: Unless otherwise agreed to in the written purchase contract, this form shall neither create any warranties, express or implied, nor affect warranty coverage provided for in the purchase contract.

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE _____ MODEL _____ YEAR _____ VIN NUMBER _____

DEALER STOCK NUMBER (Optional) _____

WARRANTIES FOR THIS VEHICLE:

☐ AS IS - NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ WARRANTY

☐ FULL ☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:	DURATION:

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dogtracks—bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakage excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage

DEALER

ADDRESS

SEE FOR COMPLAINTS

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

September 21, 1984

[FR Doc. 85-12465 Filed 5-22-85; 8:45 am]
BILLING CODE 6750-01-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release No. 33-6580; IC-14513; S7-21-85]

Form N-7 for Registration of Unit Investment Trusts Under the Securities Act of 1933 and the Investment Company Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Proposed form, guidelines and rule amendments.

SUMMARY: The Commission is proposing for comment Form N-7, a new form for registration of unit investment trusts and their securities under the Investment Company Act of 1940 and the Securities Act of 1933, and certain related rules and rule amendments. The Commission is also publishing staff guidelines for the preparation of Form N-7. The proposed form would establish a two-part format for disclosure to prospective investors consisting of a simplified prospectus that can be used to satisfy the prospectus delivery requirements of the Securities Act of 1933 and a Statement of Additional Information that would be available to prospective investors upon request and without charge. The Commission is proposing Form N-7 in order to: (i) Integrate the reporting and disclosure requirements of the Securities Act of 1933 and the Investment Company Act of 1940 for unit investment trusts in one document; (ii) codify in the form and guidelines the disclosure standards that have been developed for unit investment trusts; and (iii) shorten and simplify the prospectus while making available on request more extensive information not of routine interest to most investors.

DATE: Comments on the proposed form, guidelines and amendments should be received on or before July 31, 1985.

ADDRESS: Three copies of all comments should be submitted to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-21-85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Special Counsel, (202) 272-2107 or Stephen C. Beach, Attorney, (202) 272-3040, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment:

(1) Proposed Form N-7, a registration form that would replace Form S-6 [17 CFR 239.16] under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a *et seq.*], and Form N-8B-2 [17 CFR 274.12] under the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-1 *et seq.*], for use by all unit investment trusts which are registered or required to be registered under the 1940 Act other than separate accounts of insurance companies. Proposed Registration Form N-7 is divided into three parts: (i) Part A, the simplified prospectus, would consist of information that meets the requirements of section 10(a) of the 1933 Act [15 U.S.C. 77j(a)]; (ii) Part B, the Statement of Additional Information, would provide additional and more detailed information and would be available to prospective investors upon request, and (iii) Part C would contain other information that is required to be in the registration statement. The text of proposed Form N-7 is published as Appendix A to this release;

(2) Proposed rule 16A of Part 239 [17 CFR 239.16A] under the Securities Act and rule 12A of Part 274 [17 CFR 274.12A] under the 1940 Act prescribing Form N-7 under those acts;

(3) Proposed amendments to rules 487 [17 CFR 230.487], 495 [17 CFR 230.495], 496 [17 CFR 230.496], and 497 [17 CFR 230.497] of Regulation C under the Securities Act; and

(4) Proposed amendments to rules 8b-11 [17 CFR 270.8b-11] and 8b-12 [17 CFR 270.8b-12] under the 1940 Act.

The Commission also is publishing staff guidelines for the preparation of Registration Form N-7, which are Appendix B to this release. All comments and suggestions received concerning the staff guidelines will be considered in the development of final guidelines.

I. Background and Purpose

A. Need for a New Form

When Form N-1A, the two-part registration form for open-end management investment companies ("mutual funds"), was published for comment, the Commission stated its intention to develop a simplified prospectus form for other types of investment companies.[1] Since Form N-1A was adopted,[2] the Commission has proposed for comment Forms N-3 and N-4—simplified prospectuses using the N-1A format for insurance company separate accounts offering variable annuity contracts.[3] It is now proposing for comment Form N-7—a simplified two-part registration statement for unit investment trusts other than separate accounts.

Currently, unit investment trusts register under the 1940 Act on Form N-8B-2 [4] and register their securities (for each separate series of the trust) under the Securities Act on Form S-6.[5] Although Form S-6 incorporates as a substantial part of its requirements many of the disclosure items of Form N-8B-2, the forms are not integrated. That is, a single form cannot be used to register a trust under both the 1940 Act and the securities it issues under the Securities Act.

While much of the disclosure required under the two forms is still useful, changes in the unit trust industry, including a decline of periodic payment plan issuers and the proliferation of tax-exempt bond trusts, have made Form N-8B-2 and Form S-6 partly outdated, and, in some cases, simply irrelevant to present-day unit investment trusts. Informal deviations from the requirements of the forms have been established by the staff through the development of disclosure policies which emphasize materiality, rather than the literal requirements of the forms. The proposed form and guidelines would codify these policies while extending to unit investment trusts the benefits of an integrated form and the two-part disclosure format which the Commission has adopted for mutual funds.

Proposed Form N-7 would provide several significant advantages over Forms S-6 and N-8B-2. First, Form N-7 would integrate the reporting and disclosure requirements of both the Securities Act and the 1940 Act into one form, thereby eliminating unnecessary paperwork and duplicative reports.[6]

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[1] Investment Company Act Release No. 12927 (December 21, 1982) [48 FR 813 (January 7, 1983)]

[2] Investment Company Act No. 13436 (August 12, 1983) [48 FR 37928 (August 22, 1983)].

[3] Investment Company Act Release No. 13689 (December 23, 1983) [49 FR 614 (January 5, 1984)].

[4] Form N-8B-2 was adopted on January 9, 1942 in Investment Company Act Release No. 292 (January 9, 1942) [7 FR 187 (January 10, 1942)].

[5] Form S-6 was adopted on December 18, 1942 in Securities Act Release No. 2887 (December 18, 1942) [7 FR 10653 (December 22, 1942)].

[6] *See* Securities Act Release No. 5964 (August 28, 1978) [43 FR 39548 (September 5, 1978)] regarding integration of the Securities Act and the 1940 Act reporting and disclosure requirements in connection with adoption of Form N-1.

Second, Form N–7 and the accompanying guidelines woud codify the disclosure standards that have been developed by the Commission Staff for unit investment trusts. Third, by adopting the two-part disclosure format of Form N–1A and incorporating many of its reduced disclosure requirements, Form N–7 would permit shorter and simpler prospectuses than are permitted under current practice. Finally, disclosure requirements that experience has shown are unnecessary would be eliminated.[7]

B. Nature and Structure of Unit Investment Trusts

A unit investment trust is a type of investment company [8] that issues redeemable securities representing an undivided interest in a portfolio of specified securities.[9] Typically, unit investment trusts are created by sponsors (frequently brokers or dealers registered with the Commission) that accumulate a fixed portfolio of securities and deposit the acquired securities with a trustee under the terms of a trust indenture between the sponsor and the trustee. The trust then issues units of participation in the portfolio and offers these units to the public at an offering price that is based upon the value of the underlying securities, plus a sales charge.[10]

A key feature of unit investment trusts is that their portfolios are unmanaged, i.e., they generally remain the same over the life of the trust.[11] In addition, unit investment trusts do not have a corporate-type management structure. Instead, the structure of a unit investment trust is set forth in the trust indenture which designates a sponsor, trustee and evaluator to conduct the operations of the trust. The sponsor, after depositing the trust's portfolio securities with the trustee, generally is responsible for distributing the trust units during the trust's initial offering period. The trustee, which is required under the 1940 Act to be a bank meeting certain minimum criteria,[12] keeps custody of the securities comprising the underlying portfolio, maintains the accounts and records of the trust, and provides certain services for the unit holders. The evaluator is generally a non-affiliated entity designated by the trust indenture to value each security in the trust's portfolio as required under the trust indenture.[13]

Although units of each trust series are redeemable, typically the trust sponsor will maintain a secondary market in trust units, and will purchase, at a price equal to or slightly higher than the redemption price, units tendered by investors and reoffer them to other investors. The sponsor's willingness to purchase units that would otherwise be tendered for redemption enables investors to obtain a price that is at least as high as the redemption price and prevents the disruption that could occur if redemptions forced the sale of portfolio securities.[14]

C. Synopsis of the Form

Proposed Form N–7 would have the same two-part disclosure format that the Commission adopted for mutual funds in Form N–1A. The form would contain three parts: a simplified prospectus meeting the requirements of section 10(a) under the Securities Act [15 U.S.C. 77j(a)] and whose delivery satisfies the prospectus delivery requirements of section 5(b)(2) of the Securities Act[15 U.S.C. 77e(b)(2)]; a Statement of Additional Information available to prospective purchasers upon request and without charge; and other information filed as part of the registration statement with the Commission but not required to be made available to investors. The prospectus would contain a concise presentation of material information about the unit investment trust and its securities. The Statement of Additional Information would contain more detailed discussions of matters required to be in the prospectus, as well as other information that is not of routine interest to most investors.

The proposed form and guidelines are self-explanatory. Discussed below are certain aspects of the proposed forms and accompanying guidelines which are of particular significance.

II. General Instructions

Paragraphs A through K of the General Instructions to the form discuss general filing and procedural requirements. Other instructions, applicable to specific disclosure items, are contained in the body of the form.

A. Number of Copies Filed

Regulation C of the Securities Act currently requires the filing of 13 copies of a registration statement on Form S–6 under Rule 402 and 11 copies of any amendments thereto under Rule 472. A review of the routing and use of these copies by Commission staff indicates that several of the copies submitted in a filing could be dispensed with, particularly with respect to filings that require less than a full review. Accordingly, Paragraph C of the General Instructions to proposed Form N–7 would require the registrant to file 10 copies of a Form N–7 registration statement and 6 copies of amendments to Form N–7.

B. Sales Literature

Prospectuses for unit investment trusts frequently include a separate section of sales literature which is

[7] For example, Form N–7 would eliminate the requirement that compensation paid to members of the board of directors of the sponsor be identified.

[8] Under section 4 of the 1940 Act, investment companies are divided into three principal classes: Face amount certificate companies, unit investment trusts and management companies.

[9] Section 4(2) of the 1940 Act defines a unit investment trust as an investment company that (1) is organized under a trust indenture or similar instrument, (2) does not have a board of directors, and (3) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities.

[10] Some unit investment trusts are organized as contractual purchase plans. These plans involve the purchase of periodic payment plan certificates (a term defined in section 2(a) (27) of the 1940 Act [15 U.S.C. 80a–2(a)(27)]). Each certificate represents an indirect interest in the shares of an underlying mutual fund which in turn call for periodic payments over some number of years which enable investors to gradually accumulate shares of the underlying mutual fund. Because of the typically heavy front end loading arrangement of these plans (i.e., large sales loads on the early payments under the certificates), these types of unit investment trusts, in addition to the general requirements of the 1940 Act, are specifically regulated under section 27 of the 1940 Act [15 U.S.C. 80a–27]. These so-called "periodic payment" plans, other than insurance company separate accounts, would be able to use a somewhat modified version of proposed Form N–7. See discussion *infra*.

[11] Under certain conditions, the trust sponsor may direct the trustee to sell portfolio securities. Generally, these conditions relate to an event that could have a detrimental effect on the interest of unit holders of the trust, e.g. default in the payment of interest and/or principal on any of the portfolio securities. Replacement securities may then be substituted for the sold securities.

[12] Section 26(a)(1) of the 1940 Act [15 U.S.C. 80a–26(a)(1)] provides, in relevant part, that the trustee of a registered unit investment trust must be a bank having at all times an aggregate capital, surplus and undivided profits of not less than $500,000.

[13] For its services, the evaluator is paid a continuing fee, usually on a monthly basis, based on the number of positions to be valued. The trustee, for its services, also receives a continuing fee based upon the total value of the trust. The sponsor may receive a continuing fee from the trust for performing portfolio supervisory services, although under Rule 26a–1 under the 1940 Act [17 CFR 270.26a–1] this fee may not exceed the cost, without profit, of the services to the sponsor. The sponsor's profit from the operation of a unit investment trust generally is derived from the sales load it receives from the initial sale of the units of the trust and from any profit it derives on the deposit of securities into the trust. Further profits may be received by reoffering securities acquired in secondary market transactions.

[14] The sponsor is considered to be an issuer of the trust's units under section 2(4) of the Securities Act [15 U.S.C. 77b(4)], and resales by the sponsor of units must be made pursuant to a prospectus meeting the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)].

usually located either within the body of the prospectus or wrapped around the prospectus without being affixed to it. Generally, these sales literature materials are two to eight pages in length. With the advent of a shortened prospectus under proposed Form N–7, which the Commission estimates will be approximately 12 to 18 pages, the Commission is concerned that the inclusion of sales literature in the body of the prospectus could overshadow or obscure required disclosures. To avoid this possibility, Paragraph I of the General Instructions to proposed Form N–7 indicates that sales literature included in the prospectus must not be of such quantity as to lengthen the prospectus and it should not be so placed to obscure essential disclosure.[15]

C. Consolidation of Documents

Section 4(2) of the 1940 Act, as noted, defines a unit investment trust as an investment company which, among other things, issues only redeemable securities each of which represents an undivided interest in a unit of specified securities. Because of the fixed portfolios of these trusts and the correspondingly fixed number of units of participation in them, a trust sponsor generally responds to an increasing demand for units by creating a new series within the trust—a process which involves assembling a new portfolio of securities and issuing a new set of units.[16] The trust must file a separate registration statement under the Securities Act for each new series of units it offers for sale.

Each series represents units of beneficial interest in a specific, separate portfolio of securities, and purchasers of units in a particular series look only to the portfolio securities underlying that series for their investment return. However, a new series typically resembles a previous series in its manner of organization and operation and the type and quality of its portfolio securities. The latter series usually differs in the selection of its specific portfolio securities, the frequency and type of its distributions, and its duration.

The structuring of unit trusts as series and the frequent similarity of series presents an opportunity for the sponsor to develop "evergreen" disclosure that could be made a part of the prospectuses of two or more series of a single trust. A similar opportunity for using "evergreen" disclosure documents is presented because of the sequence of initial and secondary market offerings where, generally, the information contained in the prospectus for the secondary market offering differs only to a limited extent from the information in the prospectus for the initial offering. Over the years, a number of unit trust sponsors have used this approach to prospectus development—creating prospectuses which are divided into two parts with one part containing information specific to the series being registered and the other containing general "evergreen" information applicable to several series. The two parts are affixed together and contain all of the information required by Form S–6.

Paragraph J of the General Instructions to From N–7 would permit any trust whose series are eligible to file a Securities Act registration statement under Rule 487 under the Securities Act [17 CFR 230.487] [17] to structure the prospectus of each eligible series to consist of two parts affixed together. The first part of the prospectus ("Part A–1") would contain information that is specific to the series being registered under the Securities Act. Thus, as proposed, Part A–1 would consist of the cover page, (Item 1), the summary financial and operational information of the series, (Item 2), certain risk disclosures (Item 3(b)), and the schedule of investments (Item 5(a)). The second part of the prospectus ("Part A–2") would consist of all remaining disclosure items required by Part A of Form N–7. The disclosure made in Part A–2 would reflect information which was common to the series being registered and to prior similar series relying on Rule 487. Parts A–1 and A–2, taken together, would provide *all* of the information required by Part A of proposed Form N–7, and, because they would be affixed, Parts A–1 and A–2 would be delivered together as one document to each purchaser of the trust's securities.

Consolidating offering documents in this way would save registrants time and expense in preparing and printing prospectuses. Similarly, under proposed paragraph J of the General Instructions, any trust whose series are eligible to file a registration statement under Rule 487 could, at its discretion, create a common Statement of Additional Information for up to ten series of that trust.[18] The common Statement of Additional Information would consist of all information required by Part B of Form N–7 for each series, including separate financial statements for each series. A sponsor could elect to use a common Statement of Additional Information whether or not the prospectus of a Series is divided into two parts. The consolidation of documents permitted under Form N–7 as proposed would not relieve a trust sponsor from the obligation to file with the Commission a complete registration statement upon the initial offering of units of a series or amendments to that registration statement. In other words, each separate registration statement for a series must include the specified number of copies of a complete Form N–7 even if parts of these documents are common to other series whose registration statement is filed contemporaneously.

D. Issuers of Periodic Payment Plans

Unit investment trusts that issue periodic payment plan certificates raise unique disclosure and regulatory concerns. Section 27 of the 1940 Act specifically regulates issuers of periodic payment plan certificates, and sets forth, in particular, limitations on sales loads and provides rescission and refund rights to investors in these plans. Apart from certain insurance company separate accounts,[19] this kind of

[15] The instructions also indicate that members of the National Association of Securities Dealers, Inc. ("NASD") are not relieved of the filing and other requirements of the NASD for investment company sales literature.

[16] In addition, depending on the availability of units repurchased by the sponsor in the secondary market, the sponsor may reoffer to investors units acquired through its secondary market transactions.

[17] Rule 487 permits eligible unit investment trusts that issue securities in series to designate the date and time of effectiveness of a Securities Act registration statement filed with respect to a series of such trust, if the registrant identifies at least one previous series of the trust for which the effective date was determined by the Commission or its staff, and the registrant represents, among other things, that (a) the securities deposited in the series being registered do not differ materially in type or quality from those deposited in such previous series; and (b) the registration statement of the new series does not contain disclosures that differ in any material respect from those of previous series, except to the extent necessary to identify the specific portfolio securities deposited in, and provide essential financial information for, the new series.

[18] The limitation to ten series for the common Statement of Additional Information is designed to fashion a compromise between the need for a document understandable to investors and the effort to provide cost savings through consolidation.

[19] Insurance company separate accounts which issue variable annuity contracts (and variable life insurance) are subject to the provisions of section 27 regarding periodic payment plans. However, proposed Form N–7, if adopted, would not be available to insurance company separate accounts organized as unit investment trusts. Form N–4, which the Commission expects to adopt in the near future, would be available to companies issuing variable annuity contracts. If such accounts are not eligible to use N–4, because, for example, they are issuers of variable life insurance contracts, they will continue to use Forms S–6 and N–6B–2, until such time as the Commission adopts a new form for these companies.

investment company does not currently represent a major segment of the unit investment trust industry. Because of their unique structure and the statutory proscriptions of section 27, proposed Form N–7 would include special instructions and disclosure requirements for periodic payment plans in an Appendix to the form.

III. Disclosure Items Under Proposed Form N–7

Part A: Information Required in a Prospectus

Part A of proposed Form N–7 sets forth nine disclosure items applicable to unit trusts. Most of the items are self-explanatory and only those items of particular interest are highlighted below.

Item 2: Summary Information

Item 2 requires a summary of certain essential financial and operational information regarding the trust and units of participation therein. Specifically, the item requires a brief discussion of the major features of the unit trust including the offering, repurchase and redemption price per unit, the sales charge, estimated current return, and information on fees, distributions, valuation and termination of the trust. Of particular significance for trusts composed of debt securities is the estimated current return, calculated generally by dividing estimated net annual interest income by the public offering price of the series units.

The information required by Item 2 must be as of the date of the financial statements for the initial offering of the trust units and as of a date not more than 15 days prior to the filing date for any post-effective amendment to the regiatration statement. The type of general tabular information required by Item 2 is uniformly presented in unit trust prospectuses as a current industry practice and the Commission believes that such information should continue to be disclosed in Form N–7.

Item 3: General Description of the Trust

Risk Disclosures

Risk disclosures are a central feature of the disclosure requirements for investment companies. Item 3(b) of proposed Form N–7 calls for discussion of the price risk factors associated with investment in the Registrant, including risks associated with investing in the types of securities included in the trust, concentration risks, including concentration resulting from geographic location and source of revenue, liquidity risks and risks caused by fluctuations in interest rates. The two-part disclosure format permits a trust to concisely discuss risk factors in the prospectus and amplify or expand the discussion in the Statement of Additional Information. The level of detail of the risk disclosure in the prospectus depends on the magnitude of the risk and the level of exposure to it by the trust and unit holders. Guideline 13 provides further detail on the manner in which risk disclosure should be made.

Fees and Expenses

Proposed Items 3(c) and 3(d) require a brief description of all significant expenses of the trust and all charges to unit holders and their accounts. The item requires that the expense and charge information be disclosed in one location in the prospectus. The Commission specifically solicits comments on the effect of consolidating proposed Items 3(c) and 3(d) (in one location in the prospectus) on the use by registrants of the two-part prospectus (Part A–1 and part A–2) permitted by Paragraph J of the General Instructions.

Item 5: Portfolio Securities

Schedule of Investments

Item 5(a) requires a schedule of the investments of the trust or series in tabular form with certain basic information about each portfolio security. Under existing practice the schedule of investments is included as part of the financial statements of the trust. Proposed Item 5(a) would require the schedule to be included in the prospectus, even though the full financial statements of the trust only need be provided in the Statement of Additional Information under proposed Item 18.

The Commission considers the schedule of investments an essential part of the disclosure to be made in the prospectus. Because of the fixed portfolio of most unit investment trusts, an investor in a unit trust is essentially buying a participation in the specific securities deposited therein. For this reason, the schedule is of particular significance to investors because it allows them to review the specific portfolio securities in which they are investing. [20] In addition, the tabular presentation of information in the schedule of investments makes the schedule easily understood by investors and particularly suitable for use in the simplified disclosure format of proposed Form N–7.

Securities Ratings

Securities ratings of portfolio securities would be required to be disclosed in the schedule of investments under Item 5(a) of Form N–7 to the extent that the investment objective or policies of the trust specify a minimum grade for portfolio securities or that all portfolio securities be of investment grade. Disclosure of securities ratings should provide material information to potential investors attempting to determine the quality of securities and their distribution in the trust in light of the trust's investment objectives and policies.

The ratings may be provided by a ratings organization or by a representation by the sponsor. As indicated in Guideline 11 to Form N–7, by operation of Rule 436(g) under the Securities Act [17 CFR 230.436(g)], the ratings assigned to a class of debt securities, convertible debt securities or preferred stock by a nationally recognized statistical rating organization may be included in the registration statement or prospectus without obtaining the consent of the rating organization as an expert under section 7 of the Securities Act [15 U.S.C. 77a(g)]. Where a rating assigned to the trust itself is included in the prospectus,[21] Guide 11 requires more extensive disclosure in the prospectus than is required for ratings of individual portfolio securities.

Item 6: Tax Status and Consequences

Item 6 of proposed Form N–7 requires a general discussion of the tax status of the trust and the major tax consequences to unit holders of an investment in the trust. The item specifically requires the registrant to discuss the tax status as opined by registrant's counsel, the tax consequences resulting from the kind of portfolio securities held by the trust, and the applicability of relevant state and local taxes to trust distributions to investors.

[20] By contrast, a schedule of investments with respect to a mutual fund could be subject to daily changes as the fund buys and sells portfolio securities. Such frequent changes would appear to make a schedule of investments less useful to a mutual fund investor. Hence, in adopting Form N–1A, the Commission found it appropriate to permit mutual funds to include their schedule of investments in the Statement of Additional Information as an attachment to the financial statements.

[21] Under rule 436(g), a rating assigned to a trust or its units is not eligible for exemption from the consent requirement of section 7 of the Securities Act.

Part B: Statement of Additional Information

The general format of the Statement of Additional Information is similar to that of Form N–1A. The disclosure items of the Statement of Additional Information represent information that may be of interest to some investors, including certain matters not included in the prospectus as well as material that constitutes an expanded discussion of information only briefly described in the prospectus.

Item 18: Financial Statements

Under the proposal, the full financial statements of the trust would be required in the Statement of Additional Information, but not in the prospectus. This follows a similar provision in Form N–1A for the financial statements of open-end management investment companies.

Part B of proposed Form N–7 would require the following financial statements of the trust: an audited balance sheet or statement of assets and liabilities for the most recent fiscal year, an audited statement of operations for the most recent fiscal year and audited statements of changes in net assets for the two most recent fiscal years.[22] Where a series of a trust has a prior operating history but has not previously had an effective registration statement under the Securities Act, then, in addition to the above financial statements, it must include interim financial statements, as of a date within 90 days prior to the date of filing. In the case of a registrant which does not have a prior operating history, the financial statements filed with its initial registration statement under the Securities Act would include only a balance sheet or statement of assets and liabilities.

In recent years, a number of sponsors have created trusts which contain securities guaranteed as to the timely payment of principal and interest by third parties, typically banks from whom the sponsor has purchased the securities for deposit in the trust. Other similar arrangements may provide for the third party to agree to repurchase the deposited securities upon the occrrence of certain events or to issue a letter of credit guaranteeing payment of principal and interest in connection with all or some of the trust's portfolio securities.[23]

Because of the importance these third party features may play in a decision to purchase units of the trust, paragraph 18(e) of proposed Form N–7 would also require, under certain circumstances, that (i) guarantors, (ii) parties to a put agreement, buy-back agreement, or similar agreement for portfolio securities, or (iii) issuers of letters of credit that guarantee the payment of principal or interest either include their financial statements as of the end of their most recent fiscal year or incorporate by reference certain of their 1934 Act filings in the Statement of Additional Information (and deliver them with the Statement of Additional Information.[24] This requirement would be triggered when the respective guarantee, agreement or letter of credit is entered into as a result of or related to the deposit or holding of securities in the trust and the affected securities constitute 25% or more of the value of the trust's portfolio securities as of the date of their deposit in the trust.[25]

Inclusion of the financials of guarantors, parties to put agreements, buy back agreements or similar agreements respecting portfolio securities (hereinafter "third parties") in the Statement of Additional Information represents a change in current staff policy which simply requires that the financials of third parties be made available upon request to interested persons. The Commission considers the new procedure set forth in the proposal appropriate because of the increasing use of third party arrangements and their importance to persons investing in unit trusts of this type. Indeed, it appears that it is often the existence of the third party feature which makes an investment in the unit trust attractive.

The Commission is aware that the proposed requirement that the third party financial statements be included or incorporated by reference in the registration statement could increase the exposure to liability of the sponsor of the trust.[26] This, in turn, could increase the ultimate costs to unit holders. The Commission requests comment on the specific burdens and cost to registrants of the proposed new procedure.

Part C: Other Information

Part C of proposed Form N–7 concerns information that is required in the registration statement but not in the prospectus or Statement of Additional Information. The information required in Part C is essentially the same as that required in Part C of Form N–1A, modified for unit investment trusts.

IV. Guidelines

Over the years, numerous releases and no-action positions have described the views of the staff on matters affecting investment company disclosures. In addition, the staff has developed a number of policies relating to unit investment trusts that have not been formally announced. When it adopted Form N–1A, the Commission published staff guidelines for Form N–1A[27] that bring together and update many of these positions for mutual funds. Guidelines have not been available to registrants for Form N–8B–2 and Form S–6. In order to assist registrants in preparing Form N–7, the Commission is publishing staff guidelines for this form, included as Appendix B to this release. These guidelines represent a compilation of staff positions with respect to appropriate disclosure for unit investment trusts.[28] Comments are invited on the guidelines and other subjects not covered by them in order to assist the staff in developing appropriate final guidelines for Form N–7.

Restricted Securities

Guide 3 would permit a unit investment trust to hold in its portfolio

[22] The requirement that the trust furnish an audited balance sheet and statement of operations for its most recent fiscal year would represent a relaxation of the present requirement under Form S–6 which calls for a statement of income and other distributions for the last three fiscal years. If adopted, this would bring the financial statement requirements for unit trusts in conformity with those for open-end management companies.

[23] The letters of credit referred to above are those which guarantee the payment of principal and/or interest on trust portfolio securities. These should be distinguished from letters of credit issued when the sponsors of a trust deposit in the trust, in lieu of the securities listed in the portfolio schedule, contracts to purchase those securities together with the amount of cash, cash equivalents and letters of credit issued by a bank necessary to purchase the securities.

[24] The staff has not required that financial statements of insurers which insure unit trust portifolio securities be included in the registration statement. This policy would be continued under proposed Form N–7. Because of the extensive regulation of insurance companies by state insurance authorities and the focus of this regulation in the solvency of insurers, this distinction seems appropriate.

[25] Financial statements of the trust sponsor are only required in the Statement of Additional Information if the sponsor has funding requirements pursuant to section 27 of the 1940 Act of if the sponsor guarantees a secondary market for the units of the trust at a price which is higher than the redemption price of the units.

[26] Section 11 of the Securities Act imposes strict liability on issuers (e.g., sponsors of unit investment trusts) for material misstatements and omissions in registration statements. Inclusion of the financials of third parties in the registration statement would, in effect, result in the unit trust sponsor assuming liability for the accuracy of the third party's financials.

[27] Investment Company Act Release No. 13436 (August 12, 1983) [48 FR 37920 (August 22, 1983)].

[28] As such, unless the guidelines incorporate rules of the Commission, they do not have the force of rules promulgated by the Commission. To the extent the guidelines may reflect a change in staff policy, the staff would expect to apply them on a prospective basis only.

restricted securities with a value of up to 25% of the face amount of the portfolio securities in the trust at the time of deposit (and up to 40% where the increase is a result of the sale or change in value of unrestricted securities) if a number of conditions are met. For purposes of this guideline, "restricted securities" mean those securities that cannot be sold publicly by the trustee without registration under the Securities Act. The conditions, in general, are designed to ensure the liquidity of the trust securities as a whole.

The 25% limitation set forth in proposed Guide 3 represents a change in the position of the staff. Current policy allows a unit investment trust to invest up to 40% of face amount of portfolio securities in restricted securities (and up to 50% where the increase is a result of the sale or change in value of unrestricted securities). The 40% figure is considerably more liberal than the 10% investment which the Commission has stated would be a prudent limit on any open-end investment company's acquisition of restricted securities, or other assets not having a readily available market quotation.[29]

These limitations on holdings of restricted securities are premised on Commission concerns over the valuation and liquidity of restricted securities that were discussed in Securities Act Release No. 5847 (October 21, 1969). Because open-end management investment companies and unit investment trusts must be prepared to satisfy redemptions within seven days under section 22(e) of the 1940 Act,[30] they must maintain a portfolio of investments that enables them to fulfill that obligation. This requires a high degree of liquidity because redemption demands or other exigencies are not always predictable. Further, the seven day period for payment or satisfaction upon redemption required under section 22(e) may necessitate that an investment company sell restricted securities in a hastily-arranged private placement and therefore receive less than the market value of the restricted securities reflected in the trust series' net asset value. Thus, instead of arranging a private sale of restricted securities, an investment company that is faced with redemptions may decide to sell unrestricted securities that it would otherwise have retained on the basis of comparative investment merit. Although the longer-term nature of investments in trusts compared generally to mutual funds, the fixed portfolio of most unit investment trusts, and the maintenance of a secondary market for securities by unit investment trust sponsors support a more liberal policy for investment in restricted securities by unit investment trusts than by mutual funds, the Commission believes, in view of the potential problems raised by the statutorily-mandated seven day redemption period under section 22(e) of the 1940 Act, that a 25% limitation is more appropriate than a 40% one.

[29] Securities Act Release No. 5847 (October 21, 1969) [35 FR 19989 (December 31, 1969)]

[30] Although most unit trust sponsors maintain a secondary market for units of the various trust series, the sponsors may stop maintaining a secondary market at any time or may otherwise redeem units purchased from unit holders in the secondary market, bringing into play the redemption requirements of section 22(e).

V. Proposed Rules Amendments

In order to implement the two-part format of Form N–7, the Commission is proposing for comment technical amendments to rules 8b–11 and 8b–12 under the 1940 Act and rules 495, 496, and 497 under the Securities Act.

VI. Proposed Amendment to Rule 487

The Commission is proposing an amendment to rule 487 under the Securities Act relating to the automatic effectiveness of registration statements filed by certain unit investment trusts. That rule generally provides for automatic effectiveness for a registration statement for securities of a new series of a trust if the registrant represents that the disclosures in the registration statement being filed do not differ in any material respect from those contained in the registration statement of one or more specifically identified previous series of the trust declared effective by the Commission staff, except to the extent the differences are necessary to identify the specific portfolio securities of, and to provide essential financial information for, the series being registered. The proposed amendment would limit these previous series to those which were declared effective by the staff within the past two years.

Rule 487 was adopted by the Commission in 1982 to relieve the burden on Commission staff and registrants associated with staff review of registration statements which generally are repetitive in nature and do not present substantive issues and to permit registrants to assume greater responsibility for compliance with the disclosure requirements of the Securities Act and the 1940 Act. When the rule was adopted, the Commission indicated the staff would perform spot checks to monitor compliance with the rule.

The amendment to rule 487 being proposed herein is intended to provide a more efficient mechanism for the staff to monitor unit investment trust disclosure. Under the rule as proposed to be amended, the sponsors of a trust which was continuously creating new "follow-on" series could not rely on rule 487 indefinitely. Rather, after two years had elapsed since staff review of the one or more similar series, the next series could not become effective automatically pursuant to rule 487, but would have to be filed for full staff review.

VII. Transition Period

If the Commission adopts proposed Form N–7 on a permanent basis, as proposed or modified, the form would replace Form N–8B–2 under the 1940 Act and Form S–6 under the Securities Act for unit investment trusts other than separate accounts. However, in order to permit both the Commission and the industry to adjust to the new form in an orderly way, the Commission would expect to provide for a transition period during which all registrants could use either the existing forms or the new form. When it adopted Form N–1A, the Commission provided for a transition period of one year and it would appear that a one year transition period would be appropriate for unit investment trusts to convert to Form N–7. After the expiration of the transition period, all unit investment trusts other than separate accounts would use Form N–7.[31]

The Commission expects that the conversion of trusts from Forms S–6 and N–8B–2 to Form N–7 would be handled in much the same manner as the conversion of mutual funds from Form N–1 to Form N–1A. However, comment is solicited on the most efficient manner of handing the conversion taking into consideration the burden on registrants and the need for the Commission and investors to have all unit investment trusts use the same form and provide comparable disclosures.

List of Subjects

17 CFR Parts 230 and 239

Reporting requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting requirements, Securities.

Text of Rules and Form

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

[31] As discussed above, the Commission has proposed Form N–4 for insurance company separate accounts organized as unit investment trusts. *See* footnote 3 *supra* and accompanying text.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Regulation C of Part 230 is revised to read as follows:

Authority: Sec. 230.400 to 230.499 issued under sections 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended; 15 U.S.C. 77f, 77h, 77j, 77s unless otherwise noted.

Note.—In §§ 230.400 to 230.499, the numbers to the right of the decimal point correspond with the respective rule number in Regulation C, under the Securities Act of 1933.

2. By proposing to revise paragraph (b)(3) introductory text of § 230.487 as follows:

§ 230.487 Effectiveness of registration statement filed by certain unit investments trusts.

* * * * *

(b) * * *

(3) The registrant identifies one or more previous series of the trust for which the effective date of the registration statement was determined by the Commission or its staff not more than two years before the date designated by the registrant under paragraph (a) of this rule, and makes the following representations:

* * * * *

3. By proposing to revise paragraphs (a), (c), and (d) of § 230.495 as follows:

§ 230.495 Preparation of registration statement.

(a) A registration statement on Form N–1A or Form N–7 shall consist of the facing sheet of the applicable form; cross-reference sheet; a prospectus containing the information called for by such form; the information; list of exhibits; undertakings and signatures required to be set forth in such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

* * * * *

(c) In the case of a registration statement filed on Form N–1A or Form N–7, Parts A and B shall contain the information called for by each of the items of the applicable Part, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item may be omitted. Copies of Parts A and B may be filed as part of the registration statement in lieu of furnishing the information in item-and-answer form. Whenever such copies are filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from Parts A and B, except to the extent provided in paragraph (d) of this rule.

(d) In the case of a registration statement filed on Form N–1A or Form N–7, where any item of those forms calls for information not required to be included in Parts A and B (generally Part C of such forms) the text of such items, including the numbers and captions thereof, together with the answers thereto, shall be filed with Parts A and B under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in Parts A and B shall also be filed as part of the registration proper, unless incorporated by reference pursuant to Rule 411 (§ 230.411 of this chapter).

4. By proposing to revise § 230.496 as follows:

§ 230.496 Contents of prospectus used after nine months.

In the case of a registration statement filed on Form N-1A or Form N–7, there may be omitted from any prospectus or Statement of Additional Information used more than 9 months after the effective date of the registration statement any information previously required to be contained in the prospectus or the Statement of Additional Information insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus or the Statement of Additional Information, is contained therein.

5. By proposing to revise paragraphs (c) and (e) of § 230.497 as follows:

§ 230.497 Filing of prospectuses—number of copies.

* * * * *

(c) For investment companies filing on Form N–1A [§ 239.12A and § 274.11A of this chapter] or Form N–7 [§ 239.16A and § 274.12A of this chapter], within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus and Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used.

* * * * *

(e) For investment companies filing on Form N–1A or Form N–7, after the effective date of a registration statement no prospectus which purports to comply with section 10 of the Act or Statement of Additional Information which varies from any form of prospectus or Statement of Additional Information filed pursuant to paragraph (b) of this rule shall be used until copies thereof have been filed with, or mailed for filing to, the Commission, together with five copies of a cross reference sheet similar to that previously filed, if changed.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. The authority citation for Part 239 is revised to read as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a. *et seq.*, unless otherwise noted.

7. By adding § 239.16A to read as follows:

§ 239.16A. Form N–7, registration statement of unit investment trusts other than separate accounts.

Form N–7 shall be used for the registration under the Securities Act of 1933 of securities of unit investment trusts other than separate accounts of insurance companies. This form also is to be used for the registration statement of unit investment trusts other than separate accounts of insurance companies under section 8(b) of the Investment Company Act of 1940 (§ 274.12A of this chapter).

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

8. The authority citation for Part 270 continues to read as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a–37, 80c–89, unless otherwise noted.

9. By proposing to revise paragraph (b) of § 270.8b–11 as follows:

§ 270.8b–11 Number of copies-signatures-binding.

* * * * *

(b) In the case of a registration statement filed on Form N–1A or Form N–7, three complete copies of each part of the registration statement (including exhibits and all other papers and documents filed as part of Part C of the

registration statement) shall be filed with the Commission.

* * * * *

10. By proposing to revise paragraph (b) of § 270.8b–12 as follows:

§ 270.8b–12 Requirements as to paper, printing and language.

* * * * *

(b) In the case of a registration statement filed on Form N–1A or Form N–7, Part C of the registration statement shall be filed on good quality, unglazed, white paper, no larger than 8½ by 11 inches in size, insofar as practicable. The prospectus and Statement of Additional Information, however, may be filed on smaller-sized paper provided tht the size of paper used in each document is uniform.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

11. The authority citation for Part 274 continues to read as follows:

Authority: The Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.*, unless otherwise noted.

12. By proposing to add § 274.12A to read as follows:

§ 274.12A. Form N–7, registration statement of unit investment trusts other than separate accounts.

Form N–7 shall be used as the registration statement to be filed pursuant to Section 8(b) of the Investment Company Act of 1940 by unit investment trusts other than separate accounts of insurance companies. This form shall be be used for registration under the Securities Act of 1933 of the securities of unit investment trusts other than separate accounts of insurance companies.

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding Form N–7 proposed herein. The Analysis notes that proposed Form N–7 would (i) integrate the reporting and disclosure requirements of both the Securities Act and the 1940 Act in one document; (ii) codify the disclosure standards that have been developed by staff of the Commission for unit investment trusts; and (iii) shorten and simplify the prospectus provided to all investors while, at the same time, enabling an investor to receive more extensive information upon request. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Stephen C. Beach, Stop 5–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Paperwork Reduction Act

The information collection required by proposed N–7 has been submitted to the Office of Management and Budget.

Statutory Authority

The Commission hereby proposes for comment Form N–7, rule 16A of Part 239 and amendments to rules 487, 495, 496, and 497 under the Securities Act of 1933, and rule 12 of Part 274 and amendments to rule 8b–11A and 8b–12A under the Investment Company Act of 1940 under the authority of sections 7, 10, and 19 of the Securities Act of 1933 [15 U.S.C. 77g, 77j, and 77s] and sections 8, 30, and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–29, and 80a–37].

By the Commission.

John Wheeler,

Secretary.

May 14, 1985.

811–_____

2–_____

Securities and Exchange Commission—Washington, D.C.

Form N–7

Registration Statement Under the Securities Act of 1933 ( )
Pre-Effective Amendment No. ____ ( )
Post-Effective Amendment No. ____ ( )

and/or

Registration Statement Under the Investment Company Act of 1940 ( )
Amendment No. ____

(Check appropriate box or boxes.)

_____

(Exact Name of Registrant)

_____

(Name of Sponsor)

_____

(Address of Sponsor's Principal Executive Offices) (ZIP Code)
Sponsor's Telephone Number, including Area Code _____

_____

(Name and Address of Agent for Service)
Approximate Date of Proposed Public Offering _____

[If the registration statement is filed pursuant to Rule 487, include the following information:]

It is proposed that this filing will become effective on (date) at (time) pursuant to Rule 487

[If the registration statement is filed as a post-effective amendment, include the following information:]

It is proposed that this filing will become effective (check appropriate spaces)

—immediately upon filing pursuant to paragraph (b) of rule 485
—on (date) pursuant to paragraph (b) of rule 485
—60 days after filing pursuant to paragraph (a) of rule 485
—on (date) pursuant to paragraph (a) of rule 485

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Instructions

The "Approximate Date of Proposed Public Offering" and the table showing Calculation of Registration Fee under the Securities Act of 1933 should be included where securities are being registered under the Securities Act of 1933.

Registrants that are registering an indefinite number of securities under the Securities Act of 1933 pursuant to Investment Company Act Rule 24f–2 [17 CFR 270.24f–2] should include the declaration required by Rule 24f–2(a)(1) on the facing sheet, instead of or in addition to the Securities Act registration fee table.

Fill in the 811–____ and 2– ____ blanks only if these filing numbers (for the Investment Company Act of 1940 registration and the Securities Act of 1933 registration respectively) have already been assigned by the Securities and Exchange Commission in the course of previous filings. If a single form is used to register more than one series or portfolio under the Securities Act of 1933, list each 2–____ assigned.

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General Instructions

A. Who May Use Form N–7

Form N–7 shall be used by unit investment trusts, except for insurance company separate accounts, for filing: (i) an initial registration statement under Section 8(b) of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a–8(b)] and any amendments to it; (ii) a registration statement under the Securities Act of 1933 ("Securities Act") and any amendments to it; or (iii) any combination of the above 1940 Act and Securities Act filings.

B. Registration Fees

Section 6(b) of the Securities Act [15 U.S.C. 77f(b)] and Rule 457 [17 CFR 230.457] set forth the fee requirements under the Securities Act. Rule 8b–6 under the 1940 Act [17 CFR 270.8b–6] sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the Securities Act. Registrants that are increasing the amount of securities registered or registering an indefinite amount of their securities are also directed to Rules 24e–2 and 24f–2, respectively, under the 1940 Act [17 CFR 270.24e–2 and 270.24f–2] to compute the filing fee.

C. Number of Copies

Filings of registration statements on Form N–7 shall contain the number of copies specified in Securities Act Rule 402 [17 CFR 230.402], except that seven additional copies of the registration statement shall be furnished to the Commissioner, instead of the ten additional copies required by Rule 402(b).

Filings of amendments on Form N–7 shall contain the number of copies specified in Securities Act Rule 472 [17 CFR 230.472], except that there shall be filed with the Commission three additional copies of such amendment, two of which shall be marked to indicate clearly and precisely, by underlining or in some other appropriate manner, the changes made in the registration statement by the amendment, instead of the eight additional copies with at least five marked as required by Rule 472(a) [17 CFR 230.472(a)].

D. Special Terms

Trust. The term "trust" means a unit investment trust as defined in Section 4(2) of the 1940 Act. Unless the context indicates otherwise, the term "trust" refers to the unit investment trust series on behalf of which the Securities Act registration statement is filed.

Sponsor. The term "sponsor" means the person primarily responsible for the organization of the Registrant or who has continuing responsibilities for the administration of the affairs of the Registrant other than the trustee or custodian. The term includes the depositor of the registrant. If there is more than one sponsor, the information called for in this form about the sponsor shall be provided for each sponsor.

Unit Holder. The term "unit holder" means the holder of a security or securities representing an undivided interest in a unit investment trust.

Portfolio Company or Portfolio Security. The terms "portfolio company" or "portfolio security" mean any company or security in which the Registrant invests.

E. Application of General Rules and Regulations

If the registration statement is being filed under both the Securities and 1940 Acts or under only the Securities Act, the General Rules and Regulations under the Securities Act, particularly Regulation C [17 CFR 230.400–497], shall apply, and compliance with them will be deemed to meet any corresponding rules for registration under the 1940 Act. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b)–1 to 8(b)–32 [17 CFR 270.8b–1 to 8b–32], shall apply.

F. Amendments

Where Form N–7 has been used to file a registration statement under both the Securities Act and 1940 Act, any amendments of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

G. Incorporation by Reference

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus, so long as the Statement of Additional Information is available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement are provided along with the Statement to each person to whom the Statement is sent or given.

Rule 411 under the Securities Act [17 CFR 230.411], and rules 0–4, 8b–23, 8–24, and 8b–32 under the 1940 Act [17 CFR 270.0–4, 270.8b–23, 270.8b–24, and 270.8b–32] contain guidance on incorporating information or documents by reference into a registration statement. In general, a Registrant may incorporate by reference, in the answer to any item of Form N–7 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the Securities Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the rule prior to incorporating by reference any document as an exhibit to a registration statement.

H. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both the Securities Act and 1940 Act shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the Securities Act [17 CFR 230.495(a)], Parts A, B, and C of Form N–7, required signatures; all other documents or information filed as a part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

2. A registration statement or an amendment to it which is filed under only the Securities Act shall contain all the information and documents specified in paragraph 1 of this Instruction H, except for an amendment to a Securities Act registration statement filed only under Sections 24 (e) or (f) of the 1940 Act [15 U.S.C. 80a–24(e), 80a–24(f)].

3. An amendment to a Securities Act registration statement filed only to register additional securities under Sections 24(e) or 24(f) of the 1940 Act need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are reminded that

an opinion of counsel must accompany a Rule 24f–2 notice filed by Registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Parts A and B except Item 1, responses to all items of Part C except Items 19(b)(4) and (7)–(12), required signatures, all other documents or information filed as part of the registration statement and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

I. Preparation of the Registration Statement on Amendment

Form N–7 is divided in three parts. Part A relates to the prospectus required by Section 10(a) of the Securities Act; Part B relates to the Statement of Additional Information; Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus

The purpose of the prospectus is to provide essential information about the Registrant and its securities in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear and concise. Avoid the use of technical or legal terms, complex language, or excessive detail.

1. Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant.

2. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

3. Responses to items that use terms such as "list" or "identify" should include only a minimum of explanation or description.

4. The prospectus may also include all or part of the information required by Part B. When information required by Part B is in the prospectus, it need not be in the Statement of Additional Information. If all of the information required by Part B is in the prospectus, a separate Statement of Additional Information is not necessary. The cross-reference sheet must show which items of Part B are included and where they are in the prospectus.

Part B: Statement of Additional Information

The items in Part B call for additional information which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registrants an opportunity to provide more information about matters that they believe may interest investors.

In most cases, Registrants should not repeat in Part B information that is in the prospectus. However, the prospectus, Part A of Form N–7, and the Statement of Additional Information, Part B of Form N–7, are independent documents. Therefore, the Statement of Additional Information should be understandable by itself.

General Instructions for Parts A and B

1. The information in the prospectus and the Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant. The information need not be in any particular order, except that Items 1 and 2 must be the first two items in the prospectus.

2. The prospectus or the Statement of Additional Information may contain more information than called for by this Form, provided that the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of required information. Please note paragraph 4 below—"Instructions for charts, graphs, tables and sales literature."

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the Securities Act [17 CFR 230.423]. Furthermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the Securities Act [17 CFR 230.430, 230.460].

4. Instructions for charts, graphs, tables and sales literature:

(a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading.

(b) If "sales literature" is included in the prospectus, the issuer should be aware of the following: (1) sales literature should not be of such quantity as to lengthen the prospectus, and it should not be so placed as to obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. ("NASD") are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359 (January 26, 1973) [38 FR 7220 (March 19, 1973)]).

J. Consolidation of Documents

Part A: Prospectus

Any trust whose series are eligible to file a Securities Act registration statement under Rule 487 of the Securities Act may structure the prospectus of each of those eligible series to consist of two parts affixed together. The first part of the prospectus ("Part A–1") shall consist of information that is specific to the series being registered under the Securities Act. The following information would be considered series-specific:

Item 1. Cover Page.
Item 2. Summary Information.
Item 3(b). Risk Disclosure (partial).
Item 5(a). Schedule of Investments.

The risk disclosures required by Part A–1 are descriptions of the risks peculiar to that series, including the credit worthiness of the issuers, any peculiar features of the securities deposited in that series, and any risks related to the composition of the portfolio, e.g., concentration. Provide a cross-reference to additional risk disclosure in Part A–2.

The second part of the prospectus ("Part A–2") would consist of all remaining disclosure items required by Part A of Form N–7 (including any remaining risk disclosures under Item 3(b)). If information required by Part A is not included in Part A–1, it must be included in Part A–2. As noted above, Parts A–1 and A–2 must be affixed together.

Part B: Statement of Additional Information

Any trust whose series are eligible to file pursuant to Rule 487 of the Securities Act may also, at its discretion, create a common Statement of Additional Information for up to ten series of that trust. The common Statement of Additional Information would consist of all information required by Part B of Form N–7, including separate financial statements for each of the series, and could be created whether or not the prospectus of a series is divided into two parts.

K. Issuers of Periodic Payment Plans

A unit investment trust that issues periodic payment plan certificates using Form N–7 also must comply with all instructions and required disclosures specified in the Appendix to Form N–7.

Part A—Information Required in a Prospectus

Item 1. Cover Page

(a) The outside cover page must contain the following information:

(i) The Registrant's name;
(ii) The sponsor's name;
(iii) An identification of the type of unit investment trust, e.g., tax-exempt bond trust, corporate bond trust, or a brief statement of Registrant's investment objective(s);
(iv) A statement or statements that (A) the prospectus sets forth concisely the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; and (C) a statement of Additional Information about the Registrant has been filed with the Commission and is available without charge upon the investor's written or oral request. (This statement should explain how to obtain the Statement of Additional Information and whether any of it has been incorporated by reference into the prospectus. If there is no separate Statement of Additional Information because all the information required in that statement is included in the prospectus, so state.);
(v) If the prospectus consists of two parts, a statement to that effect and a brief description of each part;
(vi) The date of the prospectus and the date of the Statement of Additional Information;
(vii) The statement required by Rule 481(b)(1) [17 CFR 230.481(b)(1)] under the Securities Act; and
(viii) Such other items of information as are required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.
(b) The cover page may include other information, but care should be taken that any additional information does not, either by its nature, or manner of presentation, obscure or impede understanding of the information required to be presented.

Item 2. Summary Information

Provide at least the following summary information regarding the trust as of the date of the financial statements required in the Statement of Additional Information for the initial offering of trust units. For filings of amendments, other than those related to the initial offering, provide the information as of a date not more than 15 days prior to the date of filing.

Summary Information

1. Number of units outstanding.
2. Aggregate offering price.
3. Prices per units:
(a) Public offering price on initial offering;
(b) Sales charge on initial offering;
(c) Public offering price in secondary market offering;
(d) Sales charge in secondary market offering;
(e) Repurchase price of sponsor; and
(f) Redemption price.
4. Estimated current return.
5. Fees.
(a) Trustee's annual fee;
(b) Sponsor's annual fee; and
(c) Evaluator's annual fee.
6. Distributions.
(a) Brief description;
(b) Frequency; and
(c) Minimum distribution.
7. Valuation.
(a) Evaluator's name; and
(b) A description of any affiliation with the sponsor or trustee, if applicable.
8. Termination.
(a) Mandatory termination date; and
(b) Conditions for earlier termination.

Instructions:

Item 2, No. 3:
Indicate briefly the components of the public offering price. State the sales charge both as a percentage of the public offering price and as a percentage of the net amount invested. If calculated differently from the initial offering, provide the public offering price and sales charge for sales of units in the secondary market. Footnote provisions relating to accrued interest, if applicable.
If accrued interest is not remitted to unit holders until units are redeemed or the trust is liquidated, the amount of accrued interest should be included or added to the cost of purchase. In this regard, any accrued interest should be included in the divisor in the computation of estimated current return.
Item 2, No. 4:
Briefly indicate how estimated current return is calculated. State any qualifications pertaining to this calculation, including the use of estimates and any circumstances which would subject the calculation to revision; provide, in response to this sub-Item, per unit amounts of estimated total annual interest income and total annual expenses in the text. If the inclusion of when-issued securities or delayed delivery contracts in the trust will affect total annual interest income and/or current estimated return, those effects should be briefly discussed. In the event that the impact of when-issued securities or delayed delivery contracts results in an estimated current return for initial investors that is lower than the estimated current return for later investors, the lower amount for estimated current return should be used in response to the item.

Item 3. General Description of the Trust

(a) Concisely discuss the organization and operation or proposed operation of the Registrant. Include the following:
(i) Basic identifying information, including the date and form of organization of the Registrant and the name of the state or other jurisdiction under the laws of which it is organized;
(ii) A concise description of the investment objectives of the trust;
(iii) A concise description of the Registrant's policies and procedures with respect to the acquisition of underlying securities and the disposition thereof, including:
(A) The types of principal features of securities selected for inclusion in the trust; and
(B) The basis upon which securities are selected for inclusion in the trust;
(C) If the Registrant is concentrated or proposes to concentrate in a particular industry or group of industries, identification of the industry or industries. (Concentration, for purposes of this item, is deemed to be 25% or more of the value of Registrant's total assets invested or proposed to be invested in a particular industry or group of industries, i.e., hospital bonds, utility bonds. The policy on concentration should not be inconsistent with Registrant's name.)
(b) Discuss briefly the principal risk factors associated with investment in Registrant, including factors peculiar to the Registrant as well as those generally attendant to investment in a unit investment trust with investment objectives similar to Registrant's, including:
(i) The risks associated with investing in each type of security included in the trust;
(ii) Any features of the trust that could affect the liquidity of the trust's portfolio, including the liquidity of portfolio securities backed by letters of credit or subject to put agreements or buy back agreements; and
(iii) For trusts which hold fixed income securities in their portfolio, the effect of a rise in interest rates on the value of trust units.
(c) Describe briefly all significant expenses incurred annually by the trust. Expenses would include, for example, fees of the sponsor, trustee, evaluator, and the total cost of insurance premiums on portfolio securities. Identify each person who receives payment from the trust or its unit holders and the amount of the payment, and briefly describe the services provided.
(d) Describe briefly all charges imposed on unit holders and unit holder

accounts. Charges to unit holders and their accounts would include sales charges (whether imposed on initial sales, sales in the secondary market, exchanges or otherwise), provisions for the reduction of a unit holder's account by the sponsor or trustee and charges to the unit holder for reinvestment of dividends or other distributions. If any person, other than the sponsor or trustee, such as a broker, dealer or bank may, with the Registrant's knowledge, impose any additional charges in connection with purchases, a statement to that effect may be included in place of a description of the charge.

(e) Provide the following information:

(i) A brief description of the Registrant's (a) policy with respect to dividends and distributions, including the nature and frequency of distributions, and (b) any options unit holders may have as to the receipt or reinvestment of dividends and distributions, including reinvestment of dividends in the trust or other investment vehicles. State where the prospectus or other additional information may be obtained with respect to these options;

(ii) A brief description of any provisions with respect to amendment or termination of the trust;

(iii) A brief description of the trust reports and account information that will be provided to unit holders, how information may otherwise be obtained and how unit holder inquiries may be made; and

(iv) A brief description of the substance of any other material provisions of the trust indenture concerning the trust or its units.

Instruction to Item 3(c):

The description of significant expenses should identify the services provided, the persons providing the services, the basis on which payments are or will be made, and the amount of the expenses incurred annually, expressed as a percentage of net assets. A significant expense for purposes of this item includes any expenses which represents more than 5% of total expenses. The initial registration statement should provide an estimate of expenses.

Instruction to Item 3(c) and 3(d):

All information required by Items 3(c) and 3(d) must be consolidated in one location in the prospectus.

Item 4. General Description of Trustee and Sponsor

(a) Briefly describe the trustee, including its name, address, date of organization, the name of the state or other jurisdiction under the laws of which it is organized, the general nature of its business, and its functions with respect to the Registrant.

(b) (i) Briefly describe each sponsor, including its name, address, date of organization, the name of the state or other jurisdiction under the laws of which it is organized the general nature of its business, and its functions with respect to the Registrant.

(ii) Provide the aggregate profit (or loss) of the sponsor with respect to the deposit of securities in the trust;

(iii) List the percentage of portfolio securities deposited in the trust in which the sponsor was a manager, co-manager or member of the syndicate underwriting the issuance of those securities;

(iv) State that the sponsor may realize a profit (or sustain a loss) during the initial public offering period or secondary offering period as a result of daily fluctuations in the offering price of trust units; and

(v) If the sponsor may receive compensation (not already described) through the sale or purchase of units of the trust or of the portfolio securities, briefly describe the nature and extent of this compensation.

(c) To the extent the trustee or sponsor has the use and benefit of (i) investors' purchase monies received before settlement date; or (ii) interest and capital gains monies received by the trust before distribution to unit holders, so state.

Instruction to Item 4(b):

The description of the sponsor's business should be short and, if a general description is provided, need not list all of the businesses in which the sponsor engages nor identify all the jurisdictions where it does business.

Item 5. Portfolio Securities

(a) Provide a schedule of investments, as of the date of the financial statements required by Item 18, in substantially the tabular form indicated, to the extent applicable:

Portfolio No.	Name of issuer and title of security	Number of shares or aggregate principal amount	Yield on date of deposit	Date of maturity	Redemption feature	Value of security	Value without trust-related features	Security rating

(b) Briefly describe procedures for valuation of portfolio securities, including valuation of any insurance, guarantee or other feature attaching to the portfolio securities; and

(c) Discuss any insurance or guarantee of payments of principal or interest of the underlying securities, including the scope of the insurance or guarantee and the name of the insurer or guarantor;

(d) Describe briefly the policy of the trust with respect to the acquisition of additional securities and substitution or elimination of the underlying securities of the trust, including:

(i) The circumstances under which additional securities would be acquired, or underlying securities eliminated or substituted; and

(ii) The type of securities which may be substituted for underlying securities; and

(e) List the percentage of securities purchased on a when-issued basis or on delayed delivery contracts as a note to the schedule of investments. Briefly discuss the nature of the securities and the procedures and policies of the trust if the securities are not issued or delivery is delayed beyond the expected delivery date. Indicate when the value of trust assets will be "at risk" with respect to market price fluctuations. Discuss any adjustment of estimated current return as a result of purchasing these kinds of securities and the potential tax consequences to investors. If there are any provisions for offsetting the trustee's or sponsor's fee, so state and briefly describe the tax consequences.

Instruction to Item 5(a):

(i) The information in the schedule should be provided as of the date of the financial statements provided under Item 18.

(ii) List as a separate line of the schedule of investments the units of each previously issued unit investment trust series deposited in the trust.

(iii) List in a note to the schedule the percentage of the aggregate market value of the trust of each type of security e.g., industrial revenue bonds, electric utility bonds, general obligation bonds.

(iv) State in a note to the schedule whether the yield is current yield or yield to maturity.

(v) If the trust's investment objective(s) or policies limit investment to securities with a minimum rating grade or of investment grade quality, provide a securities rating (or

representation of the sponsor as indicated below) for each individual debt security, convertible debt security or preferred stock held in the trust portfolio. Investment grade securities would include the four highest rating grades of a nationally recognized statistical rating organization, or securities with investment characteristics equivalent to the investment characteristics of such top rated securities. Provide the name of the rating organization whose rating is disclosed as a note to the schedule of investments. List in a note to the schedule the percentage of the aggregate market value of the trust of each rating grade of security. Where a rating of a portfolio security is referred to in the prospectus, provide each rating organization's definition or description of the category in which it rated the class of securities; the relative rank of each rating within the assigning rating organization's overall classification system, and a statement informing investors that a security rating is not a recommendation to buy, sell or hold securities, that it may be subject to revision or withdrawal at any time by the assigning rating organization, and that each rating should be evaluated independently of any other rating.

(vi) The column, "Value without Trust-related features," means the value of portfolio securities without the value of any feature, e.g., guarantee, insurance or put agreement, that adds to the value of the portfolio securities as reflected in the previous column. This column should be included only to the extent the trust related feature adds value to the securities while held by the trust and only when the specific feature is entered into as a result of or related to the deposit or holding of securities in the trust. List the trust-related features in a footnote to the schedule. If the column is the same as the previous column for all portfolio securities, it may be omitted.

Item 6. Tax Status and Consequences

Describe briefly the tax status of the registrant and the tax consequences to investors of an investment in the security being offered, including, to the extent applicable:

(a) A statement of the tax status of the Registrant in the opinion of Registrant' counsel;

(b) A brief statement if the registrant intends to qualify for treatment under Subchapter M of the Internal Revenue Code;

(c) A description of the tax consequences resulting from the kind of portfolio securities held by the trust, e.g., when-issued securities, or discount bonds; and

(d) A statement on the applicability of relevant state and local taxes to distributions to investors of the trust.

Item 7. Purchase of Securities Being Offered

Describe briefly how the securities being offered may be purchased. The description should emphasize the procedures to be followed and should minimize discussion of applicable legal requirements. Include:

(a) The name and principal business address of any principal underwriter for the Registrant (If any affiliated person of Registrant is an affiliated person of the principal underwriter, so state and identify the person.);

(b) A concise explanation of the way in which the public offering price is determined, including:

(i) An explanation that the price is based on net asset value;

(ii) A statement as to when calculations of net asset value are made and that the price at which a purchase is made is based on the next calculation of net asset value after the order is placed;

(iii) The sales charge, if any, as a percentage of the public offering price and, if applicable, as a percentage of the net amount invested for each breakpoint; and

(iv) A brief explanation of how interest is accrued for crediting to a unit holder's account upon purchase, the policy for remitting accrued interest to unit holders and the effect of the policy on the estimated current return.

(c) A brief explanation of the consequences to unit holders of purchasing and then, within a short period of time, redeeming or reselling units;

(d) Unless set forth in response to paragraph (b), list any special purchase plans or methods established under a rule or any exemptive order that reflect scheduled variations in, or elimination of, the sales load (e.g., letters of intent, accumulation plans, dividend reinvestment plans, withdrawal plans, exchange privileges, employee benefit plans, redemption plans, or the terms of a merger, acquisition or exchange offer made pursuant to a plan of reorganization); identify each class of individuals or transactions to which the plans apply; state each different sales charge available as a percentage of the public offering price and as a percentage of the net amount invested; and state from whom additional information may be obtained;

(e) Any procedures relating to the issuance of certificates, e.g., how to obtain a certificate, and whether a request is necessary;

(f) Any special purchase plans or procedures such as exchange privileges or services in connection with retirement plans not already discussed in paragraph (d);

(g) A list of any organizations providing services or of investment programs made available in conjunction with investment in the trust, and a brief description of their features or a statement from whom additional information may be obtained; and

(h) Any minimum initial or subsequent investment.

Item 8. Redemption or Repurchase

(a) Describe briefly in the prospectus all procedures for redeeming the Registrant's share, any restrictions thereon, and any charges that may be attendant upon redemption, except redemptions made pursuant to Rule 18f-1 [17 CFR 270.18f-1]. Information concerning methods of redemption pursuant to Rule 18f-1 may be provided by the Registrant, at its descretion, in either the prospectus or the Statement of Additional Information. If Registrant, under normal circumstances, intends to redeem in kind, so state and briefly describe the conditions for exercising such a redemption.

(b) State if the sponsor intends to make a secondary market in units of the trust and briefly describe any condition that would affect continued maintenance of that market. Compare procedures and prices between repurchases by the sponsor of units in the secondary market and redemptions by the trust.

(c) Describe briefly any procedure whereby a unit holder can sell his units to the Registrant or its underwriter through a broker-dealer other than the sponsor and, if charges may be made for this service, so note. The specific fees for the service that may be charged by the broker-dealer selected by the shareholder need not be disclosed.

(d) If the Registrant is permitted to redeem units involuntarily in accounts below a certain number or value of units, describe briefly.

Item 9. Pending Legal Proceedings

Briefly describe any material pending legal proceedings relating to or affecting the trust to which the Registrant, the trustee, the sponsor, or the principal underwriter of the Registrant is a party, other than ordinary routine litigation incidental to the business. Include the name of the court in which the proceedings are pending, the date instituted, and the principal parties thereto. Include similar information as

to any proceedings instituted by governmental authorities.

Part B—Information Required in a Statement of Additional Information

Item 10. Cover page

(a) The outside cover page must contain the following information:

(i) The Registrant's name;

(ii) The sponsor's name;

(iii) A Statement of statements:

(A) That the Statement of Additional Information is not a prospectus;

(B) That the Statement of Additional Information should be read with prospectus; and

(C) How a copy of the prospectus may be obtained;

(iv) All of the series to which the Statement of Additional Information relates; and

(v) The date of the Statement of Additional Information.

(b) The cover page may include other information, provided that it does not by is nature, quantity, or manner of presentation, impede understanding of required information.

Item 11. Table of Contents

List the contents of the Statement of Additional Information and provide cross-references to the prospectus.

Item 12. Description of the Trust

(a) To the extent these matters are only briefly described in the prospectus, discuss more fully the investment objectives of the trust and the Registrant's policies and procedures for the acquisition of underlying securities. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure with respect to those types of investments, policies or practices that are briefly discussed or identified in the prospectus, the Registrant should make sufficient reference to the prospectus to clarify the context in which the additional information called for by this Item is being provided.

(b) To the extent that it is only briefly discussed in the prospectus, discuss more fully the principal risk factors associated with investment in the Registrant, including factors peculiar to the Registrant as well as those generally attendant to a unit investment trust with investment objectives similar to that of Registrant.

(c) To the extent that it is only briefly discussed in the prospectus, discuss more fully the information specified under Item 3(d) (i)–(iv).

Item 13. Description of Trustee and Sponsor

(a) Describe the trustee and its functions with respect to the Registrant to the extent this is only briefly discussed in the prospectus. Include the information specified below:

(i) the nature of its duties under the trust indenture or agreement and any limitations on liability arising from those duties; and

(ii) the terms and conditions for the removal or resignation of the trustee or the failure of the trustee to perform its duties, obligations or functions, including the appointment of a successor trustee and the procedure if a successor trustee is not appointed.

(b) If these matters are only briefly discussed in the prospectus, describe each sponsor and its functions with respect to the Registrant, including:

(i) if the sponsor is continued by another person, the name of that person and the general nature of its business. (If the sponsor is subject to more than one level of control, give the name of each control person and the nature of its business.);

(ii) the nature of its duties under the trust indenture or agreement and any limitations on liability arising from those duties; and

(iii) the terms and conditions for removal or resignation of the sponsor or the failure of the sponsor to perform its duties, obligations or functions, including the appointment of a successor sponsor and the procedure if a successor sponsor is not appointed.

(c) State the name of counsel furnishing the legal opinion on the securities issued by the trust and the city and state where located.

(d) State the name of the auditor(s) of the trust and the city and state where located.

Item 14. Portfolio Securities

(a) State, to the extent the prospectus does not do so, the conditions upon which and the method of selection by which particular portfolio securities must or may be eliminated from the trust or must or may be replaced by other portfolio securities.

(b) Furnish the following information with respect to each transaction involving the change (substitution, elimination or other disposition) of any underlying security, or the acquisition of an additional security, during the period covered by the financial statements filed under Item 18:

(i) title of security eliminated;

(ii) number of shares or par value of the securities eliminated;

(iii) the use of the proceeds from the sale of any security eliminated from the trust;

(iv) date of change;

(v) reasons for change;

(vi) title of security acquired, if any;

(vii) number of shares or par value of the acquired securities;

(viii) if the sponsor, principal underwriter, trustee or custodian or any affiliated person of the foregoing were involved in the transaction, so state and describe briefly; and

(ix) compensation or remuneration received by each person referred to in paragraph (c)(viii) directly or indirectly as a result of the transaction.

(c) To the extent not discussed in the prospectus, discuss the trust's policies with respect to the deposit of units of other trusts in the trust portfolio.

(d) To the extent these matters are only briefly described in the prospectus, discuss more fully the information requested by Items 5(c) and 5(e).

Item 15. Tax Status and Consequences

(a) Describe the material features of the tax opinion of Registrant's counsel.

(b) Provide an explanation of the legal basis for the Registrant's tax status.

(c) To the extent these matters are only briefly described in the prospectus pursuant to Item 6, discuss more fully the tax consequences to the investor of an investment in the trust.

Item 16. Purchase, Redemption and Pricing of Securities Being Offered

(a) Expand, if appropriate, any description provided in the prospectus of the manner in which Registrant's securities are offered to the public. The description should include any special purchase plans or methods not described in the prospectus, such as letters of intent, accumulation plans, withdrawal plans, exchange privileges and services in connection with retirement plans.

(b) Describe the method followed or to be followed by the Registrant in determining the total offering price at which its securities may be offered to the public, the redemption price, and repurchase price and describe the method or methods used to value the Registrant's assets. The response should identify the method used to value the assets, e.g., market value, good faith determination. As to the offering price, the response should state how the excess of offering price over the net amount invested is distributed among the Registrant's principal underwriters or others.

(c) If the Registrant may hold payment upon a request for redemption for a

certain period after a unit holder's investment, describe briefly.

Instructions to Item 16(b):

1. The valuation procedure used by the Registrant in determining net asset value and public offering price must be described.

2. Explain fully the reasons for any difference in the price at which securities are offered generally to the public, as individuals and as groups, and to officers, directors or employees of the Registrant, its sponsor or trustee.

3. Furnish a specimen price-make-up sheet showing the computation of the total offering price and redemption or repurchase price per unit, using as a basis the value of the Registrant's portfolio securities and other assets and its outstanding securities as of the date of the balance sheet filed by the Registrant.

Item 17. Underwriters

(a) With respect to the public distribution of securities of the Registrant, state:

(i) for each principal underwriter distributing securities of the Registrant, the nature of the obligation to distribute the Registrant's securities; and

(ii) the aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(b) Furnish the information required by the following table with respect to all commissions and other compensation received by each principal underwriter who is an affiliated person of the Registrant, directly or indirectly, from the Registrant during the Registrant's last fiscal year:

Name of Principal Underwriter	Net Underwriting Discounts and Commissions on Initial Offering	Compensation on Redemption and Repurchases	Other Compensation
(1)	(2)	(3)	(4)

(c) If during the Registrant's last fiscal year any payments were made by the Registrant to an underwriter, broker or dealer in the Registrant's shares other than: (i) payments made through deduction from the offering price at the time of sale of securities issued by the Registrant, (ii) payments representing the purchase price of portfolio securities acquired by the Registrant, or (iii) commissions on any purchase or sale of portfolio securities by the Registrant, furnish the following information:

(A) the name and address of the underwriter, broker or dealer;

(B) a description of the circumstances surrounding any payments;

(C) the amount paid; and

(D) the basis on which the amount of the payment was determined and the consideration received for it.

Instructions:

Item 17(b):

Indicate in a note, or otherwise, the nature of the services rendered in consideration of the compensation set forth under column (4).

Item 17(c):

1. Do not include in answer to Item 17(c) any information furnished in answer to Item 17(b) above.

2. If the payments were made pursuant to an arrangement or policy applicable to dealers generally, it will be sufficient to describe the arrangement or policy.

Item 18. Financial Statements

(a) The following financial statements of the trust shall be provided in a separate section:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations for the most recent fiscal year conforming to the requirements of Rule 6-07 of Regulation S-X; and

(iii) Audited statements of changes in net assets conforming to the requirements of Rule 6-09 of Regulation S-X for the two most recent fiscal years.

(b) In addition to the requirements above, any series which has not previously had an effective Registration Statement under the Securities Act, shall include in its initial Registration Statement under the Securities Act additional financial statements as of a date within 90 days prior to the date of filing.

(c) To the extent the schedule of investments included in response to Item 5(a) provides the information required as part of the financial statements, the schedule of investments does not have to be duplicated in response to Item 18. Where the schedule of investments included in response to Item 5(a) is designated as part of the financial statements required by Item 18, provide a cross-reference to the auditor's report required by Item 18 in a headnote to the schedule of investments included in response to Item 5(a).

(d) For each:

(i) Sponsor required to maintain a reserve pursuant to Section 27 of the Investment Company Act of 1940 for securities registered by this Registration Statement; or sponsor which guarantees to purchase units of the trust from unit holders at a price which is higher than the redemption price of the units;

(ii) Guarantor of payment of interest or principal of 25% or more of the value of portfolio securities of the trust as the date of deposit, if the guarantee is made with respect to the deposit or holding of those securities in the trust;

(iii) party to a put agreement, buy-back agreement, or similar agreement with the trust, the trustee, or the sponsor with respect to 25% or more of the value of portfolio securities of the trust as of the date of deposit, if the agreement is made with respect to the deposit or holding of the securities in the trust; and

(iv) Issuer of a letter of credit guaranteeing the payment of interest or principal of 25% or more of the value of portfolio securities of the trust, as of the date of deposit, or guaranteeing the performance of a guarantor related thereto, if the guarantee is made with respect to the deposit or holding of the securities in the trust:

(A) Include the financial statements as of the end of the most recent fiscal year of such persons listed above. Except as to periods specified in Regulation S-X, these financial statements shall be in accordance with such regulation or substantially equivalent thereto, or shall include and independent accountant's report which states that the accounting principles and practices of any such person are in accordance with generally accepted accounting principles; or

(B) Incorporate by reference in the Statement of Additional Information the financial statements as of the end of the most recent fiscal year which are included in the filings under the Securities Exchange Act of 1934 of such persons listed above.

Instructions:

Item 18(d):

Financial statements which are incorporated by reference must be delivered with the Statement of Additional Information.

Part C.—Other Information

Item 19. Financial Statements and Exhibits

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

(b) Exhibits:

(1) copies of the resolution of the board of directors of the sponsor authorizing the establishement of the Registrant;

(2) copies of the indenture or agreement under the terms of which the trust was organized or issued securities;

(3) copies of all agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration;

(4) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the sponsor and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

(5) copies of the certificate of incorporation or other instrument of organization and the by-laws of the sponsor;

(6) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part on or after the date of filing the Registration Statement;

(7) specimens or copies of each security issued by the Registrant;

(8) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid, and non-assessable;

(9) copies of any insurance contracts or guarantees relating to portfolio securities of the trust that were obtained by the trustee or sponsor;

(10) all financial statements incorporated by reference under Item 18;

(11) copies of any other opinions (including the tax opinion of registrant's counsel), appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the Securities Act;

(12) consent of the evaluator if the evaluator is not the sponsor; and

(13) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the sponsor, underwriter, or initial unit holders and written assurances from the sponsor or initial unit holders that the purchases were made for investment purposes without amy present intention of redeeming.

Instructions:

Item 19(a):

Designate those financial statements which are included in Parts A and B of the Registration Statement.

Item 19(b):

Subject to the rules on incorporation by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 4 and 7–12 above need be filed only as part of a Registration Statement under the Securities Act. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Item 20. Directors and Officers of the Sponsor

Give the following information about each director or officer of the sponsor only if the sponsor is not currently registered with the Commission as a broker-dealer or investment adviser:

Name and Principal Business Address	Positions and Offices with Sponsor

Item 21. Indemnification

State the general effect of any contract, arrangement, or statute under which the trustee, sponsor, underwriter or any affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by such persons for their own protection.

Instruction to Item 21:

In responding to this Item the Registrant should note the requirements of Rule 461 and 484 under the Securities Act [17 CFR 230.461, 230.484] and Section 17 of the 1940 Act [15 U.S.C. 80a–17].

Item 22. Underwriters

If any payments were made by the Registrant during its last fiscal year to an unaffiliated underwriter or dealer other than payments made through deduction from the offering price at the time of sale, furnish the following information:

(i) the name and address of the underwriter or dealer;

(ii) a description of the circumstances surrounding payment;

(iii) the amount paid; and

(iv) how the amount paid was determined and the consideration received for it.

Item 23. Location of Accounts and Records

Give the name and address of each person who maintains physical possession of each account, book, or other document, required to be maintained by Section 31(a) of the 1940 Act [15 U.S.C. 80a–30(a)] and the Rules thereunder [17 CFR 270.31a–1 to 31a–3].

Item 24. Management Services

Give a summary of any contract not discussed in Part A or Part B of this Form under which management-related services are provided to the Registrant, showing the parties to the contract and the total dollars paid and by whom, for the last three fiscal years.

Instructions to Item 24:

1. A contract for "management-related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include: (i) any agreement to act as custodian or transfer agent for the Registrant or (ii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. In summarizing a management-related service contract, include: the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its sponsor, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

3. Information need not be given about any service for which total compensation of less than $5,000 was paid during each of the last three fiscal years.

Signatures

As required by (the Securities Act of 1933), and the Investment Company Act of 1940, the Registrant, _____, certifies that it meets all of the requirements for effectiveness of this Registration Statement under Rule 485(b) under the Securities Act of 1933 and) has caused this Registration Statement to be signed on its behalf by the undersigned in the city of _____ and State of _____, on the _____ day of _____, 19__.

Alternative Form of Signature for Filings Under Rule 487

The Registrant, _____, hereby identifies series (number(s) and type) of the trust for purposes of the representations required by Rule 487 and represents the following:

(1) That the portfolio securities deposited in the series as to which this Registration Statement is being filed do not differ materially in type or quality from those deposited in such previous series;

(2) That, except to the extent necessary to identify the specific

portfolio securities deposited in, and to provide essential financial information for, the series with respect to which this Registration Statement is being filed, this Registration Statement does not contain disclosures that differ in any material respect from those contained in the Registration Statement(s) for such previous series as to which the effective date was determined by the Commission or the staff; and

(3) That it has complied with Rule 460 Under the Securities Act of 1933.

As required by (the Securities Act of 1933) and the Investment Company Act of 1940, the Registrant has caused this Registration Statement to be signed on its behalf by the undersigned in the city of _____ and State of _____, on the _____ day of _____ 19__.

(Registrant)

By _____

(Signature and Title)

(Sponsor)

By _____

(Name of officer of sponsor)

(Title)

As required by the Securities Act of 1933, this registration statement has been signed by the following persons in the capacity and on the dates indicated.

(Signature) _____

(Title) _____

(Date) _____

Instruction:

If the registration statement is being filed only under the Securities Act or under both the Securities Act and the 1940 Act, it should be signed by both the Registrant and its sponsor. If the registration statement is being filed only under the 1040 Act, it should be signed only by the Registrant.

Appendix

Issuer of Periodic Payment Plans

A unit investment trust that issues periodic payment certificates must:

(1) Complete all items of Parts A, B, and C (except items, 2, 5, and 14) to the extent those disclosures are not already made in answer to (2), (3), and (4) below.

(2) Provide the following information in the prospectus:

(i) On the outside cover page of the prospectus, provide the name of the portfolio company and a statement that the prospectus is not valid unless preceded or accompanied by the prospectus of the portfolio company.

(ii) Provide the name of the portfolio company and the name of its adviser.

(iii) Describe purchase plans available to investors and compare these plans to an investment directly in the portfolio company.

(iv) Describe the procedures for liquidation or withdrawal from the periodic payment plan. Discuss the rights of rescission and refund of a unit holder's account and payments, including a description of a unit holder's rights under section 27 of the Investment Company Act of 1940. Include in this discussion time periods, notices and procedures and consequences of missed payments, and procedures for reinstatement.

(v) Briefly discuss the rights of unit holders to instruct the Registrant on the voting of portfolio company securities underlying their interest in the trust, including the manner in which votes will be allocated.

(vi) State the conditions and describe the procedures to be followed for a substitution of the underlying portfolio company.

(vii) Describe the kind and frequency of reports and information that will be made available to unit holders, including reports and information generated by the underlying portfolio company.

(3) Provide a transcript of a hypothetical account in substantially the following form on the basis of the certificate calling for the smallest amount of payments. The schedule shall cover each certificate of the type currently being sold from the approximate date of the trust's organization or for the last ten fiscal years of the trust, whichever is shorter. However, this transcript need not be provided if the trust has been in existence less than two years prior to the estimated effective date of this registration statement.

TRANSCRIPT OF A HYPOTHETICAL PERIODIC PAYMENT PLAN ACCOUNT [1]

Col. A	Col. B		Col. C		
	Amount of Payment		Deductions from Payments on Principal		
			(1)	(2)	(3)
Date of payment	Monthly for first two years and annually thereafter	Cumulative	Underwriting commissions, loading fees and all other similar charges	Insurance premiums	Other deductions [1]

Col. D		Col. E	
Balance of payments on principal available for investment in trust property		Total deductions upon Liquidations	Liquidating value of certificate
Monthly for first two years and annually thereafter	Cumulative		

[1] (a) The transcript shall be carried to date of completion on the assumption there has been no lapse or cancellation, or if incomplete to the approximate date of the statement of condition filed herewith.
(b) Income of the account which is to be reinvested shall be included in an appropriate manner.
[2] Specify any material items.

(4) For each installment payment type of periodic payment plan certificate of the trust, furnish the following information with respect to sales load and other deductions from principal payments. ("Sales load" includes sales load of any underlying investment company security. Computation should be made on the basis of the certificate calling for the smallest amount of payments.)

	Aggregate amount of payments (complete period)		Payments during							
			Six months		One year		Eighteen months		Two years	
	Amount	Percent of amount of payments	Amount	Percent of amount of payments	Amount	Percent of amount of payments	Amount	Percent of amount of payments	Amount	Percent of amount of payments
(1) Amount of payments to be made on certificates		100		100		100		100		100
(2) Amount of sales load										
(3) Fee of custodian or trustee										
(4) Insurances premium										
(5) Other deductions from payments [1]										
(6) Total deductions (2 to 5)										
(7) Net amount invested										
(8) Reductions upon liquidation [2]										

[1] Indicate the nature of such other deductions, as taxes, commissions, etc. If any such item amounts to more than 1% of the total amount of payments to be made, list separately

Guidelines for Form N–7

This release contains Guidelines prepared by the Division of Investment Management for registration statements on Form N–7 for unit investment trusts other than separate accounts of insurance companies organized as unit investment trusts. The Guidelines are based on Commission releases and staff interpretations. Adherence to these Guidelines should speed the examination by the Division's staff of registration statements on Form N–7.

The Guidelines are not rules of the Commission and, except as noted, represent only the views of the staff of the Division, not the Commission. The Guidelines should be read in conjunction with the Investment Company Act Releases cited in them. The policies stated in the Guidelines may be changed if necessary. unless the context indicates otherwise, the term "unit investment trust," "Unit trust," or "trust" refers to the unit investment trust series on behalf of which the Securities Act registration statement is filed.

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Guide 1—Name of Registrant

The registrant's name, as set forth in Item 1 and Item 10, must be consistent with the provisions of section 35 of the Investment Company Act of 1940 ("1940 Act"). Section 35(d) provides in effect that a registered investment company may not use a name or title which may be deceptive or misleading. If the registrant's name suggests a certain type of investment objective, its name should be consistent with its statement of investment objective.

If a trust has a name that implies that its distributions will be exempt from federal income taxation, the trust's assets should be invested so that substantially all of its net assets are invested in tax-exempt securities. If the registrant's name implies that it will invest primarily in a particular type of security, or in a certain industry or industries, the registrant should invest at least 80% of the value of its total assets in the indicated type of security or industry. Any substitution or addition of securities to the trust portfolio should be consistent with maintaining this percentage.[1] Further, the registrant's name may not be so similar to the name of an existing investment company as to cause confusion in identifying the investment company. Finally, a

[1] *See* Guide 14—*Concentration or Other Significant Holdings.*

registrant should refer to Guide 20 if its name reflects a characterization of the maturity of the trust's securities portfolio.

For guidance in responding to Items 1 and 10, the registrant should refer to Investment Company Act Release No. 5510 (October 8, 1968), which, among other things, concerns the proprietary rights of an investment company in the company's name.

Guide 2—Valuation of Securities Being Offered

Item 16 requires a registrant to identify in the prospectus the method used to value the assets. In some circumstances, value can be determined fairly in more than one way. For securities traded on a national securities exchange, valuation normally should be based on market value when readily available.[2] If a security was traded on the valuation date, the last reported sale price generally is used. In the case of securities listed on more than one national securities exchange, the last reported sale, up to the time of valuation, on the exchange on which the security is principally traded should be used or, if there were no sales on that exchange on the valuation date, the last reported sale, up to the time of valuation, on the other exchanges should be used.

If there was no sale on the valuation date but published closing bid and asked prices are available, the valuation in such circumstances should be within the range of these quoted prices. Some companies as a matter of general policy use the bid price, others use the mean of the bid and asked prices, and still others use a valuation within the range of bid and asked prices considered best to represent value in that circumstance; each of these policies is acceptable if consistently applied. Normally, the use of the asking price alone is not appropriate. Where, on the valuation date, only a bid price or an asking price is quoted or the spread between bid and asked prices is substantial, quotations for several days should be reviewed. If sales have been infrequent or there is a thin market in the security, or the size of the reported trades is considered not representative of the fund's holding (as in the case of certain debt securities), further consideration should be given as to whether "market quotations are readily available." If it is decided that they are not readily available, the alternative method of valuation prescribed by section 2(a)(41), that is, "fair value", as determined in good faith by the trustee or its appointed person, should be used.

For dept or equity securities traded over-the-counter where closing prices are not readily available, quotations for a security should be obtained from more than one broker-dealer, particularly if quotations are available only from broker-dealers not known to be established market-makers for that security. A company may adopt a policy of using a mean of the bid prices, or of the bid and asked prices, or of the prices of a representative selection of broker-dealers quoted on a particular security; or it may use a valuation within the range of bid and asked prices considered best to represent value in that circumstance. The staff will consider any of these policies appropriate if consistently applied.

If the validity of the quotations appears to be questionable, or if the number of quotations is such as to indicate that there is a thin market in the security, further consideration should be given to whether "market quotations are readily available." If it is decided that they are not readily available, the security should be considered one required to be valued at "fair value" as determined in good faith by the trustee or its appointed person.

To comply with section 2(a)(41) of the Act and rule 2a-4 under the Act, the trustee or its appointed person must satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and determine the method of arriving at the fair value of each such security. No single standard for determining "fair value in good faith" can be established, since fair value depends upon the circumstances of each individual case. As a general principle, the current "fair value" of an issue of securities being valued would be the amount which the owner might reasonably expect to receive for the securities upon their current sale.[3]

Securities held under circumstances where the sale of such securities to the public would not be permissible without an effective registration statment under the Securities Act are considered securities for which market qoutations are not readily available. They must, therefore, be valued in good faith by the trustee or its appointed person.[4] It would be improper for the trustee or its appointed person to value these securities at the market quotation for unrestricted securities of the same class without considering other relevant factors, although this may be a factor considered in structuring the final valuation.[5] The existence of a shelf registration for the restricted securities may be properly considered as anpther factor in the determination of the value of such securities, but there may not be an automatic valuation at market price based on this factor alone.[6]

Guide 3—Restricted Securities

Subject to the three conditions described below, up to 25% in face amount of the securities in any series of a unit investment trust may consist of restricted securities. For purposes of this guideline, the term "restricted securities" shall mean those securities that cannot be sold publicly by the trustee without registration under the Securities Act of 1933, as amended. If the conditions are not met, the trust may hold up to ten percent of the face amount of the portfolio securities in restricted securities or other illiquid securities. The first condition is that sales of unrestricted securities from the portfolio will not result in (i) restricted securities consitituting more than 40% in face amount of the securities remaining in the trust after the completion of the sale, and (ii) the trust holding less than $250,000 in face amount of any obligation which is a restricted security or less than 1,000 shares of any preferred stock which is a restricted security.

The second condition is that the sponsor intends to maintain a secondary market in the units of the trust after the units are originally issued. Alternatively, if for any reason the sponsor discontinues its maintenance of a secondary market, the sponsor intends to purchase units of the trust tendered for redemption, at prices not less than the current redemption prices for units of the trust, in the event that (i) it would be necessary for the trust to sell restricted securities to meet redemptions or (ii) it is not feasible to dispose of the restricted securities within the period

[2] Investment Company Act Release No. 7221 (June 9, 1972) [37 FR 12790 (June 24, 1972)]. Registrants often value their debt securities by reference to other securities which are considered comparable in rating, interest rate, due date, etc. (often called "matrix pricing") or rely on pricing services which use matrix pricing for valuation of these securities. Responsibility for making sure that a pricing method is proper rests with the registrant.

[3] For a general discussion of the factors to be considered in this determination, *see* Investment Company Act Release No. 6295 (December 23, 1970) [35 FR 19986 (December 31, 1970)].

[4] Investment Company Act Release No. 7221, *supra*.

[5] Investment Company Act Release No. 5847 (October 21, 1969) [35 FR 253 (Decembr 31, 1970)].

[6] Investment Company Act Release No. 6121 (July 20, 1970).

during which tendering unit holders are required to be paid.

Under the third condition, any trust containing restricted securities with a value equal to more than 10% of the face amount of the portfolio securities must be reasonably deversified and liquid. The following must be met to fulfill the third condition:

(a) The sponsor limits its deposit of the securities of any single issuer, or of any two or more affiliated issuers, to less than 10% of the value of that trust.

(b) The restricted securities are either rated, or, if not rated, are issued by issuers that have outstanding obligations that are rated investment grade—one of the four highest rating grades assigned by a nationally recognized statistical rating organization.

(c) The securities (including the restricted securities) are valued by an independent evaluator at the time the securities are deposited in the trust and during the time they remain in the trust.

If restricted securities are to be included in the portfolio of a trust, the percentage in face amount of the securities in the portfolio which are restricted securities must be disclosed in the prospectus. The policy of investing in restricted securities, and the risks related thereto, should be briefly discussed in the prospectus pursuant to Items 3 and 5, with a fuller discussion in the Statement of Additional Information. The Statement of Additional Information must also disclose the conditions stated above and must briefly discuss any other material impact the inclusion of Restricted Securities may have on the trust.

The percentages set forth in this guideline will not apply in situations where the portfolio contains restricted securities for which the principal market is outside of the United States. The maximum percentage in these cases must be determined on a case-by-case basis, taking into consideration, among other things, the liquidity of these restricted securities in their overseas markets.

Guide 4—Deposit of Contracts to Purchase Securities

The sponsors of any trust may deposit in the trust, in lieu of the securities listed in the portfolio, contracts to purchase those securities together with the amount of cash, cash equivalents and letters of credit issued by a commercial bank or banks required to purchase the securities. If letters of credit are to be deposited as stated above, the bank(s) issuing these letters of credit must be identified in Item 3 of the prospectus as filed under the final pricing amendment to the registration statement.

Guide 5—Advance by Trustee

The trustee for a trust may make interest-free advances to the trust to pay periodic income distributions to unit holders of the trust and subsequently be reimbursed out of income received by the trust from distributions on securities in the trust's portfolio. If the trustee does so, Item 12 of the Statement of Additional Information must contain a description of the circumstances under which the advance is or will be made.

Guide 6—Guarantors, Letters of Credit and Collateralized Securities

When portfolio securities are guaranteed, subject to a put agreement, or letter of credit, and/or collateralized as to the payment of principal or interest in connection with the deposit or holding of the securities in the trust, provide the following information under Items 4 and 14, if applicable. (The information required with respect to financial statements should be included in the Statement of Additional Information under Item 18. Other information required should be briefly described in the prospectus, under Item 5, with a fuller discussion in the Statement of Additional Information, under Item 14.):

1. Guarantors:

(i) Name or guarantor;

(ii) Nature and scope of guarantee, including material limitations; and

(iii) Information about the guarantor's financial statements as required by Item 18;

2. Put agreements, buy-back agreements:

(i) Name of party subject to put or buy-back agreement;

(ii) Substance of agreement or commitment including material limitations; and

(iii) Information about the party's financial statements as required by Item 18;

3. Letters of credit:

(i) Name of party issuing letter of credit;

(ii) Scope and terms of letter of credit, including material limitations; and

(iii) Information about the issuer's financial statements as required by Item 18; and

4. Collateralized securities:

(i) Description of collateral;

(ii) Scope and terms of the agreement under which the securities are collateralized, including material limitations;

(iii) Custodial arrangements

(iv) Procedures for valuation; and

(v) Conditions for increasing or adding collateral.

Guide 7—Insurance of Portfolio Securities

When portfolio securities are insured as to the payment of principal or interest in connection with the deposit or holding of securities in the trust, provide the following information pursuant to Items 5 and 14. The information required by items 1, 2(a)(i)–(iii), 2(b), 3, 4, and 5 must be briefly described in the prospectus under Item 5, with a fuller discussion in the Statement of Additional Information under Item 14. The information required by items 6 and 7 must be discussed in either the prospectus or the Statement of Additional Information.

1. A discussion of the nature and scope of the insurance, including:

(i) Extent and duration of coverage;

(ii) Conditions of or limitations on coverage; and

(iii) Procedures for and manner of insurance payment.

Note.—The staff takes the position that any such insurance must be non-cancellable by the insurance company and the insurance premiums must be fixed at the time of purchase for the life of the trust. This response should include discussion of whether insurance is effective only while certain securities are held by the trust.

2. (a) A brief description of each insurer, including:

(i) Name of each insurer;

(ii) Date and form of organization of insurer and the name of the state or other jurisdiction under whose laws it is organized;

(iii) Total assets, capital surplus, and total dollars of insurance in force as of a date reasonably close to the date of filing;

(iv) Brief description of business;

(v) Brief description or regulation by state authorities;

(vi) If there is any affiliation with sponsor or trustee, a statement to that effect and a brief description of the nature of the affiliation; and

(vii) Name of any person controlling insurer (if the insurer is subject to more than one level of control, it is sufficient to give the name of the ultimate control person and a brief description of the business of such person).

b. A brief description of any reinsurance agreement which the insurance company has entered into with respect to the portfolio securities of the trust, including:

(i) Amount of liability covered by reinsurance; and

(ii) Any material effect of reinsurance on the securities insured.

3. A brief description of the relation of insurance to the valuation of portfolio securities, including:

(i) A statement, if applicable, that insurance does not guarantee market value of portfolio securities or of units of the trust; and

(ii) The circumstances under which insurance would be considered in the valuation of portfolio securities, including valuation upon default or threat of default of payment by issuers of portfolio securities.

4. A brief description of the tax treatment of any payments made pursuant to the insurance policy, e.g., payments on default of tax-exempt securities.

5. A brief comparison of cost and yield of portfolio securities with and without insurance, including a brief comparison of estimated current return with and without insurance.

6. A brief description of the relation or insurance to the trust's investment policy, including:

(i) Whether insured securities in default will be retained by the trust; and

(ii) Whether the insurance company will be requested to determine the insurability of a proposed portfolio security prior to deposit.

7. A brief description of the criteria for selection and eligibility of portfolio securities for insurance, including:

(i) Eligibility criteria for insurance of portfolio securities;

(ii) Investment objectives and criteria for selection of Portfolio securities without consideration of insurance; and

(iii) Effect of insurance on any rating assigned to the secrities by any ratings agency.

Guide 8—Special Redemption and Call Provisions

If any securities are subject to sinking fund, recall or special redemption by their issuers, provide the price and first possible date of recall or redemption in the appropriate column of the schedule of investments required by Item 5. If 25% or more of the portfolio securities are subject to recall or redemptions, provide a brief description of the likely conditions under which any such feature would be exercised by the issuers, the potential impact on estimated current return and the potential income tax consequences to unit holders in response to Items 5, 6, and 7. If 25% or more of portfolio securities are subject to early recall or redemption, care should also be taken by the registrant and sponsor that the potentially early recall or redemption does not contradict the investment objective of the trust or result in its early termination.

Guide 9—Replacement of Failed Securities

Where the trust includes contracts for the purchase of securities that could fail or otherwise cause the securities not to be delivered, state the conditions under which the trustee is directed to acquire, and the procedures for acquiring, other securities in response to Item 14 of the Statement of Additional Information. The replacement securities must (i) meet the investment criteria established for the initial selection of securities, (ii) have a purchase price not exceeding the amount of funds reserved for the purchase of the failed securities, (iii) be purchased at a price that results in a yield to maturity and a current return at least equal to that of the failed securities as of the date of deposit, (iv) not be "when, as and if issued" securities or "delayed delivery" securities and (v) be purchased within 20 days after delivery of the notice that the contract to deliver securities will not be honored. Disclosure of these conditions should be made in response to Item 14. Disclosure should also be made of the fact that, if no replacement is made, the trust will refund to unitholders the principal amount and the sales charge attributable to the failed contracts. Briefly discuss the impact of a failed contract on current return, the income taxation of the investor, and provisions for payment of accrued interest.

Guide 10—Additional Securities

Additional securities may be deposited in the trust subsequent to the initial date of deposit only if the securities substantially replicate the composition of the initial portfolio in terms of specific securities and maturities. Under section 4(2) of the Investment Company Act of 1940, a unit investment trust is defined as an investment company which, among other things, may issue securities, each of which represents an undivided interest in a unit of specified securities. The term "specific securities" requires that any additional securities deposited in the trust, pursuant either to a reinvestment of dividends or to a subsequent offering of additional trust units, substantially replicate the initial composition of the trust portfolio both as to specific securities and actual maturities of that portfolio.

Guide 11—Securities Ratings

Securities rating are required in the prospectus in the schedule of investments to the extent that the investment objective or policies of the trust specify a minimum grade or investment grade for portfolio securities held by the trust. Rule 436(g) under the Securities Act provides that the ratings assigned to a class of debt securities, a class of convertible debt securities, or a class or preferred stock, by a nationally recognized statistical rating organization (including a rating made on the basis of insurance provided by the third party) may be included in a registration statement prospectus without obtaining the consent of the rating organization as an expert for use of its rating. However, if a rating organization rates a trust as a whole, and not its indiviudal securities, a consent of the rating agency is required to be filed with the registration statement pursuant to section 7 of the Securities Act.

Where reference in the prospectus is made to a rating of the trust, the following information should be included in the prospectus under Item 3: (1) Any other rating intended for public dissemination assigned to such trust by a nationally recognized statistical rating organization that is available on the date of the initial filing of the document and that is materially different from any rating disclosed; (2) the name of such rating organization whose rating is disclosed; (3) the name of such rating organization whose rating is disclosed; (3) each such rating orgnization's definition or description of the category in which it rated the trust of securities; (4) the relative rank of each rating organization's overall classification system; and (5) a statement informing investors that a security rating is not a recommendation to buy, sell or hold securities, that it may be subject to revision or withdrawal at any time by the assigning rating organization, and that each rating should be evaluated independently of any other rating.

Where a securities rating of the trust or a portfolio security referred to in the prospectus materially changes, the registrant should consider disclosing the rating change by means of a posteffective amendment or sticker to the prospectus.

Guide 12—Investment Objective and Policies

In the response to Item 1 or Item 3, the registrant's investment objectives (including the types of securities in which it will invest) should be clearly and concisely stated in the prospectus so that they may be readily understood by the investor. As a general matter, the amount of disclosure about a particular type of security should be consistent with the relative amount of the registrant's assets invested in that type of security.

The prospectus should emphasize the principal types of investments the registrant has made and the basic risks inherent in such investments. For example, if the registrant invests in other than high-grade bonds,[7] it should concisely but clearly disclose in the prospectus the risks involved in such investments either in response to Item 1 or Item 3. Accordingly, discussions of types of investments that will not constitute the registrant's principal portfolio emphasis should be as brief as possible and, it not more than 5 percent of the registrant's net assets are at risk, may be limited to identifying the particular type of investments. In order to achieve the objective of clear and concise disclosure, registrants should avoid extensive legal and technical detail and need not discuss every possible contingency, such a remote risks.[8]

The response to Item 14 should include a fuller discussion in the Statement of Additional Information of those trust indenture provisions relating to the investment objective and portfolio securities of the registrant with respect to which an abbreviated or no narrative description is included in the prospectus. Fuller descriptions of the registrant's principal types of investment may also be appropriate, depending on the circumstances.

Guide 13—Allocation of Risk Disclosure

Item 3 and 12 require discussion of the principal risk factors associated with investment in the trust. The allocation of this discussion between Items 3 and 12 depends on the magnitude of the risk involved. In general, a greater magnitude of risk requires fuller discussion in the prospectus, or Part A–1 if the prospectus is divided into two parts. The guidelines set forth below should be followed in determining how to allocate the risk disclosure.

(1) Where the risk is specific to the security, e.g., legal proceedings materially affecting a portfolio security, there should be a detailed discussion of this risk in the prospectus (Part A–1, if applicable).

(2) Where the risk relates to concentration, there should be a discussion in the prospectus (Part A–1, if applicable) and more detailed discussion in Part A–2 or Part B.

(3) Where the risk pertains to the type of security held by the trust (e.g., housing bonds) there should be a brief discussion in the prospectus (Part A–1 if applicable) and more detailed discussion in Part A–2 or Part B.

(4) General risk disclosures should be briefly discussed in the prospectus with a more detailed discussion in Part B.

For purposes of this guideline, a risk is specific to a security where it relates to the credit-worthiness of the issuer of that security or to features peculiar to that security, e.g., a related buy-back or collaterization agreement.

Guide 14—Concentration or Other Significant Holdings

Section 8(b)(1) of the 1940 Act requires every registered investment company to include in its registration statement a recital of its policies with respect to concentration. It is the position of the staff that investment (including holdings of debt securities) of more than 25 percent of the value of the registrant's assets in any one industry or group of industries represents concentration. If the registrant concentrates in a particular industry or group of industries it should, in responding to Item 3, specify in the prospectus the industry or group of industries in which it concentrates.

If the registrant does not concentrate in a given industry, no further investment through substitution or addition of securities may be made in that industry if, upon making the investment, 25 percent or more of the value of the registrant's assets would be invested in the industry. However, when securities of a given industry come to constitute more than 25 percent of the value of the registrant's assets by reason of changes in value of either the concentrated securities or the other securities in the trust, the excess need not be sold.

When a substantial amount of the assets of a tax-exempt bond fund are invested in securities which are related in such a way that an economic, business, or policical development or change affecting one such security would likewise affect the other securities, appropriate disclosure in the fund's prospectus in response to Item 3 is necessary.[9] For example, each investment company investing in tax-exempt bonds should, if 25 percent or more of its assets are or may be invested in securities whose issuers are located in the same state, indicate which states and the risks involved in investing in those particular states. In addition, if a company invests or may invest 25 percent or more of its assets in securities the interests upon which is paid from revenues of similar type projects, it should disclose this fact, identify the type or types of projects and briefly discuss any economic, business, or political developments or changes which would most likely affect all projects of that type. Such disclosure might include, for example, proposed federal or state legislation involving the financing of the projects; pending court decisions relating to the validity of the projects or the means of financing them; predicted or foreseeable shortages or price increases of materials needed for the projects; and declining markets or needs for the projects. These disclosures should generally be highlighted in the prospectus, with a fuller discussion included in the Statement of Additional Information. Also, if a company invests 25 percent or more of its assets in industrial development bonds, it should disclose this fact.[10]

Note.—In determining industry classifications, registrants may use the current *Directory of Companies Filing Annual Reports with the Securities and Exchange Commission*, published by the Commission, or may select their own industry classification but such classification must be reasonable and should not be so broad that the primary economic characteristics of the companies in a single class are materially different.

Guide 15—Government Securities

If the registrant is investing in United States Government securities, the prospectus should reflect in response to Item 3 under what significant extent in United States Government securities, the prospectus should include the following information: (i) The type of Government securities in which the fund invests; (ii) the principal Government agencies and instrumentalities in whose securities the fund invests; and (iii) whether the securities of such agency or instrumentality are: (a) Supported by the full faith and credit of the United States, (b) supported by the ability to borrow from the Treasury, (c) supported by the credit of the agency or instrumentality, or (d) explain how the securities are supported by the United States in some other way.

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[7] High-grade bonds are bonds rated in the top *three* rating grades by a nationally recognized statistical rating organization.

[8] See individual subject headings of these Guidelines concerning disclosure for specific types of securities.

[9] Investment Company Act Release No. 9785 (May 31, 1977) [42 FR 29130, June 7, 1977]. Concentration under section 8(b)(1) is not applicable to investments in tax-exempt securities issued by governments or political subdivisions of government because such issuers are not considered to be members of any industry. However, this exclusion does not eliminate the requirement for each taxexempt bond trust to disclose its policy on concentration. Such a policy would apply to tax-exempt bonds issued by non-governmental entities as well as to other securities to which such policies normally apply.

[10] *Id.*

Guide 16—Original Issue Discount or Market Discount

If the trust holds original issue discount securities or market discount securities, list the amount of these securities in the trust portfolio as a percentage of the market value and principal amount of the securities of the trust and briefly describe the risks and possible tax consequences related to holding these securities in the trust. Provide this information in the prospectus pursuant to Items 3 and 6. Additional information should be provided in the Statement of Additional Information pursuant to Items 12 and 15.

Guide 17—Deep Discount or Zero-Coupon Securities

If the trust holds deep discount or zero-coupon securities in its portfolio, provide the following information pursuant to Items 5 and 14. The information required should be described briefly in the prospectus, with a fuller discussion in the Statement of Additional Information.

1. Description of the securities;
2. Comparison with customary securities;
3. Description of tax consequences; and
4. Risk disclosures specific to these kinds of securities including the risk of heightened price volatility (compared to other kinds of securities) related to changes in interest rates.

Guide 18—Mortgage Backed Securities

Discuss the following areas with respect to mortgage-backed securities issued and/or guaranteed by a government agency, e.g., mortgage-backed securities guaranteed by the Government National Mortgage Association ("GNMA"), held in the trust portfolio. This information should be briefly described in the prospectus, under Item 5, with a fuller discussion in the Statement of Additional Information, under Item 14.

(i) Nature of securities, including role and guarantee of government agency;
(ii) maturities and average life of securities;
(iii) likely conditions for and consequences of redemptions pursuant to prepayment of mortgages or other events; and
(iv) possible consequences to investors of discount or premium purchase of securities by the trust.

Guide 19—Municipal Lease Obligaitons

For trust holding municipal lease obligations, provide the following information under Item 5 and 14. The information required should be concisely discussed in the prospectus, with a fuller discussion included in the Statement of Additional Information.

1. Description of the municipal lease obligations and collateral related thereto;
2. Average range of maturities;
3. Concentration disclosures, both as to similar types of revenue sources, e.g., municipal lease financing, and as to particular states or geographic regions;
4. Description of standard provisions of these obligations;
5. Risks disclosures specific to these kinds of securities, including risks related to:

(i) Non-appropriation by municipality;
(ii) Credit risks of issuing municipalities;
(iii) Market value declines and their relation to fluctuations in interest rates;
(iv) Liquidity of the obligations, and possible effect on redemption values; and
(v) Risk of depreciation of the collateral.

6. Description of any secondary market for these obligations, including a statement of whether the sponsor will maintain a secondary market in these obligations;
7. Policy of trust with respect to possibility of failure of obligations, i.e., failure of party to deliver equipment pursuant to an obligation;
8. Procedures for evaluation of these obligations; and
9. Comparison of features and risks of investment in municipal lease obligations to investment in municipal bonds or notes of similar maturities.

Guide 20—Maturity of Trust Portfolio

If the trust has a name or investment objective that characterizes the maturity of its securities portfolio, the dollar-weighted average portfolio maturity of the trust must reflect that characterization. The staff takes the position that a short-term series (or portfolio within a series) must have a dollar-weighted average portfolio maturity of not more than three years; and intermediate-term series (or portfolio within a series) must have a dollar-weighted average of more than three years but not more than ten years; and a long-term series (or portfolio within a series) must have a dollar-weighted average portfolio maturity of more than ten years. Registrants should refer to Rule 2a-7 under the 1940 Act for determining the maturity of a portfolio security in the calculation of average portfolio maturity.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 45

[Docket No. RM83-63-000]

Automatic Authorization for Holding Certain Positions That Require Commission Approval Under Section 305(B) of the Federal Power Act

Issued: May 17, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend Part 45 of its regulations to authorize generically certain "interlocking positions" that require Commission approval under section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825d(b) (1982). The Commission is proposing to provide this authorization to eliminate what it believes to be an unnecessary reporting burden on applicants and to reduce the time the Commission spends examining and processing certain applications to hold interlocking positions that are routinely approved.

DATES: Comments must be received by July 8, 1985.

ADDRESS: Comments must be submitted in writing to the Secretary Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM83-63-000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Lori Tsang, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8463.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

Issued May 17, 1985.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend Part 45 of its regulations to authorize generically certain "interlocking positions" that require Commission approval under section 305(b) of the Federal Power Act (FPA).[1]

[1] 16 U.S.C. 825d(b) (1982).

The Commission is proposing to provide this authorization to eliminate what it believes to be an unnecessary reporting burden on applicants and to reduce the time the Commission spends examining and processing certain applications to hold interlocking positions that are routinely approved because they present no threat to public or private interests within the meaning of the FPA.

The Commission is granting the petition for rulemaking submitted by eight registered electric utility holding companies.[2] The holding companies request that the Commission streamline its application procedure for authority to hold the following interlocking positions: (1) Positions with public utilities that are owned by a single registered electric utility holding company and (2) positions with a public utility that is owned by a registered holding company and a public utility that is a generating company owned by the holding company system, including those held in partnership with public utilities that are not affiliated with the system. The companies argue that the holding of these types of interlocking positions does not adversely affect public or private interests and that the Commission's current application procedure is therefore burdensome and unnecessary.

II. Background

A. Requirements of Section 305(b)

When Congress investigated the utility industry in 1935, it found that public utilities [3] often had related interests because they belonged to various holding company systems, or because individuals served as officers or directors with more than one public utility or as officers or directors with a public utility and with firms that provided the public utilities with goods and services. Congress believed that the existence of holding company systems and interlocking positions led to certain potential abuses in the industry.[4] In 1940, this Commission's predecessor, the Federal Power Commission (FPC), set forth what it regarded as the principal abuses that section 305(b) was designed to preclude:

1. Control over a large number of geographically widespread public utilities by a small group of individuals with perhaps a minimum of investment,
2. The evasion, by means of common control, of competition resulting in higher costs and poorer services to consumers,
3. The lack of arm's-length dealings between public utilities nd organizations furnishing financial services or electrical equipment,
4. The employment of dummy directors designated solely for the purpose of executing the orders of those in control and of nominal directors who give little time and attention to the affairs of the companies, and
5. Violations of laws, ethics, and good business practices by those holding such interlocking positions, whereby such relationship is employed for their own benefit or profit or for the benefit or profit of any other person or persons, and to the detriment of the companies, their security holders, or the public interest.[5]

As a means of curbing such practices, Congress enacted section 305(b) which makes it unlawful to hold "interlocking positions" unless the Commission, by order, authorizes the holding of the positions. Under the statute, "interlocking positions" are positions held by any of the following persons: (1) An officer or director of more than one public utility, (2) an officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility ("securities firm"), or (3) an officer or director of a public utility and of any company supplying electrical equipment to such public utility ("electrical equipment supplier"). Section 305(b) requires applicants, in the "form and manner prescribed by the the Commission," to demonstrate that "neither public nor private interests will be adversely affected thereby."

B. Commission Implementation of Section 305(b)

The Commission implements section 305(b) of the FPA through Part 45 of its regulations. Part 45 requires each person desiring to hold interlocking positions to submit an application to the Commission for authority to hold specific positions. Upon review of each application, the Commission determines whether the holding of the positions for which the applicant has applied would "adversely affect public or private interests." If the Commission determines that it would not adversely affect these interests, it approves the application.[6]

When an applicant is elected or appointed to another position with one of the companies for which the applicant has already obtained Commissin approval to hold an interlocking position, or when an applicant is elected or appointed to new interlocking positions with additional companies,[7] another application is required in order to hold these new positions.[8]

III. Proposed Rule and Rationale

In reviewing all of the applications the Commission has processed in the past three years, the Commission finds that there are certain types of applications which are routinely approved because these interlocking positions have presented no danger of the abuses that section 305(b) was intended to preclude. Because these types of positions have no apparent potential to jeopardize public or private interests, the Commission proposes to amend Part 45 of its regulations to provide an automatic authorization (*i.e.*, by operation of the rule without prior

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[2] Petition for Rulemaking Submitted by Registered Holding Companies (filed April 20, 1983) (Docket No. RM83-63-000). The eight petitioners are Allegheny Power System, Inc., American Electric Power Company, Inc., Central and South West Corporation, Eastern Utilities Associates, General Public Utilities Corporation, New England Electric System, Northeast Utilities, and The Southern Company.

[3] Under section 201(e) of the Federal Power Act, the term "public utility" means any person who owns or operates facilities subject to the jurisdiction of the Commission under Part II of the Act (other than interconnection and wheeling facilities subject to such jurisdiction solely by reason of sections 210, 211 or 212).

[4] In legislation directed at resolving the perceived problems with holding companies, Congress elaborated what it believed were the social and economic ills that resulted from these abuses, including the following: (1) Excessive charges to subsidiary public utility companies for goods and services resulting from the lack of arm's-length bargaining or the restraint of free and independent competition, (2) allocation of charges for goods and services among subsidiary companies in different States so as to frustrate State regulation, (3) control of subsidiary public utility companies through disproportionately small investment resulting in accounting practices, and rate, dividend and other policies that complicated and obstructed State regulation, and (4) a general lack of economy of management and operation of the public utilities, a lack of efficiency and adequacy of services or a lack of effective public regulation, and a lack of economies in the raising of capital. Title I, Sec. 1, of the Public Utility Act of 1935 (49 Stat. 803, 15 U.S.C. 79a). Title I was the Public Utility Holding Company Act of 1935. Title II became Parts II and III of the Federal Power Act, which include section 305(b).

[5] *John Edward Aldred*, 2 FPC 246 (1940).

[6] In some cases, the Commission has granted conditional approval depending ont he particular circumstances of the case. In any event, it also reseves authority to revisit the conditional approval if the circumstances change.

[7] 18 CFR 45.4(a).

[8] The Commission currently receives and processes approximately 100 applications each eyuar under Part 45. With respect to the kinds of interlocking positions at issue in this rulemaking, the Commission received, in fiscal years 1982, 1983, and 1984, 86 applications for authority to hold positions with public utilities that are under common ownerhsip, 15 applications for authority to hold positions with a public utility and with a jointly-owned public utility that owned and operated a single generating facility, and 115 applications for authority to hold new or additional positions by applicants who already held Commission approval to hold interlocking positions with the same company. All of these applications were approved on a case-by-case basis. Each application, even when routine, is estimated to require approximately 21 hours to complete.

review on a case-specific basis) to hold any interlocking positions that fit within certain categories of positions. This "blanket authorization" would apply to anyone elected or appointed to these positions. To monitor all pre-authorized positions held subject to section 305(b) approval, the Commission would require that all persons holding interlocking positions pursuant to this blanket authorization file with the Commission a short informational report within 30 days after they assume their interlocking positions. However, persons who are already assigned a current section 305(b) Commission identifiecation nubmer and file an annual FERC Form 561 informational report [9] would not be required to submit this report when they assume their interlocking positions. Information concerning any new interlocking positions, which previously authorized interlocking officers or directors hold, will be reported in that person's annual Form 5641 report.

The Commission proposes to issue blanket authorization to hold the following interlocking positions:[10]

1. Positions as officer or director of more than one public utility when 100% of the voting stock of each utility is owned by the same holding company.

2. Positions as officer or director of two public utilities where one of them is owned, wholly or in part, by the other and as its primary business generates electric power from one electric generating facility for sale to its owners, and

3. positions as officer or director of more than one public utility if the person is already authorized under Part 45 to hold different positions as officer or director with those utilities where the interlock involves affiliated public utilities.

A. Positions Within the Same Holding Company System

As part of its effort to curb the perceived abuses caused by the practice of individuals holding interlocking positions and the existence of holding company systems, Congress enacted the Public Utility Holding Company Act of 1935 (the "Holding Company Act") [11] to regulate holding companies and to simplify the complex network of public utilities belonging to holding company systems. Congress found, in 1935, that a small minority of shareholders were using complex networks of holding company systems to manipulate and control a large number of public utilities. This control by minority shareholders resulted in poor management (due to absentee officers and board directors), lack of competition, and violations of law, ethics, and good business practices.

Today, mostly because of the Securities and Exchange Commission's (SEC) operations under the Holding Company Act, a complex network of holding companies no longer exists. Holding companies now operate as single coordinated electric systems with simplified stock structures. The remaining nine registered electric utility holding companies now own 100% of the voting stock of their systems' public utilities.[12] The abuses resulting from minority shareholder control no longer occur. Each holding company system is, for present purposes, a single company conducting its electric utility operations through more than one corporate identity.

Holding companies usually appoint individuals to numerous similar positions with public utilities within their respective systems. Under the Commission's current regulations, those individuals must submit separate applications for authority to hold each interlocking position.

For the following reasons the Commission believes the current filing requirements are unnecessary and burdensome. First, because a holding company owns all the voting stock of its system's public utilities, it does in fact control all of its public utilities. It is not important whether the holding company controls its public utilities by assigning the same individuals to similar positions within each utility in its system, or by assigning different individuals to each public utility. In either case, the holding company exercises control over the public utilities within its system. Second, because State and Federal agencies now closely regulate holding companies and their public utilities, the Commission believes that the holding of interlocking positions within a holding company system no longer leads to the kinds of difficulties that Congress feared might impede State regulation.[13] Third, the Commission acknowledges that there are sound business reasons to allow an individual to hold similar positions with several public utilities within a holding company system. This enables the holding company to control and operate its system more efficiently and economically. Fourth, full public disclosure of interlocking positions can be assured without case-specific approvals, because of annual filing requirement under FPA section 305(c). Finally, the abuses that section 305(b) was intended to preclude do not appear to be a result of the holding of interlocking positions within holding company systems as they are now constituted. Therefore, the Commission proposes to grant blanket authorization for interlocking positions as officers or directors within the same holding company system (whether or not registered with the SEC), if the holding company owns 100% of the voting stock of the public utilities with which these positions would be held.

B. Positions With Jointly-Owned Single-Generating-Facility Companies

There exist today several public utilities that are single-generating-facility companies which are jointly owned by a few corporate or governmental owners, such as other public utilities, holding companies, municipalities, or rural electric cooperatives. These public utilities have been formed for the purpose of taking advantage of economies of scale and sharing the risks of financing, constructing, and operating a single large generating facility which provides power to the utility's owners. These single-generating-facility companies are usually owned by a small number of corporations and managed by one of the owners under a management agreement.

The Commission routinely approves applications for authority to hold interlocking positions with such a public utility and one of the utility's corporate owners because it believes that the

[9] Under 18 CFR Part 46, a Form 561 is filed annually by persons holding Commission approved interlocking positions.

[10] In FPC Order No. 246, 27 FR 4912 (May 25, 1962), the FPC stated:

> We are of the opinion that a procedure for automatic approval of positions in interlocking directorates is not contemplated by section 305(b) of the Act, since it requires that the granting of such authorization shall be by order of the Commission only upon due showing that neither public nor private interests will be adversely affected.

However, in 1981 in *EEI supra*, the Commission granted, on an interim basis, authorization to hold interlocking positions which fall within certain prescribed categories upon sub mission of an abbreviated statement. The Commission, by this generic determination of which positions warranted the filing of less detailed information, in effect reversed the FPC's earlier case-by-case approach in Order No. 246 which precluded generic approval of categories of positions.

The FPC's prior interpretation in Order No. 246 is unnecessarily narrow. Section 305(b) of the FPA authorizes the Commission to determine the "form and manner"of information required to determine whether public or private interests would be adversely affected by the holding of interlocking positions. There is nothing in section 305(b) or its legislative history that requires that this information be case-specific. Therefore, the Commission may determine generically whether certain types of interlocking positions would adversely affect public or private interests. The Commission hereby expressly overrules Order No. 246.

[11] 15 U.S.C. 79 through 79z-6 (1982).

[12] Although there are numerous exempt electric utility holding company systems, these systems also appear to hold 100% of their respective public utilities' voting stock.

[13] *See supra*, note 3.

holding of such interlocking positions creates no danger of fostering section 305(b) abuses. In essence, these jointly-owned companies are partnerships which have set out specific control arrangements in their initial agreements. None of the potential section 305(b) abuses appear to occur as a result of interlocking positions between the owner companies and the generating companies. Therefore, the Commission proposes to grant blanket authorization to hold interlocking positions with such a public utility and one of the utility's owners.

C. Positions Between Affiliated Public Utilities

Officers and directors already holding Commission-approved interlocking positions with two or more public utilities are frequently promoted, transferred, or otherwise take on new titles and responsibilities within these companies. Under § 45.4(a) of the Commission's current regulations, these individuals must file a complete interlocking position application under Part 45 for authority to hold each new position.

As discussed previously, the abuses that section 305(b) were intended to preclude no longer appear to result from the holding of interlocking positions between affiliated public utilities. A change in the duties and responsibilities of an officer of director holding interlocking positions does not materially affect the possibility of fostering section 305(b) abuses within the context of an affiliated relationship between public utilities. Therefore, the Commission proposes to grant a blanket authorization for changes in positions with respect to interlocks between affiliated public utilities when the person presently has Commission approval to hold interlocking positions as officer or director of the affiliated companies.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [14] requires agencies to prepare certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities." [15] The Commission is not required to make such analyses if a rule will not have such an impact. [16]

Applicants for authorization to hold interlocking positions under section 305(b) of the FPA submit applications for such authorization under Part 45 of the Commission's regulations. This rule will not have an impact on any "small entities" because these individuals are not "small entities" under the appropriate RFA definition. In any case, the Commission does not believe that the rule would have a "significant economic impact." This rule would eliminate or reduce the time spent preparing applications seeking authority to hold interlocking positions. This is not a "significant" economic impact. Therefore, pursuant to section 605(b) of the RFA, the Commission certifies that this rule will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act Statement

The information collection provisions of this rule will be submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 5 CFR 1320 (1983). The information collection requirements are in fact being reduced by this Rule. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426.

(Attention: Joe Hartsoe, (202) 357–8518). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer of the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

Interested persons are invited to submit written data, views, and other information concerning the matters set forth in this notice. An original and 14 copies of such comments should be filed with the Commission by July 8, 1985. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426 and should refer to Docket No. RM83–63–000.

All written submissions in this rulemaking will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C.

List of Subjects in 18 CFR Part 45

Electric utilities.

In consideration of the foregoing, the Commission proposes to grant the petition for rulemaking in this docket submitted by the holding companies and to amend Part 45 of Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 45—[AMENDED]

1. The authority citation for Part 45 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r Department of Energy Organization Act, 42 U.S.C. 7701–7352; Exec. Order No. 12,009, 3 CFR 142 (1978).

2. Section 45.1 is revised to read as follows:

§ 45.1 Applicability—who must file.

(a) This part applies to any person seeking to hold the following interlocking positions: (1) Officer or director of more than one public utility, (2) officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility; or (3) officer or director of a public utility and of any company supplying electrical equipment to a public utility.

(b) Any person seeking to hold any interlocking position described in § 45.2 must do the following:

(1) Apply for commission authorization under § 45.8, or

(2) If qualified, comply with the requirements pertaining to blanket authorization under § 45.9.

3. Part 45 is amended, by adding a new § 45.9, to read as follows:

§ 45.9 Automatic authorization of certain interlocking positions.

(a) *Applicability.* Subject to paragraphs (b) and (c) of this section the Commission authorizes any officer or director of a public utility to hold the following interlocking positions:

(1) Officer or director of one or more other public utilities if 100 percent of the outstanding voting stock of each pertinent public utility is owned by the same holding company,

(2) Officer or director of two public utilities where one of them is owned, wholly or in part, by the other and as its primary business generates electric power for sale to its owners from one electric generating facility, and

(3) Officer or director of more than one public utility if the person is already authorized under this part to hold different positions as officer or director of those public utilities where the

[14] 5 U.S.C. 601–612 (1982).

[15] *Id.* at section 605(a).

[16] *Id.* at section 605(b).

interlock involves affiliated public utilities.

(b) *Conditions of authorization.* Any person authorized to hold an interlocking position under this section must submit, not later than 30 days after assuming the duties of the position, an informational report in accordance with paragraph (c) of this season, unless that person is already authorized to hold an interlocking position of the type governed by this section.

(c) *Informational report.* An informational report required under paragraph (b) of this section must state the following:

(1) The full name and business address of the person required to submit this report,

(2) The names of all public utilities with which the person holds or proposes to hold the positions of officer or director and a description of those positions,

(3) The names of any entity, other than those listed in paragraph (c)(2) of this section of which the person is an officer or director and a description of those positions, and

(4) An explanation of the corporate relationship between or among the public utilities listed in paragraph (c)(2) of this section which qualifies the person for automatic authorization under this section.

[FR Doc. 85-12381 Filed 5-22-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-262-84]

Returns Relating to Cash Payments in Excess of $10,000 Received in a Trade or Business; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the requirement of reporting cash in excess of $10,000 received in a trade or business. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 22, 1985. The regulations would apply to cash payments received after December 31, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-262-84), 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, (Attention: CC:LR:T) 202-566-3238 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a "T" following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Parts 1 and 602 of Title 26 of the Code of Federal Regulations. The preamble to the temporary regulations provides a discussion of the rules. The final regulations, which this document proposes to base on those temporary regulations, would amend Parts 1 and 602 of Title 26 of the Code of Federal Regulations. Those final regulations are to be issued under the authority contained in sections 6050I and 7805 of the Internal Revenue Code of 1954 (98 Stat. 685, 68A Stat. 917; 26 U.S.C. 6050I, 7805). For the text of the temporary regulations, see FR Doc. 85-11902 (T.D 8025) published in the Rules and Regulations section of this issue of the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A hearing will be held on written request to the Commissioner by any persons who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer of Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of the proposed regulations is Bruce H. Jurist of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.6001-1 through 1.6109-2

Income taxes, Administrative practice and procedure, Filing requirements.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-11903 Filed 5-21-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 85-17]

Regatta: Liberty Cup Regatta, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: Special Local Regulations are being proposed for the Liberty Cup Regatta sponsored by the Harbor Festival Foundation, Inc. of New York. This sailboat racing event will be held in the Upper Bay, New York Harbor from June 29, 1985 to July 2, 1985. The Coast

Guard is considering the issuance of this regulation to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before June 24, 1985.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lt. D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 85–17) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The comment period for this proposed rulemaking is less than the normal 45 days because of the time constraints involved. Due to the shortened comment period, verbal comments submitted by telephone are acceptable.

Drafting Information

The drafters of this notice are Lt. D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. Mary Ann Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Second Annual Liberty Cup Regatta is just one of several marine events making up this year's Harbor Festival 1985, celebrating the Fourth of July in the Port of New York/New Jersey. The Harbor Festival Foundation, Inc. will sponsor this international, world class, sailboat race series designed as a miniature "America's Cup" competition. This match series will be a competition between eight (8), 26 foot identical sailing Auxiliary vessels. These vessels will be racing on a course consisting of windward and leeward legs of approximately 1.0 nautical miles in length. The sponsor will provide vessels to mark the race course, the exact location of which will be set up daily depending on the wind conditions. The South Street Seaport will serve both as the race headquarters and the staging area for the race boats and their crews. Mariners should use caution in this area as the race participants, under committee patrol boat escort, will enter and depart this area enroute to and from the race course throughout the effective period. A regatta patrol made up of Coast Guard, New York City and sponsor provided vessels will supervise this event. All partrol vessels provided by the sponsor will fly a distinctive flag or similar device on the race days to aid in their identification. The eastern edge of the Main Ship Channel from the Upper Bay to the North River (Hudson River) shall remain open at all times for transmitting vessels. A safety voice broadcast will be issued by the Coast Guard to properly notify boaters of this event and the contents of this regulation issued for its control. In order to provide for the safety of life and property on navigable waters the Coast Guard will regulate the movement of vessels prior to and during the event.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department and Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event is being held in an area used primarily by passenger tour vessels and commercial vessels enroute to and from facilities within the Port of New York/New Jersey. The course will be laid out daily based on wind conditions. The sponsor will ensure that the main shipping channels are not blocked by this event. The relatively small spectator fleet which is expected shall have a minor favorable impact on the commercial facilities in the area which provide services to the spectators.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation:

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposed to amend Part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–315 to read as follows:

§ 100.35–315 Liberty Cup Regatta, New York.

(a) *Regulated Area.* New York Harbor, Upper Bay Section within the area bounded by the following points including that area to the west of Liberty and Ellis Islands, to the New Jersey shoreline: Latitude 40°42'33"N., longitude 74°01'55"W.; latitude 40°42'23"N., longitude 74°01'25"W.; latitude 40°41'49"N., longitude 74°01'33"W.; latitude 40°41'18"N., longitude 74°02'01"W.; latitude 40°41'20"N., longitude 74°02'35"W.

(b) *Effective Period.* This regulation will be effective from 10:00 a.m. to 7:00 p.m. on June 28, 1985 through July 2, 1985.

(c) *Special Local Regulations.* (1) All persons or vessels not registered with sponsor and approved by Coast Guard Captain of the Port as participants or not part of the regatta patrol are considered spectators.

(2) All spectators shall remain 150 yards from the sailing vessels participating in the race.

(3) No spectator shall enter, pass through or remain within the course area as marked by the sponsor provided vessels unless authorized by the race sponsor or Coast Guard Patrol personnel.

(4) All spectators shall navigate using extreme caution and shall travel at no wake speeds when within ¼ mile of race participants.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard Patrol personnel include Comissioned, Warrant and Petty Officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform

vessel operations of this regulation and other applicable laws.

(6) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: May 14, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 85-12463 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD 7-85-10]

Anchorage Grounds; Atlantic Ocean, off the Port of Palm Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish designated offshore Anchorage Grounds near the entrance to the Port of Palm Beach, FL. The offshore area adjacent to Lake Worth Inlet is used as an anchorage area for vessels awaiting berthing space at the Port of Palm Beach. This rulemaking is needed to provide a defined anchorage area and to protect local environmentally sensitive reefs presently being subjected to damage by ships' anchors and chains.

DATES: Comments must be received on or before July 8, 1985.

ADDRESSES: Comments should be mailed to Commander (mps), Seventh Coast Guard District, 51 SW. First Avenue, Miami, FL 33130. The comments will be available for inspection and copying at 51 SW. First Avenue, Room 827, telephone (305) 350-5651. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) Harry D. Craig, (305) 350-5651.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD7-85-10) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (jg). Harry D. Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard district Legal Office.

Discussion of Proposed Regulation

The Port of Palm Beach Commission has requested that the Coast Guard establish offshore Anchorage Grounds adjacent to the Lake Worth Inlet entrance to the Port of Palm Beach, FL. The offshore area near Lake Worth Inlet is used as an anchorage area for vessels awaiting berthing space at the Port of Palm Beach. Local interests, such as diving clubs and the Coral Reef Society, have expressed concern over damage to the coral reefs and to offshore marine life presently being subjected to damage by ships' anchors and chains. In order to minimize the potential damage to the sensitive marine environment, the Port Commission has requested the Coast Guard to designate anchorage areas for commercial vessels anchoring offshore of the Port of Palm Beach.

During the past three years, approximately 1,400 vessels a year have called at the Port of Palm Beach. Of these, 150 vessels (normally tankers and dry bulk carriers drawing an average depth of 31 feet) require offshore anchorage for periods averaging 24 hours. Another 250 shallow draft vessels (12 to 25 feet) also require anchorage for periods ranging from one to five days. Waterborne traffic in the area consists of commercial vessels in transit to and from the Port of Palm Beach, sport fishing, commercial fishing, and dive boats in transit to and from local reefs.

The proposed action has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2-B-3 of Commandant Instruction M16475.1A.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that full regulatory evaluation is unnecessary. This regulation will provide defined anchorage areas for vessels awaiting bething space at the Port of Palm Beach.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation:

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by adding § 110.185 to read as follows:

§ 110.185 Atlantic Ocean, off the Port of Palm Beach, FL.

(a) *The anchorage grounds.*—(1) *Anchorage A.* The waters lying within an area bounded by a line beginning at latitude 26°50'00" N., longitude 80°01'12" W.; thence westerly to latitude 26°50'00" N., longitude 80°01'30" W.; thence southerly to latitude 26°47'30" N., longitude 80°01'30" W.; thence easterly to latitude 26°47'30" N., longitude 80°01'12" W.; and thence northerly to the point of beginning.

(2) *Anchorage B.* The waters lying within an area bounded by a line beginning at latitude 26°45'30" N., longitude 80°01'12" W.; thence westerly to latitude 26°45'30" N., longitude 80°01'42" W.; thence southerly to latitude 26°43'48" N., longitude 80°01'42" W.; thence easterly to latitude 26°43'48" N., longitude 80°01'12" W.; and thence northerly to the point of beginning.

(b) *The regulations.* (1) Vessels in the Atlantic Ocean near Lake Worth Inlet, which are awaiting loading or unloading at the Port of Palm Beach, shall only anchor within the anchorage areas hereby defined and established, except in cases of great emergency.

(2) Vessels anchoring under circumstances of great emergency outside the anchorage areas shall be shifted to new berths within the anchorage areas immediately after the emergency ceases.

(33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g))

Dated: May 7, 1985.

G.S. Duca,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District Acting.

[FR Doc. 85-12459 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 183

[CGD 85-002]

Safe Powering Standard

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: The advance notice of proposed rulemaking (50 FR 11383) published March 21, 1985 proposed an amendment to the Safe Powering Standard in Subpart D of Part 183 of Title 33, Code of Federal Regulations. Public comments were invited by May 9, 1985. Advance notice of proposed rulemaking, notices of proposed rulemaking and final rules are normally published in the Boating Safety Circular which is distributed to approximately 21,000 recreational boat manufacturers, dealers, distributors and other interested parties. Since the issue of the circular containing this notice will not be published until mid-May 1985, the period for public comment is extended until June 9, 1985

DATES: Comments must be received on or before June 9, 1985.

ADDRESSES: Comments should be submitted to Commandant (G-GMC/44), (CGD 85-002), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington D.C. 20593, between 8 am and 4 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202) 426-1065, between 8 am and 4 pm Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking published on March 21 1985 provided that public comments should be received by May 9, 1985. The amendment proposed in the advance notice would establish a new classification of "sport boats." The intended effect of the proposed action is to give certain small outboard powered runabouts, which can clearly operate safely with more horsepower than they currently rate under the Coast Guard Safe Powering Standard, more reasonable maximum horsepower capacities. Since the Coast Guard feels that the advance notice of proposed rulemaking has not been fully disseminated to all interested parties, the time of public comment is extended to June 9, 1985.

Dated: May 10, 1985.

L.C. Kindbom,

Captain, U.S. Coast Guard Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 85-12464 Filed 5-23-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 325

Proposal To Revise the Corps of Engineers Permit Form and Related Provisions Pertaining to Special Permit Conditions

AGENCY: Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers proposes to establish a new standard permit form to be used for the issuance of Department of the Army permits. The proposed permit form is intended to be easier for permittees to read and understand. The proposal also includes a discussion of special conditions to be incorporated in Corps permits when appropriate.

DATE: Written comments must be received by July 22, 1985.

ADDRESS: Office of the Chief of Engineers, Attn: DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Foster (202) 272-0199.

SUPPLEMENTARY INFORMATION: The standard permit form to be used for the issuance of Corps permits is specified in 33 CFR Part 325 (Appendix A). We are proposing revisions to this Appendix to make Corps permits easier for permittees to understand. To accomplish this purpose, we have proposed revisions which, in general, reflect the following changes:

1. The permit terms and conditions have been rewritten in plain English, and permit requirements are explicitly stated.

2. Conditions that were informational in nature have been reformatted in a separate section on the form entitled "Further Information."

3. Factors considered by the Corps in reaching permit decisions have been excluded from the form unless there are related requirements with which applicants must comply.

4. Conditions that are not generally applicable to all permittees have been excluded from the standard form with space provided for "Special Conditions" when appropriate.

5. General condition 4 (a modification of our previous general condition "r") requires a permittee to record his permit, where possible under local law, with the Registrar of Deeds or other appropriate official. We are aware that this condition may place an additional burden on permittees, and that recordation may not be possible in every jurisdiction. On the other hand, it seems fair and desirable that prospective purchasers of the property connected with or affected by the permit be provided a means of discovering permit restrictions of obligations before taking final contractual actions. Careful purchasers of adjacent property would also have a means to discover planned activities that may interfere with the enjoyment of their property. In this light, even though this provision is merely a rewording of the requirement which already exists in Corps permits, we would especially appreciate public comment on permit recordation.

Note.—The Department of the Army has determined that the proposed regulation revisions do not contain a major proposal requiring the presentation of a regulatory analysis under E.O. 12291. The Corps of Engineers certifies pursuant to Section 605(b) of the Regulatory Flexibility Act of 1980, that this regulation will not have a significant economic impact on a substantial number of entities.

List of Subjects in 33 CFR Part 325

Administrative practice and procedure, Intergovernmental regulations, Environmental protection, Navigation, Water pollution control, Waterways.

Dated: May 13, 1985

Approved:

Michael Volpe,

Colonel, Corps of Engineers, Executive Director of Civil Works.

Accordingly, the Department of the Army proposes to amend 33 CFR Part 325 Appendix A as set forth below:

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

1. The Authority citation for Part 325 continues to read as follows:

Authority: 33 U.S.C. 401 et seq., 33 U.S.C. 1344, 33 U.S.C. 1413.

2. Appendix A to Part 325 is proposed to be revised to read as follows:

* * * * *

Appendix A—Corps Permits

A. Permit Form
Permittee ———
Permit No. ———

Department of the Army Permit

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: (Describe the permitted work with references to any attached plans or drawings that are considered to be a part of the project description. Include a description of the intended use of any fills and of the types and quantities of materials to be discharged.)

Project Location: (Where appropriate, provide the names of and the locations on the waters where the permitted work and any off-site disposals will take place. Also, using name, distance, and direction, locate the permitted work in reference to a nearby landmark such as a town or city.)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on ———. If you find that you need more time to complete the authorized work, submit your request for a time extension to my office for consideration at least three months before the above date is reached.

2. You must maintain the work authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity or structure without transferring it to a third party.

3. If you discover any previously unknown historic or archeological remains while accomplishing the work authorized by this permit, you must immediately notify the district engineer of what you have found. He will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If it is possible under the applicable state and local laws and regulations, you must take the actions required to incorporate this permit as part of the documents reflecting your title to or interest in the real property involved.

5. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to the district engineer to validate the transfer of this authorization.

6. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, you will find a copy of the certification attached if it contains such conditions.

7. You must allow the district engineer or his representative to inspect the authorized work at any time deemed necessary to insure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions: (Add special conditions as required in this space with reference to continuation sheet if necessary.)

Further Information:

1. *Congressional Authorities:* You have been authorized to undertake the work described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuring this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future Federal activities initiated on behalf of the general public.

c. Damages to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design and construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: My determination that issuance of this permit is in the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. The district engineer may reevaluate his decision on this permit at any time he believes the circumstance warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. Your failure to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false or incomplete (See 4 above).

c. Significant new information surfaces that was not considered by the district engineer in reaching his original public interest decision.

As a result of his reevaluation, the district engineer may use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or the enforcement procedures contained in 33 CFR 326.4/326.5. You will be required to pay for any corrective measures ordered by the district engineer, and if you fail to comply with his directive, he may accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 established a time limit for the completion of the work authorized by this permit. Unless there are circumstances requiring either a prompt completion of the work or a reevaluation of his public interest decision, the district engineer will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

———
(Permittee)

———
(Date)

This permit becomes effective when the district engineer, acting for the Secretary of the Army, signs below.

———
(District Engineer)
(Date) ———

To validate the transfer of this permit, have the transferee sign and date below.

———
(Transferee)

———
(Date)

B. *Special Conditions.* Corps permits should contain the following and other special conditions, as appropriate:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

2. You must have a copy of this permit available on the vessel used for the authorized transportation and disposal of dredged material.

3. You must advise the district engineer in writing at least two weeks before you start maintenance dredging activities under the authority of this permit.

4. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number:

———
———

5. The condition below will be used when a Corps permit authorizes an artificial reef, an aerial transmission line, a submerged cable or pipeline, or a structure on the outer continental shelf.

National Ocean Service (NOS) has been notified of this authorization. You must notify NOS and the district engineer, in writing, at least two weeks before you begin work and upon completion of the work authorized by this permit. Your notification of completion must include a drawing which certifies the

location and configuration of the completed activity (a certified permit drawing may be used). Notifications to NOS will be sent to the following address: The Director, National Ocean Service (H/CG 222), Rockville, Maryland 20852.

[FR Doc. 85-12407 Filed 5-22-85; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation (FAR); FAR "Changes" Clauses, Request for Comment.

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are requesting comment on the Federal Acquisition Regulation (FAR) at Sections 52.243-1, Changes—Fixed-Price; 52.243-3, Changes—Cost-Reimbursement; 52.243-3, Changes—Time-and-Materials or Labor-Hours and 52.243-4, Changes, and the manner in which those clauses are being applied. These clauses appeared in the initial publication of the FAR at 48 FR 42101.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 22, 1985.

ADDRESS: Interested parties may obtain copies of the actual text of these FAR clauses from the FAR Secretariat, and written comments should be submitted to: General Services Administration, Attn: FAR Secretariat (VR), 18th & F Streets, NW, Room 4041, Washington, DC 20405.

Please cite FAR Case No. 85-26 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have received a number of inquiries concerning the meaning and intent of certain language appearing in the Changes clauses at FAR 52.243-1, 52.243-2, 52.243-3 and 42.243-4, especially with respect to the language which states that "The Contractor must submit any 'proposal for adjustment' . . . under this clause within 30 days from the date of receipt of the written order."

Although questions and requests for clarification concerning the FAR language have been received, no one has proposed specific revisions to the FAR clauses. In order to more fully ascertain whether the language is being consistently understood or needs to be revised and clarified, comment is being sought at this time on the manner in which the FAR clauses are being applied. Based on the comments and information received, the Councils will determine whether, and what extent, any revisions should be made. Should modification of the language be deemed necessary, proposed revisions to the clauses will be offered for public comment.

Dated: May 17, 1985.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 85-12363 Filed 5-22-85; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket Nos. 70-27, Notice 27; 83-07, Notice 2]

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems and Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: On June 27, 1983, NHTSA published a proposal to amend the agency's braking standards by modifying the brake burnish procedures. That proposal would have established a minimum test speed for the burnish, without regard to the brake temperature at that speed. This was proposed because disc brake systems are designed to operate safely at temperatures in excess of the currently specified maximum permissible brake temperatures.

The comments received in response to that proposal suggested alternative means of solving the problem. One approach would be to run the burnish at the prescribed speeds without regard to brake temperature at any point during the burnish. Another approach would be to specify a maximum temperature for drum brakes only and to remove all temperature limitations for disc brakes. NHTSA has also conducted some research which suggests that the most appropriate burnish procedure is to require a certain number of brake applications between 40 miles per hour (mph) and 20 mph, without measuring the resulting temperature, since that would treat all types of brakes equally and produce temperatures that are representative of city driving with fully loaded vehicles. This notice is published to solicit information and opinions as to which of these approaches would best effectuate the agency's intention with respect to this amendment. That intention is to establish burnish procedures which simulate a normal "break-in" for the brakes and are appropriate for both disc and drum brake systems, without discriminating in favor of either type of brake system.

DATES: Comments on this notice must be received on or before July 8, 1985. The amendments proposed by this notice would become effective immediately upon publication as a final rule.

ADDRESS: Comment should refer to the docket numbers set forth above for this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket Room hours are 8:00 a.m. to 4:00 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. James Clements, Crash Avoidance Division, National Highway Traffic Safety Administation, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone (202) 426-1714.

SUPPLEMENTARY INFORMATION: NHTSA has established two standards applicable to heavy vehicle braking systems. These are Standard No. 105, *Hydraulic Brake Systems* (49 CFR 571.105), and Standard No. 121, *Air Brake Systems* (49 CFR 571.121). Both these standards require that heavy vehicle brakes be burnished before testing to ensure that the vehicle brake systems satisfy the performance requirements of the two standards. (The breaking-in of heavy vehicle brakes is referred to as "burnishing" the brakes.)

Standard Nos. 105 and 121 both specify road tests to measure the brake systems' compliance with the performance requirements. The burnish procedure to be followed before these road tests sets forth a series of 500 brake applications at specified speeds to ensure adequate contact between brake linings and drums or discs. During the burnish procedure, the maximum temperature of the hottest brake on the

vehicle is not permitted to exceed 500 degrees ±50 F. The two standards specify that the first 175 brake applications (hereinafter referred to as "snubs") are made so as to slow the vehicle from 40 miles per hour (mph) to 20 mph. Subsequent snubs are conducted at initial speeds that increase in increments of 5 mph until the final series of snubs brake the vehicle from 60 mph to 20 mph. However, if the maximum allowable brake temperature is reached at some speed less than 60 mph, there are no further speed increases. The test speed may even be reduced to a minimum of 40 mph if such a reduction is needed to maintain the brake temperature below the specified maximum level.

Standard No. 121 also specifies a dynamometer test. The burnish for brake systems to be tested on the dynamometer specifies a series of 400 brake applications from 40 mph, and the rate of deceleration is specified therein. For these brake applications, Standard No. 121 specifies that the initial brake temperature shall be within a stated range. The initial brake temperature is defined in section S4 of Standard No. 121 as "the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile *before* any brake application."

The maximum temperatures, which apply to both drum and disc brake systems, were based on SAE Recommended Practice J880, "Brake System Rating Test Code—Commercial Vehicles." This recommended practice was established in 1963, and was based solely on test data for drum brakes. One potential problem which has arisen in connection with the maximum temperatures specified in the standards is that those maximum temperatures may not be appropriate for disc brake systems, since those systems are designed to operate at higher temperatures than are drum brakes. The application of these maximum temperatures to vehicles with disc brake systems has suggested a problem, because if is difficult to avoid exceeding the maximum permissible brake temperature even at the lowest of the burnish test speeds set forth in the standards, i.e., 40 mph.

In response to this situation, International Harvester (IH) filed a petition for rulemaking with NHTSA. In its petition, IH asked the agency to amend the burnish procedures to take account of the differing characteristics of disc and drum brake systems. After granting this petition, the agency published a notice of proposed rulemaking (NPRM) at 48 FR 29560; June 27, 1983. That NPRM proposed to amend the sections of Standard Nos. 105 and 121 applicable to burnish before road testing to specify that if the temperature of the hottest brake exceeds 550 degrees F at a snub condition of 40 mph to 20 mph, the remaining tests would be run at that snub condition without regard to the brake temperature. NHTSA anticipated that this proposed change would not create any problems with the compliance of existing drum brake systems (which do not typically exceed the specified temperatures during burnish), while resolving the burnish problems which occur for disc brake systems. Additionally, NHTSA believed that this proposed change would ensure that drum brakes are burnished at speeds that approximate real world driving conditions, while allowing disc brakes to be burnished at the higher temperatures at which they are designed to operate.

No change was proposed for the dynamometer burnish temperature in Standard No. 121 because the temperature problems which have arisen during the road test burnish have not occurred with the dynamometer burnish. Accordingly, there is no need to change that burnish procedure.

The NPRM also proposed some more minor revisions to the standards. One revision was intended to clarify the procedure for loading tractors and trailers during burnish testing. Another revision would have specified three brake adjustments at equal intervals during the burnish. This revision was proposed to ensure uniformity and repeatability of test results. The final proposed change involved automatic slack adjusters and automatic brake adjusters. Under the NPRM, both standards would be amended to specify that brake systems equipped with these devices cannot have the system deactivated during the brake tests.

The agency received seven comments on the NPRM, two of which were also petitions for rulemaking seeking additional amendments to the burnish procedures specified in the standards. After considering these comments, the agency has decided the most appropriate step is to issue this supplementary notice of proposed rulemaking. This notice will inform the public of the agency's tentative conclusions about the proposed amendments, and seeking further comment on possible alternative courses of action now being considered by NHTSA as a result of the comments on the NPRM.

With respect to the two petitions for rulemaking, NHTSA notes that it is not necessary to label as petitions for rulemaking comments which raise issues within the scope of a proposal. Indeed, in view of the agency's efforts to expedite its processing of rulemaking petitions, it is preferable that the number of petitions not be increased through labeling such comments as petitions. The function of a petition for rulemaking is to request that the agency commence a proceeding respecting the issuance, amendment, or revocation of a motor vehicle safety standard. See 15 U.S.C. 1410a(a) and 49 CFR 552.3 In this case, NHTSA had already commenced a proceeding to amend the heavy vehicle braking standards. Comments filed during that rulemaking proceeding which address issues within the scope of the rulemaking should be treated as just that, i.e., comments on an ongoing rulemaking. The petitions for rulemaking filed in response to the NPRM have in essence already been granted and henceforth will be treated simply as comments.

Maximum Brake Temperature During Burnish

Motion Control Industries (Motion Control) was one of the commenters which styled its comments on the NPRM as a petition for rulemaking. Those comments asked NHTSA to delete entirely the temperature restrictions during the brake burnish. According to this comment, the snubs should simply be conducted according to the schedules set forth in the standards, with the first 175 slowing the vehicle from 40 mph to 20 mph, and the final snubs slowing the vehicle from 60 mph to 20 mph, without regard to the brake temperatures developed.

In support of its position, Motion Control contended that the currently specified burnish procedures do not sufficiently condition rear drum brakes on vehicles equipped with disc brakes on the front axle. This was alleged because the temperature of the front axle disc brakes will exceed 550 degrees F very quickly, which means the vehicle will not run any snubs from higher speeds. The failure to condition the rear drum brakes at the higher speeds snubs means, according to Motion Control, that those drum brakes will not perform during the compliance testing as well as they are designed to do.

Motion Control stated in its response to the NPRM that, in designing a burnish procedure, the conditioning of the brakes is determined by the initial and final test speeds, the deceleration rate, the number of brake applications, and the initial interface temperature of the brake system components. Motion

Control contended that, if friction materials are designed to stop vehicles from 60 mph and are subjected to 60 mph stops during testing, it is desirable for the friction materials to experience whatever temperatures result during 60 mph stops during the burnish.

In a related vein, Ford stated that the agency's proposed amendment would relieve the problems encountered by vehicles with disc brakes on all axles, but would not achieve its objective for vehicles equipped with a combination of disc and drum brakes. According to Ford, "the procedure which would burnish the brakes most effectively on a vehicle equipped with a combination of disc and drum brake systems would be one which maintained the drum brake temperatures within the window of 450–550 degrees F, while allowing the disc brake temperatures to find their own level, unrestricted." This is a variation on the Motion Control request, in that it would maintain temperature restrictions for drum brake systems during burnish while deleting temperature restrictions for disc brake systems.

Further, the agency has conducted some testing since the publication of the original proposal for this rulemaking action, to determine what burnish procedure would expose heavy duty vehicle brakes to sufficiently high temperatures to simulate a break-in under normal driving conditions without favoring any particular brake design. The research has not yet been made final. However, its preliminary conclusion is that heavy duty vehicle brakes should be subjected to 500 brake applications to slow the vehicle from 40 mph to 20 mph, without regard to the brake temperatures which result from those brake applications. Such a burnish procedure seems to expose all types of brake designs to the temperatures they woud encounter in normal service without favoring any type of brake design. This procedure would also be consistent with the burnish procedures specified by the Society of Automotive Engineers for heavy duty vehicle brake performance testing; see SAE Recommended Practice J786a. (The burnish procedure in SAE Recommended Practice J880a, which allows some snubs from 60 to 20 mph, is for a brake energy absorption test, not a brake performance test).

This research also leaves the agency with some misgivings as to the appropriateness of adopting either the approach to burnish suggested by Motion Control or that suggested by Ford, since both would allow vehicles with disc brakes on all wheels to run 250 snubs from 60 to 20 mph. The data provided by Motion Control in support of their position that the burnish be conducted without regard to temperature showed that both disc and drum brakes could experience temperatures in excess of 1000 degrees F. Such temperatures are abnormally high for drum brakes and unusual for disc brakes except when driven in mountainous terrain. Adopting such a burnish procedure would mean that the burnish would not simulate the break-in of the brakes under normal operating conditions. NHTSA specifically requests comments on these misgivings and on its preliminary research findings showing that the most appropriate burnish would be 500 snubs from 40 to 20 mph without regard to brake temperature. Copies of this preliminary research have been placed in Dockets Nos. 70–27, Notice 27, and 83–07, Notice 2.

The agency is interested in obtaining further comments on all three of these approaches. NHTSA is seeking to establish burnish procedures which will adequately condition both drum and disc brake systems, without favoring either design. One potential problem with the approach suggested by Motion Control is that the complete deletion of temperature restrictions could favor disc brake designs, since drum brake systems could get too hot during the burnish. This problem would not seem to arise under Ford's alternative approach of relieving temperature restrictions entirely for disc brakes, while retaining the current temperature restrictions for drum brakes. Public comment is specifically sought on the appropriateness of adopting any of the suggested approaches outlined above, and whether any of those approaches represents a better means of achieving the desired goal of establishing burnish procedures which represent conditions brakes would encounter in normal use and which are fair for both types of brake systems while favoring neither, than the proposed means of achieving this goal set forth in the NPRM.

General Motors Corporation (GM) also styled a portion of its comments as a petition for rulemaking. GM stated that Standard No. 105 specifies in S7.4.1.1 that the interval between snubs is adjusted to the time necessary to adjust the initial brake temperature to between 230 and 270 degrees F for vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. The initial brake temperature is defined in S4 of Standard No. 105 as the "average temperature of the service brakes on the hottest axle of the vehicle 0.2 miles before any brake application." GM then correctly noted that, for vehicles with a GVWR over 10,000 pounds, Standard No. 105 requires, "If, during any of the brake applications in Table IV the hottest brake reaches 500 degrees F, make the remainder of the applications * * * as necessary to maintain a temperature of 500 degrees ±50 F."

According to GM, this means that there is no definition of when the brake temperature is to be measured for vehicles with a GVWR in exess of 10,000 pounds. The comment noted that the phrase "during any brake application" could be interpreted as meaning the peak temperature measured during the snub. GM indicated that such an interpretation presents practical difficulties in measurement because the driver must simultaneously note all temperatures while driving the vehicle and maintaining a specified rate of deceleration. Accordingly, GM asked that the concept of initial brake temperature, already used for vehicles with a GVWR of 10,000 pounds or less, be extended to the burnish procedure specified for vehicles with a GVWR in excess of 10,000 pounds.

Rockwell international agreed with these GM comments in its comments on the NPRM. Rockwell recommended that the standards be amended to specify an inital brake temperature of 500 degree ±50 F before beginning the snubs, and then permit the brake temperatures to move upward during the snubs to whatever level the individual design patterns of the brake systems dictates.

NHTSA does not agree with the GM and Rockwell comments. The temperature limitations during burnish for heavy vehicles have been in effect since September 1, 1974, under Standard No. 121 and sine September 1, 1975, under Standard No. 105. Readings of the brake temperatures on all brakes have routinely been taken in NHTSA enforcement testing since those dates by persons who were driving the vehicles and maintaining the specified rate of deceleration. If reading multiple displays has created problems for GM drivers, the instrumentation package can easily be restricted so that it will display only the temperature of the hottest brake.

Further, NHTSA has tentatively concluded that there is little merit to the concept of limiting the initial brake temperature during the burnish. As noted above, the initial brake temperature is measured before any brake application. If the initial brake temperatures were limited to 500 degrees F, the brake temperatures during the snubs would be considerably higher. Those higher temperatures

during the snubs might well damage brakes, particularly drum brakes. The agency has tentatively decided that if temperature limitations are to be retained to protect against damage to the brakes, the limitation needs to be applied to the temperatures which occur during the snubs, since those are the temperatures most likely to damage the brakes. If, on the other hand, no temperature limitation is needed to protect against damage to the brakes during the snubs, then, *a fortiori*, no temperature limitation is needed for the period prior to the snubs. For these reasons, the comments suggesting a limit on the initial brake temperature have not been adopted.

Tractor-Trailer Loading During Burnish

The NPRM erroneously referred to a paragraph of Standard No. 121 which specifies loading for stopping distance tests using a braked control trailer. With that braked control trailer, the standard specifies that the trailer shall be loaded to its gross axle weight rating and the tractor shall be loaded to its gross vehicle weight rating. However, the NPRM proposed to require this loading with an *unbraked* control trailer. Such a requirement would seriously tax the brakes of the tractor during the burnish, since those brakes would be stopping far more weight than they are designed to stop.

Several commenters objected to this proposed requirement, noting the overload on the tractor's brakes which would result. The agency agrees with these comments, and had intended only that the tractor-trailer combination be loaded to the GVWR of the tractor. To clarify this intent, proposed language has been added to section S6.1.8 to the effect that the unbraked trailer shall be loaded so that the combined weight of the tractor-trailer combination is equal to the GVWR of the tractor.

Brake Adjustments During Burnish

The NPRM proposed that brake adustments be made at specified intervals during the burnish procedures. Past interpretations and preambles have repeatedly stated that brake adjustments are permitted during burnish. These adjustments are made primarily to control the brake temperature. Since the burnish is a break-in of the brakes, high temperatures affect the brake adjustment. More precisely, some new brake linings have a tendency to swell during break-in. If the brakes are not adjusted to account for swelled linings, the brakes will drag and get very hot. Adjustments also account for problems of uneven wear on the different brakes, which could cause some brakes to do more work than the other brakes. Again, the brakes doing a disproportionately greater amount of work in stopping the vehicle would be subjected to higher temperatures.

To provide for this problem, and to establish uniformity for both manufacturer and agency testing, the NPRM proposed that the brakes be adjusted manually at specified intervals. In the case of the road test burnishes, the adjustments would be made after 125, 250, and 375 snubs, in accordance with the manufacturer's recommendations. In the case of the dynamometer test burnishes in Standard No. 121, the NPRM proposed that the brakes be adusted manually after 100, 200, and 300 stops.

Some commenters objected to these proposed requirements. One commenter urged that brake adjustments be allowed at intervals other than after 125, 250, and 375 snubs, because different brake systems and their linings will wear differently during the burnish. Another commenter stated that the number of brake adjustments should not be limited during the burnish because these limitations could prevent proper brake-in of the linings. NHTSA agrees that there are differences in the designs of the various brake systems and their linings. However, these differences are not such that adjustment at the specified intervals would result in undue wear. Additionally, linings which need more frequent adjustment than the three specified in the NPRM to achieve proper brake-in would not appear to be designed as well as the vast majority of linings on the market today. Finally, and most important, specifying adjustments at designated intervals will ensure the most repeatable test results by standardizing the procedures to be followed by all parties.

GM strongly objected to the requirement that manual adjustments of the brakes be made. While acknowledging that manual adjustment might provide the most accurate adjustment, GM did not believe that these manual adjustments would always be necessary. According to GM, in most instances, use of the automatic brake adjustment feature in accordance with the manufacturer's recommendations would provide adequate adjustment. GM also noted that some disc brake designs do not have any provision for manual adjustment. GM suggested that the standards should specify inspection at the designated intervals, and adjustment only if necessary.

NHTSA believes that the proposed procedures should be slightly amended to account for the points raised by GM. The problem with the proposed language was that it specified that brakes "shall be adjusted manually in accordance with the manufacturer's recommendation." This supplementary notice deletes the word "manually", and instead requires that brakes shall be adjusted in accordance with the manufacturer's recommendations at the specified intervals. The agency believes that this change will ease the concerns raised by GM.

If the manufacturer recommends manual adjustment, then the brakes would be so adjusted. Alternatively, if the manufacturer's recommendation is to inspect the brakes first, and adjust only if necessary, that recommendation would be followed. If the inspection shows that no adjustment to the brakes is necessary, none would be performed. While NHTSA agrees that some disc brake designs have no provision for manual adjustment, the agency is unaware of any disc brake design that has no provision for adjustment. Sometimes this adjustment is made by making a series of stops, generally with the vehicle in reverse. If these adjustments are necessary during the burnish, the adjustments will be made.

Automatic Brake Adjusters

The NPRM proposed to amend the standards to prohibit deactivation of automatic brake adjusters during brake testing for vehicles with a GVWR in excess of 10,000 pounds. Since adjustment problems during burnish were the reason for allowing those systems to be deactivated on these vehicles, and since the proposed adjustments at regular intervals should alleviate adjustment problems during burnish, NHTSA believed that there was no reason to continue to allow the deactivation of any automatic brake adjusting systems on these vehicles. Additionally, requiring that the automatic adjusters remain activated would result in the vehicles being tested for braking performance in a way which best approximates the braking performance those vehicles will deliver while in service on the roads.

Some commenters argued that there is no reason to treat vehicles with a GVWR in excess of 10,000 pounds differently from vehicles with a GVWR of 10,000 pounds or less. These commenters stated that if the lighter vehicles are allowed to deactivate automatic brake adjusters, heavier vehicles should be offered the same option.

NHTSA agrees with the implicit point that the reasons for and against

allowing the deactivation of automatic brake adjusters apply equally to all vehicles with those adjusters, regardless of vehicle size or type. However, this notice is intended to address only requirements for heavy vehicles. Rather than address the question of the deactivation of automatic brake adjusters in a piecemeal fashion, the agency believes it would be more appropriate to issue a notice addressing that issue for all vehicles, and will follow that course of action. Hence, this rulemaking no longer addresses that issue.

The agency has considered the costs and other effects of this supplementary notice of proposed rulemaking and determined that this proposal is neither "major" within the meaning of Executive Order 12291, nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This proposal would have little effect on the cost or design of the vehicles to which it might become applicable. Instead, this proposal would only clarify the test procedures for heavy vehicle brake systems. Since the effects of this proposal, if adopted as a final rule, would be minimal, a full regulatory evaluation has not been prepared.

Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

The effect of this proposal, if adopted, on small manufacturers of vehicles or brake systems would be minimal, since the proposal would only effect a clarification of some aspects of the test procedures or resolve problems which have arisen with the brake temperature limitations during that testing. No design or manufacturing changes would be required of these manufacturers. Small organizations and governmental units should not be significantly affected since the price increases associated with this proposed action should not affect the purchasing of new motor vehicles by these entities.

Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, it is proposed that 49 CFR 571.105, *Hydraulic Brake Systems*, and 49 CFR 571.121, *Air Brake Systems*, be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.105 Standard No. 105; Hydraulic brake systems [Amended]

1. In § 571.105, S7.4.2.1 would be amended or revised in one of the four ways set forth below:

Alternative One. S7.4.2.1 would be revised to read as follows and Table IV would be removed:

S7.4.2.1 *Burnish.* Burnish the brakes by making 500 snubs between 40 mph and 20 mph at a deceleration rate of 10 fpsps. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mile, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. The brakes shall be adjusted three times during the burnish procedure, in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs.

Alternative Two. The text of S7.4.2.1 would be revised to read as follows and Table IV would be unchanged:

S7.4.2.1 *Burnish.* Burnish the brakes by making 500 snubs in the sequence specified in Table IV and within the speed ranges indicated. Except where an adjustment is specified, after each brake application accelerate to the next speed specified and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If a vehicle cannot attain any speed specified in 1 mile, continue to accelerate until the speed specified is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. If during any of the brake applications specified in Table IV the hottest brake reaches 550 degrees F, make the remainder of the 500 applications from that snub condition, except that a higher or lower snub condition shall be followed (up to the 60 mph initial speed) as necessary to maintain a hottest brake temperature of 500 degrees F±50 degrees F. However, if at a snub condition of 40 to 20 MPH, the temperature of the hottest brake exceeds 550 degrees F, make the

remainder of the 500 applications from that snub condition, without regard to brake temperature. The brakes shall be adjusted three times during the burnish procedure, in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs.

Table IV

* * * * *

Alternative Three. The text of S7.4.2.1 would be revised to read as follows and Table IV would be unchanged:

S7.4.2.1 *Burnish.* Burnish the brakes by making 500 snubs in the sequence specified in Table IV and within the speed ranges indicated. Except where an adjustment is specified, after each brake application, accelerate to the next speed specified and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If a vehicle cannot attain any speed specified in 1 mile, continue to accelerate until the speed specified is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. The brakes shall be adjusted three times during the burnish procedure, in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs.

Table IV

* * * * *

Alternative Four. The text of S7.4.2.1 would be revised to read as follows and Table IV would be unchanged:

S7.4.2.1 *Burnish.* Burnish the brakes by making 500 snubs in the sequence specified in Table IV and within the speed ranges indicated. Except where an adjustment is specified, after each brake application, accelerate to the next speed specified and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If a vehicle cannot attain any speed specified in 1 mile, continue to accelerate until the speed specified is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. If during any of the brake applications specified in Table IV the hottest drum brake reaches 550 degrees F, make the remainder of the 500 applications from that snub condition, except that a higher or lower snub condition shall be followed (up to the 60 mph initial speed) as necessary to maintain a hottest drum brake temperature of 500 degrees F ±50 degrees F. However, if at a snub condition of 40 to 20 mph, the hottest drum brake temperature exceeds 550 degrees F, make the remainder of the 500 applications from that snub condition, without regard for the drum brake temperature. The brakes shall be adjusted three times during the burnish procedure, in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs.

Table IV

* * * * *

2. In § 571.105, S7.4.2.2 would be revised to read as follows:

S7.4.2.2 *Brake adjustment—post burnish.* After burnishing, adjust the brakes in accordance with the manufacturer's recommendations.

3. In § 571.105, S7.6 would be revised in one of the four ways set forth below:

Alternative One. S7.6 would be revised to read as follows:

S7.6 *First reburnish.* Repeat S7.4, except make 35 burnish stops or snubs.

Alternative Two. S7.6 would be revised to read as follows:

S7.6 *First reburnish.* Repeat S7.4, except make 35 burnish stops or snubs. Reburnish a vehicle whose brakes are burnished according to S7.4.2.1 by making 35 snubs from 60 to 20 mph, but if the hottest brake temperature reaches 500 degrees F±50 degrees F, make the remainder of the 35 applications from such initial speed divisible by five of at least 40 mph but less than 60 mph as necessary to maintain a hottest brake temperature of 500±50 degrees F. If at a snub condition of 40 to 20 mph, the temperature of the hottest brake exceeds 550 degrees F, make the remainder of the 35 applications from that snub condition without regard to brake temperature.

Alternative Three. S7.6 would be revised to read as follows:

S7.6 *First reburnish.* Repeat S7.4, except make 35 burnish stops or snubs. Reburnish a vehicle whose brakes are burnished according to S7.4.2.1 by making 35 snubs from 60 to 20 mph.

Alternative Four. S7.6 would be revised to read as follows:

S7.6 *First reburnish.* Repeat S7.4, except make 35 burnish stops or snubs. Reburnish a vehicle whose brakes are burnished according to S7.4.2.1 by making 35 snubs from 60 to 20 mph, but if the hottest drum brake temperature reaches 500 degree F ±50 degrees F, make the remainder of such applications from such initial speed divisible by five of at least 40 mph but less than 60 mph as necessary to maintain a hottest drum brake temperature of 500 ±50 degrees F. If at a snub condition of 40 to 20 mph, the hottest drum brake temperature exceeds 550 degrees F, make the remainder of the 35 applications from that snub condition without regard to brake temperature.

§ 571.121 Standard No. 121; Air brake systems. [Amended]

4. In § 571.121, S6 would be revised to read as follows:

S6 *Conditions.* The requirements of S5 shall be met by a vehicle when it is tested according to the conditions set forth below, without replacing any brake system part or by making any adjustments to the brake system except as specified. Except as otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range. Compliance of vehicles manufactured in two or more stages may, at the option of the final-stage manufacturer, be demonstrated to comply with this standard by adherence to the instructions of the incomplete vehicle manufacturer and any intermediate stage manufacturer, when instructions have been provided with the vehicle in accordance with §§ 568.4(a)(7)(ii) and 568.5 of this title.

5. In § 571.121, S6.1.1 would be amended by adding the following language to the end of that subparagraph:

During the burnish procedure specified in S6.1.8, truck tractors shall be loaded by coupling them to an unbraked flatbed semitrailer, which semitrailer shall be loaded so that the weight of the combination equals the GVWR of the truck tractor. The load on the unbraked flatbed semitrailer shall be located so that the truck tractor wheels do not lock during burnish.

6. In § 571.121, S6.1.8.1 would be revised or amended in one of the four ways set forth below:

Alternative One. S6.1.8.1 would be revised to read as follows and Table IV would be removed:

S6.1.8.1 With the transmission in the highest gear appropriate for a speed of 40 mph, make 500 snubs betwen 40 mph and 20 mph at a deceleration rate of 10 fpsps, or at the vehicle's maximum deceleration rate, if less than 10 fpsps. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mile, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. Any automatic pressure limiting valve is in use to limit pressure

as designed. The brakes shall be adjusted three times during the burnish procedure, in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs, and shall be adjusted after burnish in accordance with the manufacturer's recommendations.

Alternative Two. The text of S6.1.8.1 would be revised to read as follows and Table IV would be unchanged:

S6.1.8.1 With the transmission in the highest gear appropriate for the series given in Table IV, make 500 brake applications at a deceleration rate of 10 fpsps, or at the vehicle's maximum deceleration rate, if less than 10 fpsps, in the sequence specified. Except where an adjustment is specified, after each brake application accelerated to the speed specified and maintain that speed until making the next brake application at a point one mile from the initial point of the previous brake application. If a vehicle cannot attain the specified speed in 1 mile, continue to accelerate until the specified speed is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever comes first. If during any of the brake applications specified in Table IV the hottest brake reaches 550 degrees F, make the remainder of the 500 applications from that snub condition except that a higher or lower snub condition shall be used as necessary to maintain an after-stop temperature of 500 degrees F ±50 degrees F. However, if at a snub condition of 40 to 20 mph the temperature of the hottest brake exceeds 550 degrees F, make the remainder of the 500 applications from that snub condition without regard to the brake temperature. The brakes shall be adjusted three times during the burnish procedure, after 125, 250, and 375 snubs and after completing this burnish, with each adjustment made in accordance with the manufacturer's recommendations. Any automatic pressure limiting valve is in use to limit pressure as designed, except that any automatic front axle pressure limiting valve is bypassed if the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on a front axle by more than 125 degrees F. A bypassed valve is reconnected if the temperature of the hottest brake on a front axle exceeds the temperature of the hottest brake on a rear axle by 100 degrees F or more.

Table IV

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Alternative Three. The text of S6.1.8.1 would be revised to read as follows, and Table IV would be unchanged:

S6.1.8.1 With the transmission in the highest gear appropriate for the series given in Table IV, make 500 brake applications at a deceleration rate of 10 fpsps, or at the vehicle's maximum deceleration rate, if less than 10 fpsps, in the sequence specified. Except where an adjustment is specified, after each brake application accelerate to the speed specified and maintain that speed until making the next brake application at a point one mile from the initial point of the previous brake application. If a vehicle cannot attain the specified speed in 1 mile, continue to accelerate until the specified speed is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever comes first. The brakes shall be adjusted three times during the burnish procedure, after 125, 250, and 375 snubs and after completing this burnish, with each adjustment made in accordance with the manufacturer's recommendations. Any automatic pressure limiting valve is in use to limit pressure as designed, except that any automatic front axle pressure limiting valve is bypassed if the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on a front axle by more than 125 degrees F. A bypassed valve is reconnected if the temperature of the hottest brake on a front axle exceeds the temperature of the hottest brake on a rear axle by 100 degrees F or more.

Table IV

* * * * *

Alternative Four. The text of S6.1.8.1 would be revised to read as follows and Table IV would be unchanged:

S6.1.8.1 With the transmission in the highest gear appropriate for the series given in Table IV, make 500 brake applications at a deceleration rate of 10 fpsps, or at the vehicle's maximum deceleration rate, if less than 10 fpsps, in the sequence specified. Except where an adjustment is specified, after each brake application accelerate to the speed specified and maintain that speed until making the next brake application at a point one mile from the initial point of the previous brake application. If a vehicle cannot attain the specified speed in 1 mile, continue to accelerate until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever comes first. If during any of the brake applications specified in Table IV the hottest drum brake reaches 550 degrees F, make the remainder of the 500 applications from that snub condition except that a higher or lower snub condition shall be used as necessary to maintain a hottest drum brake temperature of 500 degrees F ±50 degrees F. However, if at a snub condition of 40 to 20 mph the temperature of the hottest drum brake exceeds 550 degrees F, make the remainder of the 500 applications from that snub condition without regard to the brake temperature. The brakes shall be adjusted three times during the burnish procedure, after 125, 250, and 375 snubs and after completing this burnish, with each adjustment made in accordance with the manufacturer's recommendations. Any automatic pressure limiting valve is in use to limit pressure as designed, except that any automatic front axle pressure limiting valve is bypassed if the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on a front axle by more than 125 degrees F. A bypassed valve is reconnected if the temperature of the hottest brake on a front axle exceeds the temperature of the hottest brake on a rear axle by 100 degrees F or more.

Table IV

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7. In § 571.121, S6.2.6 would be amended by revising the last sentence to read as follows:

* * * The brakes shall be adjusted three times during the burnish procedure, after 100, 200, and 300 stops, and at the conclusion of the burnishing, in accordance with the manufacturer's recommendations.

Issued on May 16, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-12311 Filed 5-22-85; 8:45 am

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1132

[Ex Parte No. 445; Sub-1]

Intramodal Rail Competition

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments and clarification to notice of proposed rules.

SUMMARY: By a notice served March 28, 1985, and published in the **Federal Register** April 2, 1985 (50 FR 13051), the Commission announced its intention to adopt rules to govern its handling of various competitive access issues. The Commission required comments to be

filed by May 17, 1985, and replies by June 3, 1985. The Rubber Manufacturers Association (RMA) seeks a 30-day extension of the time for filing comments and a clarification as to whether parties may comment on the supplemental petition filed by the Chemical Manufacturers Association (CMA). The Association of American Railroads, the National Industrial Transportation League, and the Procompetitive Rail Steering Committee oppose the request. In light of the complexity of the issues, a 14-day extension of time will be granted and the time for filing comments and replies is extended accordingly. In clarification, parties may comment on CMA's supplemental petition.

DATES: Written comments are due by May 31, 1985; reply comments are due by June 17, 1985.

ADDRESSES: Send an original and 15 copies of all documents referring to Ex Parte No. 445 (Sub-No. 1) to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and serve on all parties to this proceeding.

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

Decided: May 10, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-12388 Filed 5-22-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Addition of Twenty National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and/or Sport Fishing

Correction

In FR Doc 85-11847 beginning on page 20462 in the issue of Thursday, May 16, 1985, make the following correction:

1. On page 20464, in the first column, in the eighth line, "to masked" should read "by masked"; in the twelfth line insert a comma between, "Gambel's" and "Montezuma"; and in the fifth line from the bottom, "1985" should read "1958".

2. On page 20465, in the first column, in the first complete paragraph, in the eighteenth line, "birth" should read "bird".

3. On page 20466, in the first column, in the first complete paragraph, in the eighteenth line, "fishing" should read "fishery".

4. On page 20469, in the first column, in § 32.32, in amendatory instruction 7, in the fifth line, "(b)(4)" should read "(b)(1)".

5. On page 20469, in the second column, in § 32.32 (qq)(1)(ii), in the second line, "daily a" should read "daily and a".

6. On page 20470, in the first column, in § 33.13(b)(1), in the first line, "during hours" should read "during daylight hours".

7. On page 20470, in the second column, in § 33.44(c), in the first line, "Pinckeny" should read "Pinckney".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 50, No. 100
Thursday, May 23, 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

Soil Conservation Service

Leland Freeborn Watershed, California; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Leland Freeborn Watershed, Kern County, California.

FOR FURTHER INFORMATION CONTACT: Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California, 95616, telephone (916) 449–2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns agricultural water management for soil salinity control. Alternatives under consideration to reach these objectives include irrigation water management and on farm title drains with evaporation ponds for water disposal.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or future meetings may be obtained from Eugene E. Andreuccetti, State Conservationist, at the above address or telephone (916) 449–2848.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding intergovernmental review of Federal and federally assisted programs and projects is applicable)

Paul H. Calverley,

Deputy State Conservationist.

May 9, 1985.

[FR Doc. 85-12396 Filed 5-22-85; 8:45 am]

BILLING CODE 3410-16-M

Bonneville County Roadside Critical Area Treatment RC&D Measure, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334–1601.

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 Bonneville County Roadside Critical Area Treatment RC&D Measure, Bonneville County, Idaho.

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

Bonneville County Roadside Critical Area Treatment RC&D Measure will provide treatments to roadcuts, road fills, and borrow areas which have severe erosion and sedimentation problems. Planned treatments to control the severe erosion and sedimentation problems include grading and shaping, seedbed preparation and grass seeding. Other treatments include mulching and fertilizer treatment of the seeded areas.

The Notice of a 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 Mr. Stanley N. Hobson. The FONSI has been sent to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the previous page.

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: May 14, 1985.

Stanley N. Hobson,

State Conservationist.

[FR Doc. 85-12398 Filed 5-22-85; 8:45 am]

BILLING CODE 3410-16-M

Raccoon Lake Watershed, Illinois; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Raccoon Lake Watershed, Marion and Jefferson Counties, Illinois.

FOR FURTHER INFORMATION CONTACT: John J. Eckes, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois, 61820, Telephone (217) 398–5267.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, John J. Eckes, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are erosion, sedimentation water quality, water quantity, and resource base degradation. The planned works of improvement include conservation tillage systems, terraces, grassed waterways, grade stabilization structures, and land use change.

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

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and budget Circular A–95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable)

John J. Eckes,

State Conservationist.

May 15, 1985.

[FR Doc. 85–12397 Filed 5–22–85; 8:45 am]

BILLING CODE 3410–16–M

South Fork Kings River Watershed, California; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Gudelines (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 being prepared for the South Fork Kings River Watershed, Kings County, California.

FOR FURTHER INFORMATION CONTACT: Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California, 95616, telephone (916) 449–2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause signigicant local, regional, or national impacts on the environment. As a result of these findings, Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns agricultural water management for soil salinity control. Alternatives under consideration to reach these objectives include irrigation water management and on farm tile drains with evaporation ponds for water disposal. An alternative using vegetation for salt control is also being investigated.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or future meetings may be obtained from Eugene E. Andreuccetti, State Conservationist, at the above address or telephone (916) 449–2848.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding intergovernmental review Federal and federally assisted programs and projects is applicable)

Paul H. Calverley,

Deputy State Conservationist.

May 9, 1985.

[FR Doc. 85–12395 Filed 5–22–85; 8:45 am]

BILLING CODE 3410–16–M

Environmental Impact; Card Industrial Sand Critical Area Treatment RC&D Measure, Indiana

AGENCY: Soil Conservation Service, USDA.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 4624, telephone 317–248–4350.

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 Card Industrial Sand Critical Area Treatment RC&D Measure, Harrison County, Indiana.

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, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment (erosion control). The planned works of improvement include construction of a series of water and sediment control basins, a diversion terrace, and grading and shaping severely gullied land. Approximately six acres will be seeded and fertilized or planted to trees following construction.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 16, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85–12510 Filed 5–22–85; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m. on June 12, 1985, at the Connecticut Commission on Human Rights & Opportunities, 90 Washington Street, Room 331, Hartford, Connecticut. The purpose of the meeting is to provide an orientation for new Committee members and discuss the status of current projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Jacob Schlitt, director of the New England Regional Office, at (617) 223–4671.

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

Dated at Washington, D.C., May 17, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–12410 Filed 5–22–85; 8:45 am]

BILLING CODE 6335-01-M

Florida Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission originally scheduled for May 29, 1985, and May 30 at Miami, Florida, has a new meeting room and convening time for the May 29th Meeting.

The meeting dates and address will remain the same. The meeting time will change from 8:00 p.m. to 9:00 p.m. on May 29th. The meeting room will change to the Palm Room at the Biscayne Bay Marriott Hotel.

Dated at Washington, D.C., May 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–12413 Filed 5–22–85; 8:45 am]

BILLING CODE 6335-01-M

North Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 12:00 p.m. on June 7, 1985, at the Townhouse Motel, 301 Third Avenue, North, Fargo, North Dakota. The purpose of the meeting is to discuss and plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert Feder or William Muldrow, director of the Rocky Mountain Regional Office at (303) 844–2211.

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

Dated at Washington, D.C., May 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–12412 Filed 5–22–85; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Tennessee Advisory Committee to the Commission originally scheduled for June 14, 1985, in Nashville, Tennessee has a new adjourning time and address.

The meeting date and convening time will remain the same. The meeting time will change to 3:30 p.m. to 6:30 p.m. The meeting address will change to Peabody Hotel, 149 Union Street, the George Peabody Room, Memphis, Tennessee.

Dated at Washington, D.C., May 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–12414 Filed 5–22–85; 8:45 am]

BILLING CODE 6335-01-M

Texas Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m. on June 14, 1985, at Hobby Airport Hilton, 8181 Airport Blvd., Salon #4, Houston, Texas. The purpose of the meeting is to plan future SAC projects and activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Adolfo Canales or J. Richard Avena, director of the Southwestern Regional Office at (512) 229–5570.

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

Dated at Washington, D.C., May 17, 1985

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–12411 Filed 5–22–85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review; Notice of Application

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 June 12, 1985 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 85-00008."

Applicant: Aloha Marketing Services, Inc. ("Aloha"), P.O. Box 812, Kailua-Kona, Hawaii 96745, Telephone: 808-775-9866.

Summary of the Application

Application #: 85-00008.

Date Deemed Submitted: May 10, 1985.

Member in Addition to Applicant: Merle Martin, President, Kailua-Kona, Hawaii.

Export Trade

Aloha Marketing Services intends to facilitate the export of all products and services.

Export Services

Aloha may provide the following export trade services: consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods.

Export Markets

Aloha's proposed export activities will be conducted on a worldwide basis, with a primary emphasis on the Pacific Basin and Asian Markets.

Export Trade Activities and Methods of Operation

Aloha desires certification to:

1. Enter into "Exclusive Export Service Contracts" with individual U.S. producers of goods and services wherein:

a. The producer grants Aloha the exclusive right to market the producer's products in the export markets;

b. The producer agrees that it will sell its products in the export markets only to members of Aloha's overseas distributor network under an authorized Aloha Overseas Distributor Network Contract;

c. The term of the contract shall be for 10 years unless earlier terminated and shall continue for an additional 10 years at the option of the parties;

d. Aloha reserves to itself the right to determine territories and distribution methods of the overseas distributors network, which distributors shall be entitled to market particular products and services, and whether or not to continue any distributorship;

e. The producer expressly agrees not to make any sales to the export markets to a third party who is no longer a part of Aloha's overseas distributor network for a period of ten (10) years from the expiration of the producer's Exclusive Export Service Contract.

2. Aloha may enter into "Overseas Distribution Network Contracts" with individual distributors for the marketing of products and services in the export markets, wherein:

a. Aloha grants to the distributor the exclusive right to sell prescribed goods and services within a prescribed territory or territories;

b. The distributor agrees to pay Aloha a basic license fee and a monthly commission equal to a percentage of sales;

c. The distributor agrees not to sell, directly or indirectly, any similar products or services in the export markets without the prior written consent of Aloha;

d. The distributor agrees not to sell similar products or services outside of the prescribed territory or territories without the prior written consent of Aloha; and

e. Aloha agrees not to grant a license for the sale of the products or services, for the prescribed territory or territories, and while the contract remains in effect, to anyone except the distributor.

3. Aloha may enter into Independent Sales Contracts with individual contractors, whereby the contractor agrees to use its best efforts to obtain producers who will enter into Exclusive Export Services Contracts with Aloha, wherein:

a. The Contractor agrees not to engage in any activity in competition with Aloha.

b. The Contractor agrees not to sell, distribute or market the products or services or any substantially similar products or services of any producer with whom the contractor has discussed an Exclusive Export Service Contract with Aloha during the term of the Independent Sales Contract and for two years after its termination.

c. The Contractor agrees to keep confidential and not disclose Aloha's customer list and contacts during the term of the Independent Sales Contract and for two (2) years after its termination.

d. Aloha retains the right to assign more than one contractor to one geographic area.

e. The Contractor agrees not to contact customers of Aloha or contacts referred to a distributor by Aloha for two (2) years after termination of the Independent Sales Contract.

Dated: May 17, 1985.

Douglas A. Riggs,

General Counsel.

[FR Doc. 85-12375 Filed 5-22-85; 8:45 am]

BILLING CODE 3510-DR-M

Software Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Software Subcommittee of the Computer Systems Technical Advisory Committee wil be held June 13, 1985, 9:30 a.m., J. Robert Oppenheimer Study Center, Los Alamos National Laboratory, Los Alamos, New Mexico. The Software Subcommittee was formed to study computer software with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

General Session

1. Introduction of members and quests.

2. Opening remarks by the Chairman.

3. Presentation of papers or comments by the public.

4. Develop Work plan for the Software Subcommittee.

5. Action items underway.

6. Action items due at next meeting.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public

participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Roon 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: May 14, 1985.

Milton M. Baltas,

Director, Technical Programs Staff Office of Export Administration.

[FR Doc. 85–12370 Filed 5–22–85; 8:45 am]

BILLING CODE 3510-DT-M

[C-614-501]

Preliminary Affirmative Countervailing Duty Determination: Low-Fuming Brazing Copper Rod and Wire From New Zealand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire. The estimated net bounty or grant is 9.46 percent *ad valorem* for all manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire.

We are directing the U.S. Customs Service to suspend liquidation of all entries of low-fuming brazing copper rod and wire from New Zealand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by July 29, 1985.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Jack Davies, Roy Malmrose, or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377–1784, 377–8320, or 377–3464.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Export Performance Taxation Incentive (EPTI)
- Export Market Development Taxation Incentive (EMDTI)

We preliminarily determine the estimated net bounty or grant to be 9.46 percent *ad valorem* for all manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire.

Case History

On February 19, 1985, we received a petition in proper form from American Brass, Century Brass, and Cerro Metal Products of Rolling Meadows, IL, Waterbury, CT, and Bellefonte, PA, respectively, filed on behalf of the U.S. industry producing low-fuming brazing copper rod and wire. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire, directly or indirectly, receive benefits which constitute bounties or grants within the meaning of section 303 of the Act. On May 10, a letter supporting the petition was filed by J.W. Harris Company of Cincinnati, Ohio, another domestic producer of low-fuming brazing copper rod and wire.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 11, 1985, we initiated the investigation (50 FR 11004). We stated that we expected to issue our preliminary determination by May 15, 1985.

At the time of our initiation, New Zealand was a "country under the Agreement" within the meaning of section 710(b) of the Act, and an injury determination was required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. Effective April 1, 1985, however, the Office of the United States Trade Representative terminated New Zealand's status as a "country under the Agreement" within the meaning of section 701(b)(1) of the Act. Accordingly, the ITC has terminated its investigation and will not determine whether imports of these products cause or threaten material injury to a U.S. industry.

Since New Zealand is no longer a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and 303(b) of the Act apply to this investigation.

On March 22, 1985, we presented a questionnaire to the New Zealand government in Washington, D.C. concerning the petitioners' allegations. On April 26 and 30, 1985, w received responses to our questionnaire from McKechnie Brothers (N.Z.) Ltd. and the government of New Zealand, respectively. McKechnie Metals Products Ltd., a subsidiary of McKechnie Brothers (N.Z.) Ltd., is the sole manufacturer and exporter in New Zealand of the products under investigation.

Standing

On March 20, 1985, Aufhauser Brothers Corporation (Aufhauser) requested that we rescind our initiation of this investigation, alleging that the petitioners had not filed "on behalf of" the domestic industry, as required by section 702 of the Act. Section 771(4)(A) of the Act defines the industry as domestic producers of all or a major proportion of domestic production of the like product. The petitioners are manufacturers of bare low-fuming brazing rod and wire, at least one of which also flux-coats low-fuming brazing rod and wire. Aufhauser is a domestic company that purchases domestically produced and imported bare low-fuming brazing rod and wire and coats the rod and wire with flux for final sale. Aufhauser challenged a statement in the petition that the petitioners "account for all domestic production, manufacture, and sales of low-fuming brazing rod and wire," and identified three other domestic companies which, like itself, flux-coat the rod and wire but do not manufacture bare low-fuming brazing rod and wire, and one, J.W. Harris, which both manufactures and flux-coats low-fuming brazing rod and wire. Aufhauser did not indicate whether these other firms oppose the petition. J.W. Harris now supports the petition.

Neither the Act nor the regulations require a petitioner to establish affirmatively that it has the majority

support of a particular industry. Thus, the ITA is entitled to rely on petitioners' representations that they have, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that they have not done so. See, "Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia," 50 FR 9852 (1985), interpreting the requirements of *Gilmore Steel Corp. v. United States*, 585 F. Supp. 670, 676 (Ct. Int'l Trade 1984).

Aufhauser's letter raised questions as to the nature of the industry. Almost all low-fuming brazing rod and wire imported into the U.S. is bare, yet the scope of the investigation covers both bare and flux-coated merchandise. The petition expressly included flux-coated as well as bare low-fuming brazing rod and wire because a potential countervailing duty order covering only bare low-fuming brazing rod and wire could be circumvented by importation of the product after flux-coating.

Although not required to do so, the Department sent a questionnaire to Aufhauser on April 2, 1985, in order to elicit further information about the nature of the industry. We received an answer to the questionnaire on April 18. Even as supplemented by its questionnaire response, the information provided by Aufhauser, the only company that has expressed opposition to the petition, has not rebutted the evidence of record that the petition was, in fact, filed on behalf of the U.S. industry.

Scope of the Investigation

The products covered by this investigation are low-fuming brazing copper rod and wire, principally of copper and zinc alloy ("brass"), of varied dimension in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated, currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 612.6205, 612.7220, and 653.1500. The chemical composition of the products under investigation is defined by Copper Development Association (CDA) standards 680 and 681.

Analysis of Programs

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

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If a response cannot be supported at verfication, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants (the review period) is the 1984 company fiscal and tax year (August 1, 1983 to July 31, 1984). Based upon our analysis of the petition and the responses submitted by the government of New Zealand and McKechnie Brothers (N.Z.) Ltd. to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, exporters in New Zealand of low-fuming brazing copper rod and wire under the following programs.

A. Export Performance Taxation Incentive (Section 156A, Income Tax Act 1976)

Under the 1979 Amendment of the Income Tax Act 1976, exporters receive a tax credit based on the f.o.b. value of qualifying goods exported. Credits are available as a deduction against income tax payable. It the tax credit exceeds the income tax payable, the remainder is paid to the taxpayer in cash. The rate of the tax credit is dependent upon the government predetermined value-added category into which the product falls. The amount of the tax credit is calculated by multiplying the rate corresponding to the value-added category into which the product falls by the f.o.b. value of export sales. The products covered by this investigation fall into value-added category C for which the corresponding rate is 9.1 percent.

According to the company response, benefits under this program will be completely phased out beginning in tax year 1988 (that is, after August 1, 1987). However, we preliminarily determine that McKechnie Metals Products Ltd., a subsidiary of McKechnie Brothers (N.Z.) Ltd., received benefits under this program during the review period. Because eligibility for this program is limited to exporters, we preliminarily determine that it provides a bounty or gant within the meaning of the countervailing duty law.

To calculate tax benefits, we examine the amount of tax savings received by the company during the review period. The amount of tax savings received by McKechnie Metals Products Ltd. should be based on the tax credit claimed by the company on its 1983 tax return (covering the period August 1, 1982 to July 31, 1983). Therefore, the estimated net bounty or grant should be equal to the amount of the tax credit claimed for brazing copper rod and wire exports by McKechnie on its 1983 tax return divided by the total amount of brazing copper rod and wire exports during the review period. However, because we do not have the company's 1983 tax return, we are using the 1984 tax return (covering the period August 1, 1983 to July 31, 1984) which specifies the tax credit rate for category C goods into which brazing copper rod and wire fall. Based on the 1984 tax return and the specified tax credit rate, we determine that the estimated net bounty or grant is 9.1 percent *ad volorem*.

B. Export Market Development Taxation Incentive (Section 156F, Income Tax Act 1976)

Under the 1979 Amendment of the Income Tax Act 1976, export market development expenditures include expenses incurred principally for seeking and developing markets, retaining existing markets, and obtaining market information. These exporter expenditures may qualify for a tax credit of 67.5 percent of the total expenditure. If the exporter takes advantage of section 156F, however, he may not deduct the qualifying expenditures as ordinary business expenses in calculating his assessable income. Because the normal corporate tax rate is 45 percent, the net benefit to the exporter under this program is 22.5 percent of the qualifying expenditure amount.

According to the company response, this program will end on March 31, 1986, and the company will no longer receive benefits under the program as of July 31, 1986. However, in its response McKechnie Metals Products Ltd. reported receiving benefits under this program during the review period. Because eligibility for this program is limited to exporters, we preliminarily determine that it is a bounty or grant

within the meaning of the countervailing duty law.

The amount of the bounty or grant is the net benefit of the tax credit resulting specifically from U.S. related expenditures for marketing brazing copper rod and wire divided by the amount of brazing copper rod and wire exported to the U.S. Because we do not have the 1983 tax return, which is needed under out tax benefits methodology explained above, we calculate the amount of the bounty or grant by dividing 22.5 percent of the U.S. related qualifying expenditures taken by McKechnie in the 1984 tax year by the amount of 1984 exports of the subject merchandise to the U.S. We find an estimated net bounty or grant amount of 0.36 percent *ad valorem*.

II. Program Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire under the following program.

A. Export Credit Insurance From the Export Guarantee Office (EXGO)

Established by the Export Guarantee Act of 1964, EXGO is a government agency which provides export credit insurance for goods and services sold outside of New Zealand. McKechnie Metals Products Ltd. has been a policyholder of EXGO since July 2, 1969, and has obtained export credit insurance for export shipments to the United States throughout the review period.

The Export Guarantee Act mandates that EXGO secure revenues sufficient to cover all its expenses. The response of the government indicates that the premiums charged by EXGO have been sufficient to cover operating costs and the payment of claims in five of the last seven years. Because the premiums charged for export credit insurance are not manifestly inadequate to cover the long-term operating costs and losses of the program, we preliminarily determine that the EXGO export credit insurance program does not confer a bounty or grant upon McKechnie Metals Products Ltd.

III. Programs Preliminarily Determined Not To Be Used

In accordance with our practice of accepting a response to an allegation which denies the receipt of benefits under a program, we preliminarily determine, subject to verification, that manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire did not use the following programs which were listed in our notice of initiation.

A. Export Programme Suspensory Loan Scheme (EPSLS)

Petitioners allege that suspensory loans for up to 40 percent of eligible expenditures are available to established exporters who increase their net foreign exchange earnings through the marketing of specific goods or services in a designated foreign market. If a predetermined sales forecast is accomplished, the suspensory loan is converted into a grant; if the forecast is not met the exporter must repay the loan with interest.

B. Export Programme Grant Scheme (EPGS)

The EPGS was superseded by the EPSLS as of June, 1982. However, petitioners allege that grants under the EPGS could continue until June, 1985. Grants under the EPGS were given to exporters to encourage marketing research in targeted foreign markets. The grants, amounting to 64 percent of budgeted expenditures, were available for up to three years.

C. Industrial Development Investment Allowance (IDPIA)

Petitioners allege that an export investment allowance of up to 40 percent of the cost of new manufacturing plants and machinery is available to industries which have a significant export performance but whose products do not qualify for the increased exports taxation incentive.

D. Extraordinary Depreciation Allowance

Petitioners allege that, to encourage export production, the standard rate for the first year depreciation allowance on new and second-hand plant and machinery used for export production is 25 percent. After the first year, the rate is 10 percent or higher if approved by the Inland Revenue Department.

E. Export Suspensory Loans (ESL)

Petitioners allege that the New Zealand Development Finance Corporation makes suspensory loans for up to 40 percent of actual expenditures on plants and machinery used in the manufacturing of designated products. The suspensory loans are repayable at commerical rates but can become grants if the borrower meets predetermined export sales targets.

F. Regional Development Investment Incentives

Petitioners allege that the New Zealand governments offers companies a variety of regional development incentives for regions classified as either priority regions or slow-growth regions.

G. Flexible Incentives Under the Investment Unit of the Department of Trade and Industry

Petitioners allege various flexible incentives are available to industries through the Investment Unit of the Department of Trade and Industry.

Exemption From Import Duties and Sales Taxes

Petitioners allege that full or partial waiver of import duties on imports of capital equipment and qualifying raw materials used to manufacture exports can be received if such items are not available domestically. Petitioners also allege sales tax paid on equipment and intermediate goods used to produce goods for export may be refunded.

I. Export Production Assistance Scheme

Petitioners allege that import licensing concessions are provided to companies which import materials for incorporation in goods to be exported. Such concessions may include additional availability of import licenses on components for incorporation in goods to be exported.

J. Export Promotion From the Export-Import Corporation

Petitioners allege that the Export-Import Corporation, created by the New Zealand government, assists exporters with marketing overseas, negotiating contracts, arranging for the importation of goods, and generally promoting New Zealand exports.

K. Research and Development Assistance

Petitioners allege that the New Zealand government provides grants and investment financing for research and development through the Industrial Research and Development Grants Advisory Committee and the Applied Technology Program (ATP) administered by the Development Finance Corporation (DFC).

L. Export Credits From the Development Finance Corporation

Petitioners allege that the Development Finance Corporation provides credits for exporters below commercial rates.

IV. Program Preliminarily Found Not To Exist

According to the government response, industry investment allowances are only available under IDPIA (see Section III. C. above) and the following program does not exist.

A. Industry Study Investment Allowance

Petitioners allege that when a company participates in an industry study which results in a plan for the industry it is eligible for an investment allowance for a percentage of the costs incurred for projects approved under the industry plan.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of low-fuming brazing copper rod and wire from New Zealand which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry of this merchandise in the amount of the estimated *ad valorem* rate. The estimated net bounty or grant is 9.46 percent *ad valorem* for all manufacturers, producers, or exporters in New Zealand of low-fuming brazing copper rod and wire. This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 1:30 p.m. on July 1, 1985, at the U.S. Department of Commerce, room 1851, 14th Street and Constitution Avenue NW., Washington, D.C., 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests for a hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by June 25, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

May 15, 1985.

[FR Doc. 85-12372 Filed 5-22-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-501]

Preliminary Negative Countervailing Duty Determination: Low-Fuming Brazing Copper Rod and Wire From South Africa

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMAMRY: We preliminarily determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of South Africa of low-fuming brazing copper rod and wire. The estimated net bounty or grant is zero percent *ad valorem* and therefore, our preliminary countervailing duty determination is negative. If this investigation proceeds normally, we will make our final determination by July 29, 1985.

EFFECTIVE DATE: May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Kenneth Haldenstein or Laura Winfrey, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1785, 377-4136, or 377-0160.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

For purposes of this investigation, the following programs are preliminarily found to confer countervailable benefits which the respondent has accrued but did not use during the period for which we are measuring bounties or grants:

- 1980 Export Incentive Scheme (Categories A and B)
- Section 11 (bis) of the Income Tax Act. (Category D)

The estimated net bounty or grant is zero percent *ad valorem*. Therefore, we preliminarily determine that there is no reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended, are being provided to manufacturers, producers, or exporters in the Republic of South Africa of low-fuming brazing copper rod and wire.

Case History

On February 19, 1985, we received a petition in proper form from American Brass, Century Brass, and Cerro Metal Products of Rolling Meadows, IL, Waterbury, CT, and Bellefonte, PA, respectively, filed on behalf of the U.S. low-fuming brazing copper rod and wire industry. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers or exporters in South Africa of low-fuming brazing copper rod and wire receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act). On May 10, a letter supporting the petition was filed by J.W. Harris Company of Cincinnati, Ohio, another domestic producer of low-fuming brazing copper rod and wire.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 11, 1985, we initiated an investigation (50 FR 11005). We stated that we expected to issue a preliminary determination by May 15, 1985.

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

We sent questionnaires to the government of South Africa and the producers of low-fuming brazing copper rod and wire on March 22, 1985. On April 23, 1985, we received responses to our questionnaires from the government of South Africa and from McKechnie Brothers South Africa (Pty.) Ltd. ("McKechnie"), the only manufacturer in South Africa exporting the products under investigation to the United States.

Standing

On March 20, 1985, Aufhauser Brothers Corporation, ("Aufhauser") requested that we rescind our initiation of this investigation, alleging that the petitioners had not filed "on behalf of" the domestic industry, as required by section 702 of the Act. Section 771(4)(A) of the Act defines the industry as

domestic producers of all or a major proportion of domestic production of the like product. The petitioners are manufacturers of bare low-fuming brazing rod and wire, at least one of which also produces flux-coated low-fuming brazing rod and wire. Aufhauser is a domestic company that purchases domestically produced and imported bare low-fuming brazing rod and wire and coats the rod and wire with flux for final sale. Aufhauser challenged a statement in the petition that the petitioners "account for all domestic production, manufacture, and sales of low-fuming brazing rod and wire," and identified three other domestic companies which, like itself, flux-coat the rod and wire but do not manufacture bare low-fuming brazing rod and wire, and one, J.W. Harris, which both manufactures and flux-coats low-fuming brazing rod and wire. Aufhauser did not indicate whether these other firms oppose the petition. On May 10, 1985, J.W. Harris sent a letter to the Department expressing support for the petition.

Neither the act nor the regulations require a petitioner to establish affirmatively that it has the majority support of a particular industry. Thus, the ITA is entitled to rely on petitioners' representations that they have, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that they have not done so. See, "Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia," 50 FR 9852 (1985), interpreting the requirements of *Gilmore Steel Corp.* v. *United States*, 585 F. Supp. 670, 676 (Ct. Int'l Trade 1984).

Aufhauser' letter raised questions as to the nature of the industry. Almost all low-fuming brazing rod and wire imported into the U.S. is bare, yet the scope of the investigation covers both bare and flux-coated merchandise. The petition expressly included flux-coated as well as bare low-fuming brazing rod and wire because a potential countervailing duty order covering only bare low-fuming brazing rod and wire could be circumvented by importation of the product after flux-coating.

Although not required to do so, the Department sent a questionnaire to Aufhauser on April 2, 1985, in order to elicit further information about the nature of the industry and whether Aufhauser is, or should be considered a member of the domestic industry. As an importer of the product under investigation, Aufhauser could be excluded from our consideration of the domestic industry on the grounds that it is a related party within the meaning of section 771(4)(B) of the Act. We received an answer to the questionnaire on April 18, 1985.

Even as supplemented by its response to the questionnaire, the information provided by Aufhauser, the only company that has expressed opposition to the petition, has not rebutted the evidence on the record that the petition was, in fact, filed on behalf of the U.S. industry.

Scope of Investigation

The products covered by this investigation are low-fuming brazing copper rod and wire, principally of copper and zinc alloy ("brass"), of varied dimension in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated, currently classified in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 612.6205, 612.7220 and 653.1500. The chemical composition of the products under investigation is defined by Copper Development Association (CDA) standards 680 and 681.

Analysis of Programs

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

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination the period for which we are measuring bounties or grants ("the review period") is July 1, 1983 through June 30, 1984, which corresponds to the government and company fiscal year.

Based upon our analysis of the petition and the response to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined to confer Countervailable Benefits

We preliminarily determine that countervailable benefits are being provided to manufacturers, producers, or exporters in South Africa of low-fuming brazing copper rod and wire under the programs described below. The total estimated net bounty or grant is zero percent *ad valorem*, and therefore our preliminary determination is negative.

A. 1980 Export Incentive Scheme (Categories A and B)

The petitioners allege that the South African government provides bounties or grants under the Export Incentive Scheme which consists of four categories of benefits to encourage exports. Category A of the Export Incentive Scheme is a tax credit allowing exporters to reduce income tax payable by 50 percent of the value of the Customs Tariff applicable to inputs used in the production of goods for export. Category A benefits can be claimed whether such inputs are actually imported or are purchased from local suppliers. Category A tax credits which have been approved, but not used, may be carried forward indefinitely. According to the company response, the tariff on the input (zinc) of low-fuming brazing rod and wire was removed in November, 1983. Since that time, exports of the subject merchandise have not been eligible for benefits under Category A. According to the responses, Category A tax credits have been accrued by McKechnie since at least 1981. McKechnie's response indicates that the company did not use these accrued Category A benefits to reduce its taxes payable during the review period.

Category B of the Export Incentive Scheme provides a tax credit which allows exporters to reduce income tax payable by 10 percent of the value-added on goods which are subsequently exported. According to the responses, this tax credit only applies to tariff-protected, domestically manufactured goods which are protected by tariffs imposed on the imports of the same good. Brazing rod and wire is such a protected commodity. Category B tax credits which have been approved, but not used, may be carried forward indefinitely. Entitlement to benefits have been received by McKechnie under this program at least since 1981, though it did not use these credits during the review period.

Because Categories A and B tax credits are available only to exporters, we preliminarily determine that both

programs confer bounties or grants. For tax programs, however, we generally determine the value of the bounty or grant by calculating the amount of the benefit based on the tax return filed during the review period. During the review period McKechnie did not receive any benefits under these programs because while it accrued Category A and B tax credits, it did not use them and thus there was no effect on McKechnie's tax liability. Therefore, although we preliminarily determine that these programs confer countervailable benefits, we find the estimated net bounty or grant during the review period to be zero percent *ad valorem.*

B. Section 11 (bis) of the Income Tax Act

Section 11 (bis) of the Income Tax Act (Category D of the Export Incentive Scheme) allows exporters to claim an extra 75 percent (or if export turnover goals are exceeded, 100 percent) deduction from taxable income for marketing allowances such as, but not limited to, market research, advertising trade fair participation, and the Credit Guarantee Insurance Corporation of South Africa, Ltd. These tax deductions are for South African exporters whose goods have undergone a process of manufacture in the Republic of South Africa. According to the responses, these deductions have been accrued and claimed at least since 1981. Although McKechnie has accrued these deductions, these deductions had no effect on McKechnie's tax liabilities during the review period. Rather, the deduction further increased McKechnie's tax loss position. We note however, that the South African Income Tax Act contains a provision for loss-carry forward. Since these tax deductions are available only to exporters, we preliminarily determine that they confer a bounty or grant. However, because McKechnie's tax liability was not affected by the application of these benefits on the tax return filed during the review period, the estimated net bounty or grant is zero percent *ad valorem.*

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in South Africa of low-fuming brazing copper rod and wire under the following programs:

A. Certain Investment Allowances

The respondent received certain tax investment allowances under section 12 of the Income Tax Act. These allowances permit deductions from taxable income, which may exceed the cost of buildings and/or machinery to which they are applicable. According to the response of the government of South Africa and the copy of the law attached as an exhibit to that response, these allowances are not limited to a specific industry or enterprise, or group of industries or enterprises. Therefore, these allowances are not countervailable.

B. Export Credit Guarantee Insurance Corporation Coverage

The Export Credit Guarantee Corporation provides insurance coverage to exporters for credit and political risks. In the "Final Affirmative Countervailing Duty Determination on Certain Steel Products from South Africa" (47 FR 39379, September 7, 1982), we determined that the Export Credit Guarantee Insurance Corporation premium rates covered its long-term losses. Therefore, we found the program not countervailable. According to the responses, McKechnie used commercial credit risk insurance from the Export Credit Guarantee Insurance Corporation during the review period. However, we have no reason to believe or suspect that the premium rates charged are mainifestly inadequate to cover the program's long-term costs and losses.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by manufacturers, producers, and exporters of low-fuming brazing copper rod and wire from South Africa.

A. Beneficiation Allowances

Under section 15A of the Income Tax Act, manufacturers may deduct the cost of investment in plants, machinery, building or building improvements used in refining (but not simply purifying) mined base minerals from taxable income derived from mining operations where the refined mineral is sold for export. According to the responses of the Government of South Africa and McKechnie, McKechnie did not qualify or apply for this allowance.

B. Railroad Rate Subsidies

Petitioners allege that, as the Department has found in prior cases, the South African Transport Services, the government-owned rail system, may be providing rail services to McKechnie for export sales at rates which, between the factory and the port, were lower than the rates between the same points for domestic sales. (see "Final Affirmative Countervailing Duty Determinations, Certain Steel Products from South Africa" (47 FR 39379, September 7, 1982)). The petitioners also allege that rail transportation of the raw materials used in brazing rod and wire alloys which are destined for export enjoy preferential rates over rail transportation of the same raw materials used in brazing rod and wire alloys destined for domestic consumption.

According to the response, until April 1984, McKechnie shipped its goods for export at the published export tariff rate. In April 1984, McKechnie's freight forwarders negotiated a flat across-the-board rate for all shipments regardless of whether the good is sold for domestic consumption or exported. Therefore, since April 1984, export tariff rates have not been used for export shipments of low-fuming brazing rod and wire.

With respect to rail shipments of inputs used in the manufacture of low-fuming brazing rod and wire, the response states that most of these inputs are delivered by truck and that for those delivered by rail, the suppliers are unaware of the post-production destination of the input; and therefore, no export tariffs have been used.

C. Industrial Development Corporation Loans

The Industrial Development Corporation (IDC), a South African government corporation, provides funds for the purposes of establishing new export capacity throughout the country and housing in decentralized areas. According to the response of McKechnie, neither it nor its corporate stockholders received any IDC loans.

D. Other Programs

The following programs were investigated in prior cases. Respondent provided us with information on these programs for this investigation. The response indicates that McKechnie did not use these programs during the review period.

- Exemption from stamp duties and other taxes;
- Homeland development, regional decentralization, and "growth point" benefits; and
- Benefits for appointment of agents outside the Republic of South Africa under section 17 of the Income Tax Act.

IV. Program for Which We Need More Information

We preliminary determine that we need additional information on the following program to determine if a

bounty or grant has been bestowed on the products under investigation.

1980 Export Incentive Scheme—Category C

The petition alleged, and we initiated on, the new Category C under the Export Incentive Scheme. The new Category C provides for discretionary incentives to compensate for certain costs incurred in export ventures. The new Category C incentives replaced the Category C—Finance Charges Aid Scheme—program which was discontinued in April 1982. The respondent provided information with respect to the old Category C incentives only. Since McKechnie did not provide information on the new Category C incentives, we can not determine at this time whether such benefits were received and confer a bounty or grant. We will seek further information at verification.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the response that cannot be verified for our final determination.

Public Comment

In accordance with § 355.35 or our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on July 1, 1985, at the U.S. Department of Commerce, room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by June 11, 1985. Oral presentation will be limited to issues riased in the briefs. Written submissions by those not participating in the hearing should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671/b(f)).

May 15, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-12371 Filed 5-22-85; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcements; Tennessee

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$187,000* for the project performance of *10/01/85* to *09/30/86*. The MBDC will operate in the Nashville, Tennessee Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$156,950* in Federal funds and a minimum of *$28,050* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-85023-01* for the *Nashville, Tennessee* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *June 30, 1985*. Applications must be postmarked on or before *June 30, 1985*.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, N.E., Suite 505, Atlanta, Georgia 30309, (404) 881-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: May 17, 1985.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 85-12515 Filed 5-22-85; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish Fishery

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

ACTION: Notice of receipt of an application for an experimental fishing permit and request for comments.

SUMMARY: This acknowledges receipt of an application for an experimental fishing permit (EFP) and announces a public comment period. The applicant proposes to delay sorting mid-water trawl catches of Pacific whiting and other incidentally taken species prohibited in trawl landings, until the catches are landed. An EFP, if granted, allows a fishing practice which otherwise would be prohibited by Federal regulation.

DATE: Comments on this application must be received by May 30, 1985.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Contact Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at § 663.10 specify that an EFP may be issued to authorize fishing that otherwise would be prohibited. An application was received which proposes to delay sorting and discarding prohibited species taken in a mid-water trawl fishery targeting on Pacific whiting. By delaying sorting until the time of landing the applicants expect to reduce handling and reduce the time before the whiting is placed in refrigerated seawater. Whiting deteriorate rapidly after death and reduced handling and prompt refrigeration is essential to maintain product quality when shoreside processing is involved.

The regulations at § 663.7(i) prohibit the retention of any salmonids or Pacific halibut caught in trawl nets, among other types of fishing gear. Normal practice on groundfish trawl vessels is to sort the catch from each tow before storing it in the hold. Species and sizes of fish that are not marketable and discarded during this sorting. Prohibited species also are returned to the sea at this time. Currently, any salmonid or Pacific halibut taken in a trawl and placed in the hold (not returned to the sea immediately) is considered to be retained in violation of § 633.7(i).

Domestic mid-water trawlers that deliver Pacific whiting to foreign-flag processing vessels (joint ventures) are not affected by this prohibition on retention of salmonids because the catch is not brought on board the fishing vessel. Instead the coded of the trawl net is taken directly on board the processing vessel. In this type of operation, prohibited species must be returned to the sea during the sorting on the processing vessel's deck, the point of first opportunity to sort.

The application under consideration is summarized below and is available for public review at the Regional Director's office during the public comment period (see **ADDRESS**). The decision to grant or deny this EFP will be based on the information in the completed application, willingness of the applicant to comply with the terms and conditions of the EFP, advice from the Directors of the Oregon Department of Fish and Wildlife (ODF&W), the Washington Department of Fisheries, the Pacific Fishery Management Council, and comments from the public.

(1) *Purpose and significance.* The purpose of this experiment is to demonstrate that the quality of Pacific whiting improves when refrigeration is not delayed due to sorting each tow for prohibited species. The applicants have stated that one impediment to further development of a wholly domestic Pacific whiting fishery is that the flesh deteriorates rapidly after death. Consequently it is important for the vessels to make short tows and to refrigerate the catch without delay. If the catch must be sorted on deck to remove any salmon which may be in the catch, whiting quality will suffer due to excess handling and delayed refrigeration.

(2) *Vessel.* The vessel the applicant proposes to use is 80 feet in length, 145 gross tons, and 106 net tons.

(3) *Species.* The applicant intends to target on Pacific whiting. He also expects incidental catches of rockfish and some salmon. The whiting catch would be sold to a local, shore-based processor. Incidental catches of rockfish would be sold to local processors as well, subject to any existing trip limits. Incidentally-caught salmon would be sorted from the catch at the processor plant and would be disposed of by the ODF&W.

(4) *Time.* The operation would take place from May through October 1985.

(5) *Place.* Cascade Head, Oregon, to Destruction Island, Washington.

(6) *Gear.* A mid-water trawl with a minimum mesh size of three inches will be used which is legal gear under the current regulation.

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

Dated: May 20, 1985.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 85–12399 Filed 5–20–85; 12:54 pm]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Establishment of the Commodity Futures Trading Commission Financial Products Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Establishment of Advisory Committee.

SUMMARY: The Commodity Futures Trading Commission has determined to establish a "Commodity Futures Trading Commission Financial Products Advisory Committee." As required by section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 9(a)(2) and 41 CFR 101–6.1007, the Commission has consulted with the Committee Management Secretariat of the General Services Administration and the Commission certifies that creation of this Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the Commission by the Commodity Exchange Act ("Act"), 7 U.S.C. 1 *et seq.*, as amended. This notice is published pursuant to Section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, section 9(a)(2) and 41 CFR 101–6.1015.

FOR FURTHER INFORMATION CONTACT: Robert T. Bernat and Becky J. Baker, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–7446.

SUPPLEMENTARY INFORMATION: The field of futures trading has traditionally been the realm of agricultural products. In recent years the field has experienced the burgeoning growth of financial products. For example, financial futures constituted 18.1% of all futures trading in 1980 [1] and today comprise approximately 49.4% of all futures trading. Further, in 1982 options on financial futures began trading under a pilot program.[2] Such program was expanded in 1984 [3] and the Commission expects to give a final evaluation of the program at the end of this fiscal year.

Accompanying this rapid growth in financial futures and options trading activity has been rapid product innovation both within and outside of the Commission's regulatory sphere. In 1980 there were active futures contracts on three currencies, U.S. Treasury instruments and Government National Mortgage Association Certificates (GNMAs). Between then and now, active futures contracts on bank certificates of deposits (CDs), Eurodollars, other U.S. Treasury instruments, several additional currencies, and four distinct stock indexes have been added, as well as active options on Treasury bond, Deutsche Mark, and stock index futures. Active markets for options contracts on currencies also have emerged, as well as active exchange-listed options on stock indexes. Moreover, many institutions are beginning to develop derivative products that are not traded on exchanges. Many of these instruments

[1] In 1980, trading in futures contracts on stock indices had not yet begun.

[2] 46 FR 54500 (Nov. 3, 1981).

[3] 46 FR 2752 (Jan. 23, 1984).

are traded directly between financial institutions and commercial market participants and may be used in conjunction with Commission-regulated futures and options markets.

The growth and diversity of these new financial products have brought a wide range of financial institutions into Commission-regulated futures and options markets. Virtually every type of domestic and a wide range of foreign financial institutions are represented in Commission-regulated markets—commercial banks, investment bankers, merchant banks, savings and loan institutions, credit unions, pension funds, endowment funds, broker-dealers, insurance companies, profit-sharing funds, trust companies, and investment companies. Previously, these financial institutions had not participated significantly in the futures and options markets.

Congress has determined that the regulation of futures and options markets is for the protection of the national public interest. Accordingly, the Commodity Exchange Act charges the Commission, among other things, with the responsibility for protecting such markets from price manipulations, corners, squeezes and other market disorders, which can affect vast numbers of producers and consumers. See section 3 of the Act, 7 U.S.C. 5. In order to better fulfill this responsibility, the Commission believes it has a serious need to understand more fully the new products and new investors which have contributed to the recent acceleration in the growth of Commission-regulated financial futures and options markets. The Commission has determined that the most efficient and thorough means of gaining the necessary understanding of these new activities is to receive practical advice and policy suggestions on a regular basis from the new institutional market participants as well as traditional market participants who have begun to use the above-described new financial products.

Accordingly, the Commission has determined to establish a "Commodity Futures Trading Commission Financial Products Advisory Committee." The objectives and scope of activities of this Committee shall be to conduct public meetings and submit reports and recommendations on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission, including, but not limtied, to the following:

(1) The utility of financial futures and options for hedging and pricing,

(2) Terms and conditions of existing financial futures and options contracts as related to their commercial utility and liquidity,

(3) Institutional and regulatory constraints on the commercial use of the financial products markets, including existing accounting standards for financial product transactions and positions,

(4) The implications of developing an over-the-counter derivative financial products market,

(5) The extent to which derivative financial markets may become permanent substitutes for cash market transactions, and the effects, if any, of such substitution,

(6) Off-exchange trading of financial futures-types or options-type products between institutional or commercial market participants,

(7) The effect of arbitrage positions on market volatility,

(8) The impact of the increasing internationalization of financial product markets,

(9) Technical trading in managed accounts, and

(10) Protection of general public participants by ensuring the integrity of the markets.

Commissioner Robert R. Davis will serve as Chairman and Designated Federal Official of this Advisory Committee. The Advisory Committee will have as its members persons who represent new institutional market participants, such as commercial banks, investment bankers, merchant banks, savings and loan institutions, credit unions, pension funds, endowment funds, broker-dealers, insurance companies, profit-sharing funds, trust companies, and investment companies; traditional market participants who are using new financial products, such as futures commission merchants, commodity pool operators, commodity trading advisors, and corporations; accounting firms, academia and general public participants. The Commission believes that there is a special need for the advice and expertise of representatives of these groups. The Commission feels that the background and experience which the representatives of these groups will provide the Commission is an important prerequisite to developing better price discovery and risk transfer tools for individuals and many financially related industries.

Issued in Washington, D.C. on May 17, 1985, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 85-12366 Filed 5-22-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Operational Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 6 June 1985 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Patricia Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 20, 1985.

[FR Doc. 85-12469 Filed 5-22-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Grant a Limited Exclusive Patent License to Figgie International Inc.

The Department of the Army announces its intention to grant Figgie International Inc., a corporation of the State of Ohio, on behalf of its Scott Aviation Division, a limited exclusive license under U.S. Patent Application Serial No. 544, 144, filed October 21, 1983, entitled "Protective Mask for Airborne Toxic Substances", by C. J. Shoemaker, et al.

The proposed limited exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR Part 404. The proposed license may be granted unless, within 60 days from the date of this notice, the Department of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Chief, Patents, Copyrights, and Trademarks Division, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041-5013.

For further information concerning this notice, contact: Lieutenant Colonel Francis A. Cooch, USALSA (JALS-PC), Nassif Bldg. — Room 332A, Falls

Church, VA 22041-5013, Telephone No. (Area Code 202) 756-2434/2435.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 85-12406 Filed 5-22-85; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Joint Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R) for a Department of the Army Permit Application (No. 85-47-RC/Arco Coal Oil Point Project)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a joint Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R).

SUMMARY:

1. Proposed Action

Arco Oil and Gas Company has applied to the Department of the Army for permits under section 10 of the River and Harbor Act of 1899 and section 404 of the Clean Water Act in order to (a) install two offshore oil and gas production platform complexes in State waters near the city of Goleta in Santa Barbara County, California, (b) install two 24-inch diameter crude oil and water pipelines from the proposed platforms to onshore processing facilities, and (c) expand an existing marine terminal.

2. Alternatives

Several alternative actions will be considered, including a no-action alternative, i.e., denial of the permit application. Other alternatives to be considered include (a) phased development, (b) various combinations of single platforms and platform complexes, (c) subsea development without platforms, (d) new platforms within federal waters, and (e) alternate methods of oil/gas treatment, transportation, and storage.

3. Scoping Process

a. Public Involvement

A public notice requesting comments on the appropriate scope of the DEIS/R will be circulated to affected Federal, State, and local agencies, and other interested private organizations and individuals. A public scoping meeting may be held to receive additional comments.

b. Significant Issues

Significant issues to be analyzed in depth in the DEIS/R include: need for the project, alternatives, impacts to air quality, water quality, habitats and biota (including endangered species), aesthetics, energy needs, safety, navigation, cultural resources, recreation, and scientific and educational values.

c. Input Assignments

The DEISR will be prepared by an environmental consultant under contract to the California State Lands Commission. Preparation of the document by the consultant will be supervised by both the Corps and the Commission.

d. Other Review Requirements

This document will be utilized by the California State Lands Commission to meet the requirements of the California Environmental Quality Act.

4. Scoping Meeting

The Corps will circulate a public notice soliciting comments regarding the proper scope of the DEIS/R. A determination has yet to be made regarding the need for holding a scoping meeting.

5. Publication of the DEIS/R

The Draft Environmental Impact Statement/Report is expected to be available for public review and comment in November, 1985.

Address: Questions about the proposed action and DEIS/R can be answered by either Mr. Clifford Rader or Mr. Dick Clark, Regulatory Branch, US Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053-2325.

Dated: May 1, 1985.

Dennis F. Butler,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 85-12501 Filed 5-22-85; 8:45 am]

BILLING CODE 3710-KF-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation; Information Collection Activities Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESSES: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Federal Acquisition and Regulatory Policy, 202-523-4799.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* This request covers recordkeeping requirements and the collection of information regarding data by which Preaward Survey Forms are completed by Government contract administration personnel, based on information obtained from prospective contractors. To protect the Government's interest and to ensure timely delivery of items of the requisite quality, contracting officers, prior to award, must make an affirmative determination that the prospective contractor is responsible, i.e., capable of performing the contract. Before making such determination, the contracting officer must have in his or her possession or must obtain information sufficient to be satisfied that the prospective contractor (i) has adequate financial resources, or the ability to obtain such resources, (ii) is able to comply with required delivery schedule, (iii) has a satisfactory record of performance, (iv) has a satisfactory record of integrity, and (v) is otherwise qualified and eligible to receive an award under appropriate laws and regulations. If such information is not in the contracting officer's possession, it is obtained through a preaward survey conducted by the contract administration personnel from available data or through plant visits, phone calls, and correspondence and entered on Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408 in the detail commensurate with the dollar value and complexity of the acquisition.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 12,000; responses, 6,000; and reporting and recordkeeping hours, 144,000.

Obtaining copies of proposals: Requesters may obtain copies from the FAR Secretariat (VR), Room 4041, GS Building, Washington, DC 20405, telephone 202-523-4755. Please cite OMB Control No. 9000-0011.

Dated: May 15, 1985.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 85-12382 Filed 5-23-85; 8:45 am]

BILLING CODE 6820-61-M

Federal Acquisition Regulation; Information Collection Activities Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESSES: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Federal Acquisition and Regulatory Policy, 202-523-4799.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* This request covers recordkeeping requirements and the collection of information regarding data about organization, products and services, security clearance, facilities, etc. which is used to establish files of firms to be solicited when the products or services they provide are needed by the Government. The Standard Form (SF) 129, Solicitation Mailing List Application, is used by all Federal agencies as an application form for prospective contractors in connection with the establishment and maintenance of lists of firms interested in selling to the Government.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 243,000; responses, 972,000; and reporting and recordkeeping hours, 563,760.

Obtaining copies of proposals: Requesters may obtain copies from the FAR Secretariat (VR), Room 4041, GS Building, Washington, DC 20405, telephone 202-523-4755. Please cite OMB Control No. 9000-0002.

Dated: May 15, 1985.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 85-12383 Filed 5-22-85; 8:45 am]

BILLING CODE 6820-61-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 29, 1985, beginning at 1:30 p.m. in Anita's Room of the White Beauty View Resort on Lake Wallenpaupack, Greentown, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

1. *County of Bucks Department of Parks and Recreation D-75-71 CP (Revised).* An application to revise and renew approval for a dredging and fill project in Silver Lake Park, in Bristol Borough and Bistol Township, Bucks County, Pennsylvania. Previous approval for the project as described in Docket D-75-71 CP has expired. The purpose of the project is to improve recreational facilities and wildlife and fish habitat at Silver Lake Park. The effect of proposed revisions to the project is a reduction in scope of the dredge and fill operations originally proposed. The project has been modified to reduce impacts on adjacent wetlands which will not be filled as previously planned.

2. *Great Valley Water Company D-78-95 CP Renewal.* Renewal of an approved ground water withdrawal from Well No. 19 which supplies water to the applicant's "Milltown" distribution system in portions of Thornbury and Westtown, West Goshen, and East Goshen Townships in Chester County, Pennsylvania. Commission approval was limited to five years and will expire unless renewed. The proposed 30-day withdrawal limit remains at 7.8 million gallons (mg) from Well No. 19. The well is located in Westtown Township and is in the Southeastern Pennsylvania Ground Water Protected Area.

3. *Moyer Packing Company D-83-6.* Expansion of an industrial waste treatment facility to serve the Moyer Packing and North Penn Hide plants in Franconia Township, Montgomery County, Pennsylvania. The facility will be designed for removal of suspended solids, BOD, ammonia nitrogen, phosphates and oil from a waste water flow which is being increased from 0.30 ot 0.50 million gallons per day (mgd). Treated effluent will discharge to the Skippack Creek in Franconia Township, Montgomery County, Pennsylvania.

4. *Riverton Country Club D-85-10.* An application for approval of an existing well that replaced a previously approvel well, without an increase in the existing allocation. The existing and proposed wells are used for the irrigation of 75 acres of turf at the Riverton County Club golf course in Cinnaminson, Burlington County, New Jersey. Well No. 1 is located off Thomas Avenue one-quarter mile from Riverton Road.

5. *Perdue Incorporated D-85-17.* Upgrading and expansion of an industrial waste treatment plant serving the applicant's poultry processing facility near Georgetown in Sussex County, Delaware. The existing 0.8 mgd facility will be modified to remove BOD_5, total suspended solids and nutrients from an average waste flow 1.5 mgd. Treated effluent will continue to discharge to the headwaters of Savannah Ditch north of Georgetown.

6. *Borough of Brooklawn D-85-18 CP.* The purpose of this project is to provide a replacement source of supply (Well No. 4) for Well No. 2 which has been abandoned and sealed, and to approve existing Well No. 3, both of which supply water to the Borough of Brooklawn, Water Department distribution system. The withdrawal from the existing and proposed wells shall be limited to 15 mg during any 30-day period.

7. *Borough of Elmer D-85-24 CP.* An application for approval to two existing wells (Nos. 6 and 8) supplying the Borough of Elmer, Salem County, New Jersey with a total of 7.84 mg/30 days for domestic use. This is the sole water supply for Elmer. The Wells, which draw from the Wennonah-Mount Laurel geologic formation, are located off Broad Street in the Borough of Elmer.

8. *Town of Rockland—Livingston Manor Sewer District D-85-28 CP.* An application to eliminate the use of cholorination facilities at the existing sewage treatment facility in the Town of Rockland, Sullivan County, New York. The applicant has requested a waiver of the current DRBC disinfection requirement. The Livingston Mannor wastewater discharge was approved with a design capacity of 1.050,000 gallons per day to be discharged to Willowemoc Creek as described in Docket D-67-29 CP on April 26, 1967. The receiving waters are classified by the New york Department of Environmental Conservation as C(T) trout waters and as such do not require any disinfection. The New York State Health Department has stated that there is no demonstrated need for disinfection at this facility.

9. *Schuylkill Haven Borough D-85-31 CP.* An application for rerating of the Schuylkill Haven Borough, Schuylkill County, Pennsylvania, wastewater treatment plant. The plant currently is

approved to treat 2.0 mgd on the average 4.0 mgd maximum. The proposed rerating for design year 2010 is for secondary treatment of 2.80 mgd average flow and 5.60 mgd maximum flow. Chemical addition facilities have been included to increase suspended solids removal. Discharge will continue to the Schuylkill River.

Domestic relating to these items may be examined at the Commission's offices. Preliminary dockets are availabe in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearings.

Susan M Weisman,

Secretary.

May 14, 1985.

[FR Doc. 85-12499 Filed 5-22-85; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), the following meeting notice is provided:

A meeting of the Industry Working Party (IWP) of the International Energy Agency (IEA) will be held on May 30, 1985, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 a.m. This meeting is being held in order to permit attendance by representatives of U.S. company members of the IWP at a meeting of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on that date.

The agenda for the meeting is under the control of the SOM. It is expected that the following agenda will be followed:

1. Adoption of the Provisional Agenda, IEA/SOM/A(85)2.

2. Approval of the Summary Record of the 48th Session, IEA/SOM/A(85)1.

3. Current Oil Market Developments:

a. Current Oil Market Situation:

—End-May Assessment and Oral Report by the Secretariat on Further Developments, Room Doc. No. 1.

—Methological Issues—Oral Report by the Industry Working Party.

b. Crude Oil Import Register.

—Note by the Secretariat Analyzing Data Through 4th Quarter 1984, IEA/SOM(85)20.

c. Roundtable Reports on Notable Developments in Member Countries Oil Sectors, IEA/SOM(85)21.

4. Structural Change in the Oil Industry:

a. Latest Developments in the Futures Market:

—Note by the Secretariat, IEA/SOM(85)22.

b. Trends in OECD Oil Stocks, Oral Report by the Secretariat.

5. Refinery Developments:

—Note by the Secretariat on Latest Developments in Refining and Products Trade, IEA/SOM(85)23.

6. Preparation for the July 1985 Ministerial Meeting:

—Note by the Secretariat on the Near and Medium Term Oil Market Situation and Outlook—The Industry's Changing Structure, IEA/SOM(85)24.

7. Future Work of the SOM:

—Note by the Secretariat on the Draft Work Program for 1986, IEA/SOM(85)25.

8. Date of Next Meeting.

It is expected that the IWP will be present for discussion of the second part of agenda item 3(A) and for all of agenda item 3(B).

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the IWP meetings are open only to representatives of members of the IWP, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of committees of Congress, representatives of the European Communities, and invitees of the IWP or the IEA.

Issued in Washington, D.C., May 16, 1985.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 85-12433 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-84-026; OFP Case No. 65038-9261-20-24]

Extension of Decision Period on Petition for Exemption by OLS Energy-Chino, for a Proposed Facility in Chino, CA

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends by another ninety (90) days to August 9, 1985, the Decision Period within which to either grant or deny the request for a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") filed by OLS Energy-Chino for its proposed electric powerplant in Chino, California.

Section 501.68(a)(2) of 10 CFR Part 501—Administrative Procedures and Sanctions, Subpart F—allows for the extension of the decision period on an exemption petition to a date certain by publishing such notice in the **Federal Register** and stating the reasons for such extension.

This extension by ERA of the decision to grant or deny the petition is necessary because of uncertainties which have arisen regarding the control technology which will be required for the electric powerplant in order to meet California emission standards. OLS Energy-Chino believe they have resolved these issues and expect the South Coast Air Quality Management District to issue a Permit to Construct within the next sixty (60) to ninety (90) days.

Issued in Washington, D.C., on May 14, 1985.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-12434 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

Withdrawal of Notice of Proposed Remedial Order to Rodgers Hydrocarbon Corp. and Ray V. Rodgers, Jr.

The **Federal Register** notice announcing the issuance of a Proposed Remedial Order to Rodgers Hydrocarbon Corp. and Ray V. Rodgers, Jr. (50 FR 19443, May 8, 1985) was issued in error and is hereby withdrawn.

Issued in Washington, D.C., this 17th day of May, 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85-12-428 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP85-474-000 et al.]

Natural Gas Certificate Filings; Arkla Energy Resources et al.

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

1. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP85-474-000]

May 13, 1965.

Take notice that on April 29, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-474-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of W.R. Grace & Co. (Grace) under the certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to transport up to 2 billion Btu's of gas per day for boiler fuel use in Grace's industrial plant in Memphis, Tennessee. Arkla also indicates that Grace requires 1,750 Mcf of gas per day for plant protection and 33,750 Mcf per day for feedstock and process fuel.

Arkla indicates it would receive from Grace's supplier, Mid Continent Gas Company, up to 2 billion Btu's per day at various points in Louisiana, Arkansas and Oklahoma, and redeliver to Texas Gas Transmission Corporation (Texas Gas) for the account of Grace at existing points of interconnection in Phillips County, Arkansas, and Ouachita and Bossier Parishes, Louisiana. Arkla states that the facilities of Texas Gas and Memphis Light, Gas and Water Division, the local distribution company serving Grace, would also be required to transport the gas.

Arkla estimates the annual, peak day and average day volumes required for boiler fuel at the plant would be 730,000 million Btu's, two billion Btu's and two billion Btu's respectively. Arkla also indicates that it has no plans to construct any facilities required for the transportation service.

Arkla states that it would charge the currently applicable transportation rate in accordance with its ECOSHARE Transportation Rate Schedule or Rate Schedule No. TRG-1, FEPC Gas Tariff, First Revised Volume No. 2.

Arkla also requests flexible authority to add and/or delete sources of gas and/or receipt of delivery points. With respect to such flexible authority Arkla states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement as to whether the gas is committed or dedicated within the meaning of NGPA section 2(18);

(5) If the new source of supply involves release gas which is committed or dedicated as defined in No. 4, reference the suppliers' Natural Gas Act section 7(b) abandonment authorization;

(6) Location of the receipt/delivery points being added or deleted;

(7) Identity of any other pipeline involved in the transportation.

Arkla submits that any changes made pursuant to such flexible authority would be on behalf of the same end-user at the same end-user location and would remain within the daily and annual volumes levels proposed herein.

Comment date: June 27, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Consolidated Gas Transmission Corporation

[Docket No. CP85-463-000]

May 15, 1985.

Take notice that on April 24, 1985, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP85-463-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide long-term storage and transportation services for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), to sell gas for a limited term to Tennessee, and to construct and operate related transmission facilities in New York and Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant proposes to sell to Tennessee for resale between 80,000 dt and 100,000 dt equivalent of natural gas per day on a firm basis. Applicant states that it would charge Tennessee the commodity rate of $3.5464 which is set forth in Applicant's Rate Schedule RQ of its FERC Gas Tariff, Original Volume No. 1. Applicant states that its proposed sale would begin when Tennessee's facilities expansion project proposed in Docket No. CP84-441-003 is completed and end when Tennesee begins receiving Canadian gas pursuant to authorization requested in Docket No. CP81-296-000. Applicant would deliver the gas to Tennessee at the interconnection between their facilities at the Morrisville measuring station, near Morrisville, New York. In addition, Applicant proposes to transport up to 150,000 dt equivalent of gas per day for Tennessee at a negotiated monthly fee of $710,000 for a period of 20 years beginning when the facilities expansion mentioned above is completed. Applicant states that the subject gas would be received at the existing interconnection known as the Marilla connection near East Aurora, New York, and delivered to the Morrisville measuring station. Applicant also proposes to render 12,000 dt equivalent of annual firm gas storage service for Tennessee under Applicant's Rate Schedule GSS rate for the same 20-year period mentioned above. Gas delivery would occur at an existing interconnection known as Broad Run measuring station located in Kanawha County, West Virginia, with daily summer injections of approximately 60,000 dt equivalent and daily winter deliveries of 80,000 dt equivalent.

Applicant proposes to install the necessary facilities over a 2-year period. In 1986, Applicant proposes to construct and operate (a) facilities necessary to expand its ability to accept deliveries from Tennessee at the Marilla connection, including the replacement of approximately 2,100 feet of Applicant's existing 10-inch Line No. TL-403 with 20-inch pipeline between the existing interconnection and Applicant's Line No. 546; (b) 27.7 miles of new 24-inch trnsmission pipeline between Applicant's Ellisburg and Woodhull compressor stations, through Potter and Tiogoa Counties, Pennsylvania, and Steuben County, New York to be known as Line No. TL-453; (c) 19.8 miles of 30-inch pipeline to replace existing 20-inch Line No. 31 between Cayuta Junction in Schyler County and Borger compressor station in Tompkins County, New York; and, (d) facilities necessary to enable Applicant to deliver gas to Tennessee at Morrisville measuring station, including new measuring, regulating, and related facilities. In 1987, Applicant proposes to construct and operate (a) a new 5,000 hp compressor station at Randall Junction, in Wyoming County, New York, to be known as Randall compressor station; and, (b) a new 1,000 hp compressor station on the site of its former State

Line compressor station in Potter County, Pennsylvania, to be known as State Line compressor station. Applicant states that the proposed facilities would cost approximately $36,340,000 and that the cost would be financed from funds on hand or from funds to be obtained from Applicant's parent, Consolidated Natural Gas Company.

Applicant states that Tennessee needs the proposed supply, transportation service, and storage capacity to meet the needs of its customers. Applicant further states that it has sufficient surplus gas to make the proposed sale and sufficient excess storage capacity to provide the proposed storage service.

Comment date: June 5, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Michigan Gas Storage Company

[Docket No. CP85-467-000]

May 15, 1985.

Take notice that on April 26, 1985, Michigan Gas Storage Company (Storage), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP85-467-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of The Dow Chemical Company (Dow) under the certificate issued in Docket No. CP84-451-000 pursuant to section 7 of the Natural Gas Act, all as more fully described in the request which is on file with the Commission and open for public inspection.

It is stated that Dow has arranged to purchase certain volumes of gas from Petrolane—Texas Gas Service, Inc. (Petrolane), for use as boiler fuel and in direct fire processing at Dow's Midland, Michigan, plant. In order for Dow to receive its gas, it is explained that Dow has entered into a transportation agreement with Storage, and also Panhandle Eastern Pipe Line Company (Panhandle), dated March 18, 1985, as amended April 11, 1985. It is indicated that Storage would receive up to 13 billion Btu of natural gas per day for Dow's account from Panhandle at various interconnections between Storage and Panhandle and would transport and redeliver on an interruptible basis equivalent quantities to Consumers Power Company (Consumers) for Dow's account at existing interconnections between Consumers and Storage. Consumers would ultimately redeliver the gas to Dow. It is stated that Storage proposes to transport 3 billion Btu on an average day and 1.1 trillion Btu of gas on an annual basis on behalf of Dow for a term of 24 months from the date of the transportation agreement. Storage states that it would charge 3.68 cents per million Btu for the gas it transports hereunder; this rate is set forth in Rate Schedule T-3 of Storage's FERC Gas Tariff.

Storage also requests flexible authority to add or delete receipt/delivery points associated with the 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. Storage 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 would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: July 1, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Natural Gas Pipeline Company of America

[Docket No. CP85-471-000]

Take notice that on April 26, 1985, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, P.O. Box 1208, Lombard, Illinois 60148, filed in Docket No. CP85-471-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity and for an order permitting and approving abandonment, as necessary, authorizing a new storage service to be provided on behalf of Mississippi River Transmission Corporation (MRT), an increase in Applicant's certificated daily storage withdrawal capability of 120,000 Mcf, the construction and operation of storage facilities related thereto and permitting and approving the abandonment and replacement of existing measuring facilities at Applicant's Clinton County, Illinois, sales delivery point to MRT, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to provide MRT with 120,000 Mcf of firm storage deliverability per day to supplement MRT's existing owned and contracted-for storage capability. It is explained that the new service would be patterned after Applicant's existing S-1 storage service, whereby MRT would be able to receive during the six-month annual withdrawal period (November 1 through April 30), subject to certain restrictions, a total volume of gas not to exceed 66⅔ percent of MRT's stored gas volume as of November 1. Applicant states that in order for MRT to withdraw 120,000 Mcf of gas per day for 30 days, it would be required to have a stored gas balance of 5,400,000 Mcf by November 1. Applicant asserts that it would not be obligated to deliver during any consecutive 30 day period a daily average of more than 50 percent of MRT's daily withdrawal quantity.

Applicant, upon review of its existing storage operations, has determined that it has sufficient storage capacity available to render the 120,000 Mcf per day of new firm storage service requested by MRT and that such service could equate to 5.4 Bcf in storage injection volumes.

Applicant states that facilities, would be required for the injection, withdrawal, and redelivery of the new storage volumes requested by MRT. Applicant's reservoir engineering studies indicate that two reservoirs have existing capacity sufficient to accept the additional storage gas to be injected for the account of MRT. These are Applicant's Cooks Mills and Loudon storage facilities. An additional 10,000 Mcf per day and 110,000 Mcf per day in daily withdrawal capability is proposed at these two locations, respectively.

Applicant states that although no expansion of its existing market storage reservoirs is necessary, the following new facilities would be required to be constructed and operated by Applicant to perform the additional firm storage service proposed herein:

Loudon

1—(2000 horsepower (approximately) compressor for injection purposes
8—existing water removal wells recompleted as injection/withdrawal wells
8—8-inch laterals, each being less than 0.25 miles in length
8—well-head measuring facilities
1—110,000 Mcf per day gas purification facility (which is said by Applicant to be non-jurisdictional)

No new facilities would be required at Cooks Mills.

Applicant further explains that it would also be required to construct new measuring facilities at its existing Clinton County, Illinois, delivery point to MRT in order to accommodate the delivery of additional withdrawal volumes to MRT. At that point, Applicant proposes to install three 12 inch orific meters and related facilities in order to increase the delivery capacity. As part of this work, Applicant also proposes to abandon the existing measuring facilities at that location which have a book value of $18,042. The estimated net cost of removal of the

current measuring facilities of $23,500, it is said.

Applicant proposes also to utilize, when and as required, other sales delivery points between Applicant and MRT for the delivery to MRT of its additional storage volumes. It is explained that such other delivery points currently exist in Randolph County, Arkansas and Harrison County, Texas and that no work or additional facilities are proposed at those locations as part of this Application.

Applicant estimates the total cost of the facilities to be constructed to be $12,793,00. Applicant also states that it would construct at its Loudon storage field, pursuant to Section 2.55(a) of the Commission's General Policy and Interpretation the gas purification facilities noted above at an estimated cost of $3,000,000. Applicant indicates that the total cost of facilities would be financed initially with funds.

Applicant maintains that it would not be required to purchase and inject any additional cushion gas in order to provide the new storage service proposed herein. Applicants states that it would make available for cushion gas purposes a total of 4,175,000 "cf, of gas of which approximately 2,435,000 Mcf is estimated to be non-recoverable, from its existing storage inventory.

Demand charge	$3.98
Volume injection/withdrawal charge	7.87
Adjustment for delivery deficiency	796
Delivery of storage gas in excess of daily withdrawal quantity	796

It is asserted that the basis for such rates would be the costs associated with the additional facilities required to provide the proposed service, a direct assignment of costs associated with the necessary cushion gas, and an allocated portion of the costs associated with Applicant's existing storage facilities. It is maintained that this approach would mean that Applicant's existing sales, transportation and storage customers would not incur any additional costs as a result of the additional storage service to be provided to MRT, and would receive the benefit of the allocation of existing costs as heretofore mentioned.

Comment date: June 5, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Sea Robin Pipeline Company Producer-Suppliers of Sea Robin Pipeline Company

[Docket No. CP85-493-000]

May 15, 1985.

Take notice that on May 7, 1985, Sea Robin Pipeline Company (Sea Robin) and the Producer-Suppliers of Sea Robin, P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-493-000 an application pursuant to section 7 of the Natural Gas Act for blanket authorization for partial abandonment of certain certificated sales and for a certificate of public convenience and necessity authorizing the sale in interstate commerce of such released gas for a limited-term, authorizing the limited-term transportation necessary to implement such sales and authorizing pipelines other than Sea Robin to transport such natural gas on behalf of end-users, all as more fully set forth in the application on file with the Commission and open to public inspection.

By this application, Sea Robin seeks authority to institute a Special Marketing Program (SMP) to address increasingly serious problems of declining markets and mounting take-or-pay exposure or other potential liability to producers as a result of decreased demand for natural gas. It is stated that like many others in the industry Sea Robin is facing severe over-deliverability of available supplies and that sales have dropped from 195,900,000 Mcf in calendar year 1982 to 153,500,000 Mcf in calendar year 1984 which decline has resulted in an extreme take-or-pay situation.

It is asserted that the proposal herein would enhance Sea Robin's opportunities to renegotiate existing gas purchase contracts to introduce more market-oriented pricing terms. It would provide current, accurate information concerning the value of gas in the market place, would increase the amount of natural gas that Sea Robin's producer-suppliers are able to sell, would augment the producer-suppliers' cash flow, would provide incentives to producer-suppliers to develop additional supplies of natural gas for the long term, would more efficiently use Sea Robin's existing gas transmission capacity, would generate transportation revenues otherwise unavailable, would provide spot market customers opportunities to purchase additional competitively-priced gas supplies, and would maintain or regain markets that might otherwise be lost. Sea Robin proposes herein to execute limited-term releases of eligible gas back to its producer-suppliers. It is asserted that the producer-suppliers, by virtue of the releases and abandonment authorization sought herein, would then be able to sell that gas to qualified spot market purchasers. Sea Robin states that it would neither take title to nor sell the released gas although it would transport the released volumes and informally assist the producer-suppliers in marketing.

To implement the program Sea Robin states that it would, in its sole discretion, agree to release from the volumes dedicated to its general system supply eligible volumes of gas to be made available for sale under the SMP during the term of the program. It is asserted that volumes eligible for release, transportation, and sale under this program include volumes contractually committed to Sea Robin on or before the date of issuance of the certificate in this proceeding (1) that are in excess of the volumes Sea Robin requires to maintain full service to its customers; (2) that have maximum lawful price prior to release that is greater than the maximum lawful price prescribed by Section 109 of the Natural Gas Policy Act of 1978 (exclusive of adjustments under Section 110 of that Act) and (3) with respect to the sale of which Sea Robin is absolved of take-or-pay liability. To implement the program, Sea Robin requests that the Commission include authority in the SMP certificate for the partial abandonment of volumes released by Sea Robin.

Under Sea Robin's SMP proposal, each of its firm customers could nominate up to 10 percent of its monthly and annual firm contractual entitlements to be purchased under the SMP for system supplies. Additionally, markets available to Sea Robin's SMP would be limited to direct or indirect sales customers of Sea Robin and new loads in the service area of Sea Robin's direct or indirect customers. Where such markets are served by one or more pipelines (provided that no tariff provision prevents such sale) any gas sold under the SMP would be limited to requirements that are being or would otherwise be served by (1) alternative fuels whether or not alternative fuel capacity is installed; (2) producer direct sales arrangements; (3) gas made available under industrial sales programs, or similar programs; (4) gas sold by pipelines under special discount rates or in off-system sales; (5) propane or synthetic natural gas; or (6) interruptible sales service rate schedules. Blanket authorization with pregranted abandonment authorization is requested for jurisdictional sales made by the producer-suppliers under this SMP.

Sea Robin proposes to provide transportation as necessary to implement the SMP subject to available capacity. Sea Robin states that it does not intend to construct any new facilities in connection with such SMP transportation service. It is stated that to the extent that Sea Robin provides transportation for firm customers nominating SMP volumes under the 10 percent rule, it would provide firm

transportation for customers which so request. It is further stated that when SMP volumes purchased under the 10 percent rule are transported, Sea Robin would recognize those volumes transported for purposes of satisfying minimum commodity bill obligations. The rate Sea Robin proposes to charge for transportation of gas it releases into this SMP would be the non-gas component of Sea Robin's commodity sales rate for transportation within each customer's contract demand. It is asserted that under currently effective tariffs this rate is 0.83 cent per Mcf. For non-customers and customers who take gas in excess of contract demand, the applicable transportation charge is proposed to be Sea Robin's 100 percent load factor rate of its firm sales rate schedule, exclusive of gas costs. It is submitted that under currently effective tariffs, this rate is 14.4 cents per Mcf. Sea Robin states that it may, however, charge a lesser rate if (1) it shows that certain specified costs are not incurred in the transportation of SMP gas; (2) it shows that despite reduction in distributor margins the SMP gas would not be marketed without adjustment in the pipeline transportation rate; or (3) it is willing to forego recovery of any difference between the rate charged and the rate otherwise prescribed. Accordingly, Sea Robin requests that its SMP certificate include blanket authorization with pregranted abandonment authorization permitting it to transport SMP volumes as described herein.

It is stated there is a likelihood that transportation services of other transporters in addition to Sea Robin may be necessary to effect certain SMP transactions. It is asserted that in many instances such transportation can be accomplished under existing provisions for self-implementing transportation. However, Commission authorization may be required for certain transactions such as transportation to end-users. Accordingly, Sea Robin requests that its SMP certificate include authorization with pregranted abandonment authorization for any willing interstate pipeline, intrastate pipeline, local distribution company or Hinshaw pipeline to transport gas for Sea Robin's SMP subject to the conditions on such transportation imposed in the Commission's omnibus SMP orders.

Sea Robin proposes a term for this SMP to run from the date of certification to October 31, 1985.

Comment date: June 5, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-430-000]

May 13, 1985.

Take notice that on April 11, 1985, as supplemented May 8, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-430-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for an end-user under the certificate issued in Docket No. CP82-413-000 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.

Tennessee proposes to transport up to 3,500 Mcf of natural gas per day, on an interruptible basis, on behalf of Producer's Gas Company (PGC), acting as agent for Dresser Clark Division, Dresser Industries, Inc. (Dresser), an eligible end-user. It is stated that the gas to be transported would be purchased by Dresser from reserves available to PGC in the Temple Eastex Field, Sabine County, Texas. It is explained that Tennessee would receive the natural gas purchased by Dresser at the existing point of interconnection between the facilities of Tennessee and PGC in Sabine County Texas, and transport and deliver thermally equivalent quantities of gas, less volumes for fuel and uses and gas lost and unaccounted-for, to an existing point of interconnection between the facilities of Tennessee and Columbia Gulf Transmission Company (Columbia Gulf) at Egan, Acadia Parish, Louisiana. Tennessee states that Columbia Gulf, under separate agreement with PGC as agent for Dresser Clark, would transport and deliver the gas to Columbia Gas Transmission Corporation (Columbia Gas) at the terminus of Columbia Gulf's facilities in Leach, Kentucky, and that Columbia Gas would then transport and deliver the gas to Columbia Gas of New York, Inc., for further transportation to Dresser Clark's Olean, New York, plant. It is stated that Dresser is a manufacturer of large gas turbines and compressors for petroleum and chemical industries. It is explained that the end-use of the gas would be for heating, processing and testing the turbines and compressors. It is further explained that PGC is paying U.S. Natural Gas Clearing House .02 cents per Mcf as their broker for setting up the agreements between PGC and Dresser.

Tennessee states that it would charge PGC, as agent for Dresser, in accordance to its currently effective Rate Schedule ITEU, a volume charge equal to the product of 17.14 cent multiplied by the total volume in Mcf of gas delivered by Tennessee for the account of PGC, as agent of Dresser, during the month. Tennessee further states that it would retain 1.2 percent of the total quantity of gas received into its system for system fuel and uses and gas lost and unaccounted-for; provided, however, that Tennessee may, at its sole option, elect to provide such volumes to PGC, as agent for Dresser, at Tennessee's weighted average cost of gas. It is also stated that Columbia Gulf would collect the Gas Research Institute surcharge of 1.25 cents per Mcf of gas delivered.

It is explained that the transportation agreement would be effective on March 1, 1985, and would remain in full force and effect from the date of initial deliveries until June 30, 1985, or such other date as determined by the Commission for termination of authorization for service hereunder pursuant to Subpart F of Part 157 of the Commission's Regulations or until terminated by either party upon thirty days prior written notice.

Tennessee 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. Tennessee will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: June 27, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP85-483-000]

May 13, 1985.

Take notice that on May 3, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-483-000 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 Memphis Light, Gas and Water Division (Memphis), as agent for W. R. Grace & Company (Grace), under the certificate issued in Docket No. CP82-407-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set

forth in the request on file with the Commission and open to public inspection.

Texas Gas requests authorization to transport beyond a primary term of 120 days an average daily volume of 2 billion Btu of low-priority natural gas per day on an interruptible basis for Memphis as agent for Grace for ultimate delivery to Grace at its Memphis, Tennessee, plant. Texas Gas indicates it is possible for 730 billion Btu of low-priority gas to be transported on an annual basis.

Texas Gas indicates it would receive gas at receipt points in Phillips County, Arkansas, and Ouachita and Bossier Parishes, Louisiana, and redeliver equivalent volumes and to Memphis for the account of Grace at an existing sales meter station in Shelby County, Tennessee. It is indicated that Memphis would then redeliver the gas to Grace's plant. Texas Gas requests an expiration date of October 31, 1985, if the Commission extends the end-user transportation program past June 30, 1985.

Texas Gas proposes to charge for its service the rate provided in its Rate Schedule TSC-1 for Rate Schedule G sales customers on file with the Commission, which is currently 16.26 cents. Texas Gas also states that it would charge the 1.25-cent Gas Research Institute funding unit.

Texas Gas indicates that the proposed transportation by Texas Gas would be rendered through the use of existing facilities.

Texas Gas also indicates that the gas would be used for boiler fuel in Grace's Memphis, Tennessee, plant. Grace also states that Grace requires 1,7500 Mcf of gas per day for plant protection and 33,740 Mcf of gas per day for feedstock and process fuel. It is explained that Grace has purchased its gas supplies from Mid Continent Gas Company and such gas was not dedicated to interstate commerce on November 8, 1978, and Arkla Intrastate Pipeline System, an interstate pipeline.

Texas Gas also requests flexible authority to add or delete receipt/delivery points associated with source 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. Texas Gas will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: June 27, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipe Line Company

[Docket No. CP85-484-000]

May 14, 1985.

Take notice that on May 3, 1985, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP85-484-000 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 Stauffer Chemical Company (Stauffer) under the certificate issued in Docket No. CP82-430-000 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.

United proposes to transport up to 700 Mcf of natural gas per day for Stauffer through June 30, 1985. United indicates that the gas to be transported would be purchased from Cotton Petroleum Corporation in Rusk County, Texas, and would be used for low-priority use.

United states that it will receive the gas for Stauffer's account at the Beall No. 1, Grandy No. 1 and Prior No. 1 wells located in Rusk County, Texas, and redeliver said gas to the Stauffer Chemical plant located near Axis, Mobile County, Alabama.

United states that the rate applicable to this transmission service is United's Type V Rate (Rate Schedule IT), which includes a component for gas consumed in the operation of United's pipeline system and the Gas Research Institute surcharge. Currently such rate is 43.50¢ per Mcf. United states that the transportation rate is in accordance with United's FERC Gas Tariff, First Revised Volume No. 1, effective January 14, 1985, and that there is no Added Incentive Charge for this service.

Comment date: June 28, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. Natural Gas Pipeline Company of America

[Docket No. CP85-477-000]

May 16, 1985.

Take notice that on May 2, 1985, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois, 60603, filed in Docket No. CP85-477-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon eight injection-withdrawal wells and approximately 14,010 feet of 6, 8 and 12-inch laterals at Applicant's Cairo Galesville and St. Peter storage facilities located in Louisa County, Iowa, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that Natural Gas Storage Company of Illinois (Storage) was authorized in 1962 to develop and operate an aquifer-type natural gas storage reservoir in the St. Peter formation, the first formation developed in its Cairo storage reservoir, located near Columbus Junction, Louisa County, Iowa. Applicant states that it acquired the storage facility in 1962 and continued the development of the St. Peter system until its present configuration was attained in 1967. Applicant explained that between 1974 and 1976 it tested and developed another aquifer storage reservoir in the Galesville formation underlying the St. Peter Storage reservoir.

Applicant states that eight of the injection-withdrawal wells (seven in the St. Peter and one in the Galesville) are no longer able to fulfill their purpose because of insufficient gas available at the wellhead. Applicant asserts that because most of the wells are located "off structure" it does not foresee a time when these wells could be restored for use as injection-withdrawal wells.

Applicant proposes to abandon the eight wells and approximately 14,010 feet of 6, 8 and 12-inch connecting lateral lines. Applicant proposes to remove the laterals to avoid potential corrosion problems associated with the operation of the existing system and to retain the wells for use as observation wells. Applicant estimates that the out of pocket cost of abandonment would be $204,700 which cost would be met from funds on hand.

Comment date: June 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

10. ANR Pipeline Company

[Docket No. CP85-442-000]

May 16, 1985.

Take notice that on April 17, 1985, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-442-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, as of April 1, 1984, certain certificated transportation services that it has been performing on behalf of Columbia Gas of Ohio, Inc. (Columbia, Ohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it originally concluded a contract with Columbia,

Ohio on March 1, 1978, whereunder it agreed to transport up to 2,750,000 Mcf of natural gas per year for the account of Columbia, Ohio. It would transport this gas, Applicant explains, from its interconnection with Panhandle Eastern Pipe Line Company at Defiance, Ohio, to its interconnection with Michigan Consolidated Gas Company (Michigan Consolidated) at the Willow Run station in Michigan, for ultimate storage by Michigan Consolidated on behalf of Columbia, Ohio, and for ultimate redelivery the gas to Columbia, Ohio. Applicant indicates that this contractual agreement was approved by the Commission on September 6, 1978, in Docket No. CP78-402-000 [4 FERC ¶61,285], and was subsequently filed with the Commission as Rate Schedule X-65 of Applicant's FERC Gas Tariff, First Revised Volume No. 2.

Applicant says that its transportation agreement with Columbia, Ohio was scheduled to expire on April 1, 1984, unless Columbia, Ohio elected to extend the contract until April 1, 1991. In a letter dated May 3, 1983, however, Columbia, Ohio reportedly informed Applicant that it was terminating its own underlying storage service agreement with Michigan Consolidated, effective April 1, 1984; hence, Applicant reports, Columbia, Ohio did not wish to extend beyond April 1, 1984, its contract with Applicant for gas transportation services.

Applicant states that it is only filing to abandon its transportation services on behalf of Columbia, Ohio, and would not abandon any facilities covered by its Commission certificate of public convenience and necessity.

Comment date: June 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

11. International Paper Company

[Docket No. CP85-489-000]

May 16, 1985.

Take notice that on May 6, 1985, International Paper Company (IPCo), International Paper Plaza, 77 West 45th Street, New York, New York 10036, filed in Docket No. CP85-489-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing IPCo to construct and operate a tap and block valve for the receipt of a new gas supply on its Natchez pipeline in Concordia Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

IPCo proposes to construct a tap and block valve on its 6-inch Natchez pipeline that extends from a processing plant in Tensas Parish, Louisiana, to IPCo's paper mill near Natchez, Adams County, Mississippi, for the receipt of approximately 1,500 Mcf of gas per day from Exxon Company, U.S.A.'s (Exxon), A.B. Dupre No. 2 well located in the Vidal Island Field, Concordia Parish, Louisiana. The gas would be used in IPCo's mill for process, boiler fuel and space heating purposes.

It is explained that the estimated cost of the tap and block valve of $15,000 would be borne by Exxon.

Comment date: June 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs.

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure [18 CFR 385.211 and 385.214] and the Regulations under the Natural Gas Act [18 CFR 157.10]. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the 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. 85-12379 Filed 5-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-497-000, et al.]

Electric Rate and Corporate Regulation Filings; Idaho Power Company et al

May 17, 1985.

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

1. Idaho Power Company

[Docket No. ER85-497-000]

Take notice that on May 10, 1985, the Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during March, 1985, along with cost justification for the rate charge. This filing includes the following supplements:

- Utah Power & Light Company—Supplement 41
- Sierra Pacific Power Company—Supplement 37
- Southern California Edison Company—Supplement 27
- San Diego Gas & Electric Company—Supplement 22
- Los Angeles Water & Power Company—Supplement 24
- Puget Sound Power & Light Company—Supplement 14
- City of Burbank—Supplement 22
- City of Glendale—Supplement 23
- City of Pasadena—Supplement 21
- Pacific Gas and Electric Company—Supplement 8
- Western Area Power Administration—Supplement 3

Idaho requests an effective date of March 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: June 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket No. ER85-493-000]

Take notice that New England Power Company (NEP) on May 8, 1985 tendered for filing as an initial filing an Agreement for Transmission of Firm Power between NEP and its affiliate, the Narragansett Electric Company.

NEP submits that the Agreement is for the required transmission across its system of capacity and energy that Narragansett has agreed to purchase from the New York Power Authority for the period July 1, 1985 through June 30, 1995.

The proposed effective date is July 1, 1985 collateral with the commencement of the NYPA sale to Narragansett.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Mexico

[Docket No. ER85-485-000]

Take notice that on May 3, 1985, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Cancellation of Supplement Nos. 3 and 33 to PNM Rate Schedule FPC No. 31.

PNM requests an effective date of December 31, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon Plains Electric Generation and Transmission Cooperative, Inc. and the New Mexico Public Service Commission.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Company

[Docket No. ER85-498-000]

Take notice that Puget Sound Power & Light Company (Puget) on May 10, 1985 tendered for filing a Notice of Termination of Puget's Rate Schedule No. 37, such schedule having terminated by its own terms.

Copies of this filing were served upon the Montana Power Company and the Washington Water Power Company.

Comment date: June 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Power & Light Company

[Docket No. ER85-495-000]

Take notice that Puget Sound Power & Light Company (Puget) on May 9, 1985, tendered for filing a Notice of Termination of Puget's Rate Schedule No. 39, such schedule having terminated by its own terms.

Copies of the filing were served upon the Washington Water Power Company.

Comment date: June 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. South Carolina Electric & Gas Company

[Docket No. ER85-492-000]

Take notice that on May 7, 1985, South Carolina Electric & Gas Company (SCE&G) tendered for filing a Short Term Power Sales Agreement dated May 1, 1985, between Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies") and SCE&G. This agreement is for the sale of energy from SCE&G to Southern Companies of up to 540 GWH and at least a minimum of 390 GWH.

SCE&G requests an effective date of June 1, 1985, and therefore requests waiver of the Commission's notice requirements

Copies of this filing have been mailed to Southern Companies according to SCE&G.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. West Texas Utilities Company

[Docket No. ER85-496-000]

Take notice that West Texas Utilities Company (WTU) on May 9, 1985, tendered for filing an Agreement for Firm Transmission Service, dated December 6, 1984 between WTU and Houston Lighting and Power Company ("HL&P"). Under the Agreement, WTU will furnish transmission service through its system for HL&P purchases from City Public Service of San Antonio, Texas and from the City of Austin, Texas.

WTU requests that the Agreement be made effective as of January 1, 1983, and, accordingly, requests wavier of the notice requirements.

Copies of the filing have been served on HL&P and on the Public Utility Commission of Texas.

Comment date: June 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER85-488-000]

Take notice that on May 6, 1985, Arizona Public Service Company (Arizona) tendered for filing Service Schedule Q (Agreement) to its Power Coordination Agreement with the Salt River Project Agricultural Improvement and Power District (District) executed by the Parties on April 30, 1985.

Arizona States that this Agreement Provides for a new system configuration, additional transfer capability, expansion rights for Ward Substation and future rights of way, and contractually increases the District's available line capacity.

Arizona further states that this Agreement supersedes the "Memorandum of Agreement" of Service Schedule H of the Power Coordination Agreement between the Parties.

Arizona requests that the notice requirement be waived so that the Agreement can become effective upon the date of filing.

Copies of this filing have been served upon the District and the Arizona Corporation Commission.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER85-491-000]

Take notice that Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies"), tendered for filing on May 7, 1985, Service Schedule S to an interchange contract between Florida Power & Light Company and Southern Companies.

Service Schedule S sets forth the terms, conditions and rates under which Southern Companies agree to deliver power and energy purchased from South Carolina Electric & Gas Company for contemporaneous sale and delivery to Florida Power & Light Company. The term of Service Schedule S shall be ninety days from the date of first delivery of power and energy to FPL with first deliveries expected to occur as early as June 1, 1985, but no later than July 1, 1985. Service Schedule S is subject to reasonable extensions to allow delivery of specified amounts of power energy purchased by Southern Companies from South Carolina Electric & Gas Company, but in no event shall the term of the schedule extend beyond November 30, 1985.

Southern Services requests an effective date of June 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Iowa Public Service Company

[Docket No. ER85-487-000]

Take notice that on May 6, 1985, Iowa Public Service Company (IPSC) tendered for filing a Notice of Cancellation of Rate Schedule F.P.C. No. 53 between IPSC and Iowa Electric Light & Company.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER85-490-000]

Take notice that Carolina Power & Light Company (CP&L) on May 6, 1985, tendered for filing an Amendment to its Service Agreement with the City of Bennettsville, South Carolina. This Amendment will incorporate in the Service Agreement the delivery of additional metering pulse information under the Company's Additional Facilities Plan.

CP&L requests that said Amendment become effective 60 days after filing.

Comment date: May 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. Texas-New Mexico Power Company

[Docket No. ER85-483-000]

Take notice that on May 2, 1985, Texas-New Mexico Power Company (TNP) tendered for filing an "Interconnection Agreement Between Texas-New Mexico Power Company and Plains Electric Generation and Transmission Cooperative, Inc.," executed July 19, 1984, including Service Schedules A through F, executed as of the same date, and Service Schedule G, executed February 21, 1985.

TNP states that the primary purpose of the Agreement is to provide for the exchange of capacity and energy between these two parties. Section 4 envisions that various services may from time to time be covered by the Agreement and that such services will be provided for in service schedules. As presently constituted, the service schedules provide for emergency assistance, economy energy interchange, energy banking, reciprocal wheeling service, scheduled outage assistance, short-term system contingent capacity, and displacement service. The Agreement also provides for such matters as maintenance of spinning reserves, conditions of interconnected operations, operating data, metering, settlement of accounts, administration, force majeure, indemnification and liability, and other details for the implementation of the intent of the contracting parties.

TNP proposes an effective date of July 1, 1985.

TNP requests waiver of the filing requirements specified in the regulations to the extent that such requirements are not appropriate for this filing.

Copies of this filing were served on the Public Utility Commission of Texas, the New Mexico Public Service Commission, and Plains Electric Generation and Transmission Cooperative, Inc.

Comment date: May 31, 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 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. 85-12378 Filed 5-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-482-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; James M. Knott et al.

May 15, 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. James M. Knott

[Docket No. QF85-482-000]

On May 3, 1985, James M. Knott of 130 Riverdale Street, Northbridge, Massachusetts 01534 (Applicant), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Worcester County, Massachusetts. The facility will consist of a 260 horsepower natural-gas-fired reciprocating internal combustion engine coupled to a flywheel and driving a 650 kVA synchronous generator. Exhaust gases from the engine will be used to supplement direct-firing gas burners presently used to heat two ovens in a plastic coating facility. Water jacket heat from the engine will be used to heat wash and rinse tanks of this same facility. Electric power produced will be used for in-plant purposes, including operation of welding equipment which draws high inrush current. Excess electric power will be sold to the local utility. The primary energy source will be natural gas. The electric power production capacity will be 200 kilowatts. Installation of the facility began on April 30, 1985.

2. Bio-Mass Fuel Corporation

[Docket No. QF85-485-000]

On May 6, 1985, Bio-Mass Fuel Coporation, 7708 E. Lewis Street, Scottsdale, Arizona 85257 (Applicant), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Flagstaff, Arizona. The facility will consist of an internal combustion engine generator used to supply electric power requirements for any apartment complex. Waste heat will be recovered and used for hot water purposes in the complex. The primary energy source will be Bio-Gass, a synthetic substitute for natural gas manufactured from biomass materials. The electric power production capacity will be 150 kilowatts.

3. Consolidated Rail Corporation

[Docket No. QF85-361-000]

On May 3, 1985, Consolidated Rail Corporation, Juniata Locomotive Shop, Second Street, Altoona, Pennsylvania 16603 (Applicant), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Altoona, Pennsylvania. The facility will consist of three coal-fired boilers and five gas-

fired boilers for emergency backup. Steam from these boilers will, in part, go directly to process use and part to two back-pressure steam-turbine generators. Exhaust from these turbine generators will, in part, go to process use and part to a condensing steam turbine generator. The primary energy source will be coal. The total electric power production capacity will be approximately 8,750 killowatts. Construction is expected to be completed sometime in 1987.

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. 85-12380 Filed 5-22-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Issuance of Decisions and Orders; Week of April 15 through April 19, 1985

During the week of April 15 through April 19, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for 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.

Appeal

Donald Lee Espenshade, 4/18/85; HFA-0281

Donald Lee Espenshade filed an Appeal from a denial by the Director of Reference and Information Management, Office of Administrative Services, of a Request for Information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that documents responsive to Mr. Espenshade's request did not exist in the Office of Personnel Management in Boyers, Pennsylvania, or in the Los Alamos Area Office in Los Alamos, New Mexico. The Appeal was therefore denied.

Motions for Discovery

Fuel Oil Supply and Terminaling, Inc., 4/18/85; HRD-0126 and HRH-0126

Fuel Oil Supply and Terminaling, Inc. (FOSTI) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that was issued by the Economic Regulatory Administration (ERA) to the firm. In the PRO, the ERA alleges that FOSTI violated the "anti-layering" provisions of 10 CFR Part 212, Subpart L. That regulation prohibits a reseller from charging a price for crude oil in excess of its actual purchase price unless the reseller provided some service or other function traditionally and historically associated with the resale of crude oil. In its Motion for Discovery, FOSTI sought extensive discovery pertaining to: (i) The audit of the firm; (ii) the administrative record of certain rulemakings applicable to crude oil resellers; and (iii) the DOE's contemporaneous construction of portions of the crude oil reseller regulations. FOSTI's Motion for Evidentiary Hearing requested that the firm be allowed to formulate an evidentiary hearing request after it has been granted discovery.

The DOE concluded that FOSTI's Motion for Discovery should be denied since it would not elicit evidence relevant and material to the issues raised in the firm's Statement of Objections. The Motion for Evidentiary Hearing was denied because FOSTI had not attempted to demonstrate that such a hearing was necessary. However, FOSTI was extended the opportunity to submit additional evidence supporting certain claims it had made in its Statement of Objections. If the firm decides that oral testimony is also necessary for this purpose, FOSTI must submit a new Motion for Evidentiary Hearing with its filing.

Oil-Tex Petroleum, Inc., David E. Myres, 4/15/85; HPD-0159 and HRH-0159

On December 28, 1983, Oil-Tex Petroleum and David E. Myres (Oil-Tex) filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm on April 29, 1983. In its motion for discovery, Oil-Tex made extensive requests for administrative record and contemporaneous construction discovery relating primarily to the layering rule set forth in 10 CFR 212.186. The motion for evidentiary hearing sought to present testimony of oil industry personnel regarding the functions traditionally and historically associated with the resale of crude oil. The Office of Hearings and Appeals denied the motions in their entirety on the grounds that the requested discovery and hearing would not produce information which was relevant and material to the resolution of any contested factual issues raised in the Proposed Remedial Order proceeding.

Supplemental Orders

Cranston Oil Service Co., Inc., 4/19/85; HRX-0116

The DOE issued a supplemental order which proposed that the funds currently held in an escrow account for repayment of overcharges by Cranston Oil Service Co., Inc. be remitted to the DOE for distribution pursuant to 10 CFR Part 205, Subpart V. Interested parties have 30 days to comment on this proposal. In addition, the DOE ordered the company which purchased Cranston's assets and which is serving as trustee of the escrow account to provide OHA with specific information regarding the escrow account and the company's compliance with a February 8, 1977 consent order.

Little America Refining Co., Inc., 4/17/85; HYX-0008 and HYX-0014

In this Decision and Order, the OHA reviewed crude oil entitlements exception relief that Little America Refining Co., Inc. (Larco) received during its fiscal years ended June 30, 1979, and June 30, 1980. The OHA determined that Larco should receive additional relief of $9.7 million for its 1979 fiscal year and $3.3 million for its 1980 fiscal year. Although the OHA rejected intervenors' contentions that the *Delta* exception relief standards should not be used in calculating exception relief for Larco, the amount of relief granted to Larco was substantially less than the amount of relief otherwise calculated under the *Delta* standards. The relief approved was designed in part to alleviate the adverse impact of a sudden elimination of the *Delta* exception relief that Larco had received in years prior to 1979. The OHA also summarized all of the outstanding exception orders issued to Larco, and concluded that Larco has a final net entitlements purchase obligation in the amount of $31,963,776.

Oasis Petroleum Corporation, Research Fuels, Inc., Lucky Stores, Inc., 4/18/85; HEX-0118, HER-0101, and HEZ-0234

On February 12, 1985, the Office of Hearings and Appeals (OHA) issued a Supplemental Order which, *inter alia*, provided for he convening of an evidentiary hearing on a *sua sponte* motion. *Oasis Petroleum Corporation/Research Fuels, Inc.*, 12 DOE ¶ 82,549 (1985). In accordance with the Supplemental Order, Oasis Petroleum Corporation (Oasis), Research Fuels, Inc. (RFI), and Lucky Stores, Inc. (Lucky) submitted to OHA the names of individuals whose testimony they desire to present at the evidentiary hearing. In addition, Oasis and RFI each filed submissions relating to the issues designated for consideration at the hearing. In considering the witness list submissions filed by each of the parties and the other submissions filed by Oasis and RFI in these proceedings, the OHA determined that the witness list submissions should be granted in part, that RFI's Motion for Reconsideration should be denied, and that Oasis' Motion to Strike should be denied.

Placid Oil Company 4/18/85; HRX-0117

Placid Oil Company filed documentary evidence in accordance with the terms of a Remedial Order issued to Placid on February 11, 1985. The evidence submitted by Placid established that historical down time for the Glass Unit, a crude oil producing property operated by Placid, was at least 16 days and that the Unit therefore qualified for the stripper well exemption based upon its 1974

production. Accordingly, the OHA issued a Supplemental Order which rescinded that portion of the February 11, 1985 Remedial Order concerning the Glass Unit and reduced the total amount of overcharges by the amount attributable to the Glass Unit ($22,697.01). Placid's refund obligation was thereby reduced from $1,266,278.88 to $1,243,581.87.

Implementation of Special Refund Procedures

McCarty Oil Co., 4/15/85; HEF-0128

Nielsen Oil & Propane, Inc., 4/15/85; HEF-0136

The DOE issued a Decision and Order implementing procedures for the distribution of $50,594.11 received as a result of a consent order with McCarty Oil Co., and $46,000 received as a result of a consent order with Nielsen Oil & Propane, Inc. The DOE determined that the McCarty settlement fund should be distributed to wholesale customers who purchased motor gasoline from McCarty during the April 1 through September 30, 1979 consent order period and that the Nielsen settlement fund should be distributed to wholesale and retail customers who purchased motor gasoline and/or propane from Nielsen during the March 1 through December 31, 1979 consent order period. A portion of the McCarty fund will be distributed to 22 of McCarty's customers after each has filed an application for refund. A portion of the Nielsen fund will be distributed to 20 of Nielsen's customers after each has filed an application for refund. In addition, firms not identified by the DOE audits may submit claims as well.

Southern Union Company, 4/18/85; HEF-0223

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund from the settlement funds obtained under a consent order with Southern Union Company. The funds will be available to customers who purchased covered petroleum products from Southern Union during the period August 1983 to January 1981.

Refund Applications

Consolidated Gas Supply Corporation/ Suburban Propane Gas Corpootion., 4/16/85; RF77-0002

Suburban filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order with Consolidated Gas Supply Corporation (Consolidated). The DOE determined that Suburban's allocable share of the Consolidated consent order funds was below the $5,000 injury presumption threshold. Accordingly, the DOE determined that Suburban would not be required to submit further proof of injury, and that the firm would receive a refund of $2,461, plus $1,595 in interest on that amount.

Crystal Oil Company/Enterprise Products Company, 4/16/85; RF62-0001

Enterprise filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order with Crystal Oil Company (Crystal). The DOE determined that Enterprise's allocable share of the Crystal consent order funds was below the $5,000 injury presumption threshold. Accordingly, the DOE determined that Suburban would not be required to submit further proof of injury, and that the firm would receive a refund of $4,800, plus $3,699 in interest on that amount.

Standard Oil Company (Indiana)/ Hall's Standards Service, 4/17/85; RF21-12390

The DOE issued a Decision and Order concerning duplicate refunds applied for and received by a retailer of Amoco motor gasoline in the Amoco special refund proceeding. Hall's Standard Service received two refunds when it was entitled to only one. The DOE decided that the owner of Hall's Standard Service must remit one refund as well as additional accrued interest, and also must submit a written explanation of why he had filed two refund applications and had not notified the DOE about his duplicate refund.

Standard Oil Company (Indiana)/National Car Rental Systems, Inc., 4/16/85; RF21-12381 and RF21-12382

The DOE issued a Decision and Order concerning two Applications for Refund filed by National Car Rental Systems, Inc. The firm elected to apply for a refund based upon the presumption of injury and formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that the applicant should receive a refund based upon the total volume of Amoco petroleum products purchased. However, the DOE determined that the applicant did not appear to be a consumer in its purchases of Amoco motor gasoline and diesel fuel. Accordingly, for purposes of determining the appropriate refund amount, National Car Rental Systems, Inc. was treated as a retailer of motor gasoline and diesel fuel, and as a consumer of grease and oil. The refund granted in this proceeding was $5,241.

Standard Oil Company (Indiana)/Suburban Propane Gas Corporation, 4/17/85; RF21-8802

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of natural gas liquids (NGLs), Suburban Propane Gas Corporation, in connection with the Standard Oil Company (Indiana) (Amoco) refund proceeding. In considering the application, the DOE found that the firm had maintained "negative" cost banks for months in 1979 and 1980. The DOE concluded that the existence of these negative banks indicated that the firm had been able to pass through any and all alleged Amoco overcharges to its customers in the months before it had the negative banks. Since the Amoco consent order period ended in December 1979, the DOE denied the Suburban refund claim.

Texas Gas Exploration Corporation/ Enterprise Products Company, 4/19/85; RF44-0003

Enterprise Products Company filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order with Texas Gas Exploration Corporation (Texas Gas). The DOE determined that Enterprise purchased sporadically from Texas Gas during the Texas Gas consent order period. Accordingly, Enterprise's purchases were found to be spot purchases, and the firm's Application for Refund was denied.

Texas Oil and Gas Corporation/Farmland Industries, Inc., 4/17/85; RF42-10

The DOE issued a Decision and Order concerning an Application for Refund filed by an agricultural cooperative, Farmland Industries, Inc., in connection with the Texas Oil & Gas Corporation (TOGCO) refund proceeding. In its application, Farmland claimed that it made "secondary" purchases of natural gas liquid products (NGLPs) from TOGCO. Farmland's application showed only that Farmland purchased NGLPs from three firms at two gas plants in Oklahoma. Although TOGCO had sold products at the two Oklahoma plants, no records were submitted indicating that TOGCO sold its products to the three companies that supplied Farmland. In addition, no evidence was summitted demonstrating tht the three companies sold TOGCO products to Farmland. Without any evidence demonstrating that Farmland's purchases were traceable to NGLPs sold by TOGCO, the DOE was unable to conclude that the cooperative was injured by TOGCO's alleged overcharges. Farmland's Application for Refund was therefore denied.

Wallace & Wallace Fuel Oil/Soho Fuel Oil Co., Inc., 4/18/85; RF69-0001

The DOE issued a Decision and Order concerning an Application for Refund filed by Soho Fuel Oil Co, Inc., a reseller of Wallace & Wallace No. 2 fuel oil. Soho applied for a refund based on the presumption of injury and procedures for filing small claims outlined in *Wallace & Wallace*, 12 DOE ¶ 85,122 (1985). After examining the evidence and supporting information submitted by the applicant, the DOE concluded that Soho Fuel Oil Co., Inc., should receive a refund of $405 based upon the total volume of its Wallace & Wallace No. 2 fuel oil purchases.

Willis Distibuting Co., Inc./Independent Iron & Metal Corp. et al., 4/16/85; RF41-0017 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by three resellers and three end-users of Willis motor gasoline. The claimants applied for refunds based on either the presumpion of injury and procedures for filing small claims or the principles for applications by end users outlined in *Willis Distributing Co., Inc.*, 12 DOE ¶ 85,062 (1984). After examining the evidence and supporting information submitted by the applicants DOE concluded that they should receive refunds totaling $2,847 based upon the total volume of their combined Willis motor gasoline purchases.

Wisconsin Industrial Fuel Oil, Inc. Asphalt & Petroleum Industries, Inc., Oils, Inc., 4/6/85; RF75-0001 and RF75-0002

The DOE issued a Decision and Order concerning two Applications for Refund filed by Asphalt & Petroleum Industries, Inc. and Oils, Inc., resellers of Industrial Oil products. Both applicants were identified as first purchasers during a DOE audit and elected to limit their claims to the presumption of injury level set in *Wisconsin Industrial Fuel Oil, Inc.*, 12 DOE ¶ 85,099 (1985). In considering the applications, the DOE concluded that

both applicants should receive refunds of $5,000 plus accrued interest.

Dismissal

The following submission was dismissed:

Peter J. Hirschburg, HRR-0100

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 16, 1985

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-12429 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Week of April 22 Through April 26, 1985

During the week of April 22 through April 26, 1985, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will them determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all person who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: May 13, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

United Refining, Inc., Warren, Pennsylvania. HRO-0288, Crude Oil

On April 23, 1985, United Refining Co., United Refining Co. of Pennsylvania and United Refining, Inc. (collectively, United), Bradley Street & Dobson Avenue, Warren, PA 16365, filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration of the Department of Energy issued to the firms on March 26, 1985. In the PRO the ERA found that United violated the mandatory petroleum price regulations in four material respects: (1) United improperly calculated its increased costs for imported Canadian crude oil resulting in an overstatement of crude costs for the months August 1973 through December 1974; (2) United improperly retroactively reallocated certain costs associated with distillates and gasoline to other covered products, which had the effect of masking an overrecovery in the other covered products category during November and December 1974; (3) United improperly included unsubstantiated crude costs in its other covered products category for 1974, resulting in an overstatement of such costs; and (4) United improperly recovered increased non-product costs for the month of December 1974. According to the PRO the violations resulted in $12,880,191 of cost overstatements.

[FR Doc. 85-12438 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $974,362 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Saber Energy, Inc., a refiner and reseller of petroleum products based in Houston, Texas.

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, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0220.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2094.

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 Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Saber Energy, which settled possible violations of DOE price controls in the firm's sales of covered petroleum products to its customers during the August 1973 through January 1981 period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Saber pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of covered products during the audit period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 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.

Date: May 14, 1985.

George B. Breznay,

Director Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 14, 1985.

Name of Firm: Saber Energy, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0220.

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 make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Saber Energy, with its subsidiaries Saber Petroleum and Saber Refining (together referred to hereinafter as Saber), was an integrated petroleum company, with producing, refining and reselling operations. Saber had main offices located in Houston, operated a refinery in Corpus Christi and marketed petroleum products in several parts of the United States. Several DOE audits of Saber's records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline, diesel fuel, and other refined petroleum products, during the period August 19, 1973 through December 1981 (hereinafter referred to as the consent order period). In order to settle all claims and disputes between Saber and the DOE regarding the firm's pricing of refined products during the consent order period, Saber and DOE entered into a consent order on April 19, 1982. Under the terms of the consent order, Saber remitted $974,362 to the DOE on July 29, 1982. That sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of March 31, 1985 the Saber escrow account had earned $278,722 in interest. This Proposed Decision concerns the distribution of the $974,362 that was deposited into the escrow account, plus the accrued interest.

II. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Saber consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund money to identifiable purchasers of petroleum products who may have been injured by Saber's pricing practices during the period August 1973 through January 1981. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

III. Proposed Refund Procedures

A. Refunds to Identifiable Purchasers

We propose that the Saber consent order funds be distributed to claimants who satisfactorily demonstrate that they were injured by Saber's alleged pricing violations. The information available to us at this time regarding Saber's operations during the audit period does not provide names and addresses of all of the firm's customers. However, from our experience we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers (including retailers), and (2) firms, individuals, or organizations that were consumers (end-users). The petroleum products purchased by these claimants were purchased either directly from Saber or from other firms in a chain of distribution leading back to Saber. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Saber petroleum products for the period August 1973 through January 1981.[1] If the products were not purchased directly from Saber, the claimant must include a statement setting forth its reasons for believing the product originated with Saber. In addition, a reseller or retailer that files a claim will be required to establish that it was injured by the alleged overcharges. To make this showing, a reseller or retailer claimant will first be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it must provide some further evidence of injury. *See Amoco* at 88,215.

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Saber during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

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 presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that it bore a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Saber consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses 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 is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to the OHA) of analyzing it, may be many times the expected refund amount. Failure to allow 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 the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently.

[1] The consent order includes the period ending December 1981. However, all petroleum regulations were revoked on January 27, 1981, so customers could not have been overcharged after that date.

Finally, these smaller claimants did purchase covered products from Saber and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of 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 presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, 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 better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned 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 time period of the consent order is quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable.[2] *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 addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Saber petroleum products need only document their purchase volumes from Saber to make a sufficient showing that they were injured by the alleged overcharges.

We believe that if a reseller or retailer made only spot purchases from Saber, it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]he customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Office of Enforcement, 8 DOE ¶ 82,597 (1981) at 85,396-97 (hereinafter cited as *Vickers*). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit additional evidence to establish that it was unable to recover the increased prices it paid for Saber petroleum products. *See Amoco* at 88,200.

Finally, the consent order specified that Saber provide direct restitution of $432,859 to Duquesne Power and Light Company in settlement of all claims Duquesne might have against Saber. Therefore, Duquesne shall not be eligible for any additional refund.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is $.001756 per gallon,[3] exclusive of interest. As of January 31, 1985, accumulated interest increased the volumetric refund amount to $.002225.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. 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 $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Independent Gasoline Marketers Council, the Petroleum Marketers Association of America, the Service Station Dealers of America, the National Association of Truck Stop Operators, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Saber's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Saber Energy, Inc. pursuant to the consent order executed on April 19, 1982 will be distributed in accordance with the foregoing Decision.

[FR Doc. 85-12432 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

[2] Resellers whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than $5,000 but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund of the $5,000 threshold amount without being required to submit additional evidence of injury. *See Vickers* at 85,396; *see also Ada* at 88,122.

[3] According to information available to us, during the consent order period, Saber sold 554,806,487 gallons of controlled petroleum products to customers other than Duquesne Power. The volumetric refund amount is obtained by dividing the money remitted by Saber by this volume amount ($974,362 divided by 554,806,487 gallons = $0.001756 per gallon).

Western Area Power Administration

Stampede Powerplant Final Power Marketing Plan and Proposed Power Allocation

AGENCY: Western Area Power Administration, DOE.

ACTION: Adoption of Final Power Marketing Plan; Notice of Proposed Allocation of Stampede Powerplant Power; Designation of Project Loads; Notice of Environmental Determination—Washoe Project, California.

SUMMARY: As part of the Washoe Project, the United States Bureau of Reclamation (Bureau) is currently constructing the Stampede Powerplant, a 3.65 megawatt (MW) hydroelectric facility. The Bureau estimates the Stampede Powerplant will be commercially operable by the fall of 1985. Pursuant to section 302 of the Department of Energy Organization Act of 1977, 42 U.S.C. 7152, the Western Area Power Administration (Western) will market the energy to be produced by the Stampede Powerplant. Western hereby announces the adoption of a final power marketing plan; the proposed allocation of Stampede Powerplant energy to the Truckee-Donner Public Utility District; the designation of the Lahontan National Fish Hatchery and Marble Bluff Fish Facility as project loads of the Washoe Project; and, the finalization of the environmental determination indicating that the preparation of an environmental assessment or impact statement is not required

DATES AND ADDRESSES: Comments regarding the proposed allocation of Stampede Powerplant energy to the Truckee-Donner Public Utility District will be received by Western through June 14, 1985. Comments should be mailed or delivered to: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Sacramento, CA 95825.

The following is the anticipated schedule for the remainder of the Stampede Powerplant marketing process:

Event	Date
Federal Register—Adoption of Final Power Marketing Plan; Notice of Proposed Allocation.	May 1985.
Comment Period	May 1985 to June 14, 1985.
Federal Register—Final Allocation	July 1985.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Coleman at (916) 440-2077 or at the previously stated address.

Adoption of Final Power Marketing Plan

The proposed power marketing plan for the Stampede Powerplant was published in the **Federal Register** on October 3, 1984 (49 FR 39098). No comments were received regarding the proposed marketing plan in writing or at the public comment and information forum held on November 1, 1984, in Reno, Nevada. Western hereby adopts the power marketing plan proposed in the aforementioned **Federal Register** as the final power marketing plan.

Notice of Power Allocation

Western received two applications requesting allocation of the Stampede Powerplant energy, one from the Sierra Pacific Power Company, and the other from the Truckee-Donner Public Utility District.

Both entities requesting allocations are considered to be ready, able, and willing to take and utilize the Stampede energy. In addition, both entities serve relatively large proportions of residential customers, and neither is currently receiving Federal power. The Truckee-Donner Public Utility District did receive an allocation of Central Valley Project power in October 1981, however, they have not yet been served due to transmission and contractual impediments.

Western proposes to designate the Truckee-Donner Public Utility District (hereinafter referred to as "TDPUD") as the recipient of the Stampede Powerplant energy based principally on TDPUD's status as a preference agency as defined and intended by section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)). The Sierra Pacific Power Company, as an investor-owned utility, did not request nor was considered by Western for preference entity status.

The power allocation is proposed to be delivered to TDPUD at the Stampede Powerplant Switchyard and shall be nonfirm in nature and shall also be withdrawable on 6 months written notice for the purpose of allocation to designated project loads. An initial priority reservation of an amount of energy necessary to serve the currently designated project loads of the United States Fish and Wildlife Service (discussed below) shall be deducted from the Stampede Powerplant generation that will otherwise be sold to the TDPUD.

Designated Project loads

The Lahontan National Fish Hatchery and the Marble Bluff Fish Facility are administered by the United States Fish and Wildlife Service and have been designated by the Bureau as project loads of the Washoe Project. Such designation makes the facilities eligible to be served by the Stampede Powerplant.

The Lahontan and Marble Bluff facilities were designated as project loads based on the fact that they were constructed and are being operated as part of the Washoe Project pursuant to section 2 of the Fish and Wildlife Coordination Act of March 10, 1934, as amended by the Act of August 12, 1958 (16 U.S.C. 622).

As designated project loads, the energy generated by the Stampede Powerplant will be provided to these facilities on a priority basis before any other allocation to preference entities. The projected demand of these facilities is approximately 360 kW peakload and 1,900 MWh annually.

Notice of Environmental Determination

Western issued an environmental determination by memorandum in March 1985 for the Stampede power marketing plan. This memorandum states that this power marketing plan does not involve a major Federal action having a significant adverse impact on the human environment and that the preparation of an environmental assessment or an environmental impact statement is not required.

Issued at Golden, Colorado, May 15, 1985.

William H. Clagett,

Administrator.

[FR Doc 85-12431 Filed 5-22-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59190A; TSH-FRL 2839-9]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-37. The test marketing conditions are described below.

EFFECTIVE DATE: May 15, 1985.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–609C, 401 M Street SW., Washington, DC. 20460 (202–382–3394.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for text marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–85–37. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–85–37. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance manufactured and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T85–37.

Date of Receipt: April 1, 1985.

Notice of Receipt: April 12, 1985 (50 FR 14442).

Applicant: Confidential.

Chemical: (G) Polyol adducted with aromatic isocyanate.

Use: (G) Electrical grade urethane potting and encapsulation systems.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Manufacture: A total of 4 workers at 1 site for up to 8 hours per day, 6 days per year. Processing: A total of 7 workers at 1 site for up to 8 hours per day, 30 days per year.

Test Marketing Period: One year.

Commencing on: May 15, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: May 15, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–12418 Filed 5–22–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59190B; TSH–FRL 2840–1]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). TME–85–38. The test marketing conditions are described below.

EFFECTIVE DATE: May 15, 1985.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–609C, 401 M Street SW., Washington, DC. 20460 (202–382–3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–85–38. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–85–38. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance imported and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T 85–38.

Date of Receipt: April 2, 1985.

Notice of Receipt: April 12, 1985 (50 FR 14442).

Applicant: Confidential.

Chemical: (G) Acrylic acid-acrylamidosulfonic acid copolymer including phosphino groups.

Use: (G) Water treatment additive for industrial systems.

Production Volume: 900 Kilograms.

Number of Customers: Six.

Worker Exposure: Processing: A total of 2 workers per site at 6 sites for 1 hour per day, 4 days per year. Use: 1 worker per site at 18 sites for 0.5 hours per day, 10 days per year.

Test Marketing Period: Three months. *Commencing on:* May 15, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: May 15, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-12417 Filed 5-22-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30252; PH-FRL 2817-8]

Janssen Pharmaceutica; Application To Register a Pesticid Product

Correction

In FR Doc. 85-8819 beginning on page 15217 in the issue of Wednesday, April 17, 1985, the docket line should read as it appears in the heading above.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0047

Title: Notice of Intent to Vacate Temporary Assistance—Superfund

Abstract: This form is used to notify FEMA of occupant's alternate housing plans so that arrangements can be made for termination inspections, return of rental furniture, and/or information landlord. Superfund Program.

Type of Respondents: Individual or Households

Number of Respondents: 250

Burden Hours: 25.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 16, 1985

Walter A. Girstantas,

Director, Administrative Support

[FR Doc. 85-12365 Filed 5-22-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 85-375]

Settlement of Insurance

Dated: May 17, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Bank Board has submitted a new information collection request, "Settlement of Insurance Recordkeeping Requirements" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the Federal Register. Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Sandra L. Richardson, Office of General Counsel. Phone: 202-377-6432.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 85-12450 Filed 5-22-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Central Banking System, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than June 12, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Central Banking System, Inc.*, San Francisco, California: to engage *de novo* through its subsidiary, C. B. Life Insurance Co., Phoenix, Arizona, in acting as underwriter or reinsurer for credit life insurance and credit accident and health insurance that is directly related to an extension of credit by the bank holding company system.

Board of Governors of the Federal Reserve System, May 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12447 Filed 5-22-85; 8:45 am]

BILLING CODE 6210-01-M

First Franklin Corporation et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 12, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First Franklin Corporation*, Toccoa, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Franklin Bank & Trust, Toccoa, Georgia.

2. *SouthTrust Corporation*, Birmingham, Alabama; to acquire 80 percent of the voting shares or assets of Elba Exchange Bank, Elba, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Story County Bancorporation*, Jewell, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Roland State Bank, Roland, Iowa. In this regard, Hill Investment Co., Jewell, Iowa, has applied to acquire 100 percent of the voting shares and 100 percent of the nonvoting shares of Story County Bancorporation, Jewell, Iowa, thereby indirectly acquiring Roland State Bank, Roland, Iowa.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Peoples State Bankshares, Inc.*, Rossville, Kansas; to acquire 82.5 percent of the voting shares or assets of Citizens State Bank, Osage City, Kansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp*, Dallas, Texas; to acquire through its subsidiaries, the Equitable Company of Texas, Dallas, Texas, and MCorp Financial Corporation, Wilmington, Delaware, additional preferred shares of United Banks, N.A., Midland, Texas. Applicant has also applied to acquire warrants equal to 24.9 percent of the voting shares of bank, and 4.9 percent of the common shares of bank.

Board of Governors of the Federal Reserve System, May 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12448 Filed 5-22-85; 8:45 am]

BILLING CODE 6210-01-M

RepublicBank Corp.; Application To Expand de Novo Nonbanking Activities

The company listed in this notice has 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 engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the offices of the Board of Governors not later than June 16, 1985.

A. **Board of Governors of the Federal Reserve System**, (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *RepublicBank Corporation*, Dallas, Texas; to engage through its subsidiary, Republic Money Orders, Inc., Dallas, Texas, in the issuance and sale of variably denominated money orders with a maximum face value of $10,000. This application may be inspected at the Federal Reserve Bank of Dallas. This activity has been approved by Board Order as permissible for bank holding companies. *BankAmerica Corporation*, 70 Federal Reserve Bulletin 364 (1984); Citicorp, 71 Federal Reserve Bulletin 51 (1985).

Board of Governors of the Federal Reserve System, May 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12449 Filed 5-22-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements for Behavioral Risk Factor Surveillance Systems; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds for continuing and new cooperative agreements for State Behavioral Risk

Factor Surveillance Systems. These cooperative agreements are authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

The objective of these cooperative agreement programs is to assist States in monitoring the prevalence of major behavioral risks associated with the ten leading causes of premature death in the United States; and, through this monitoring process, assist in the development of programs designed to reduce major behavioral risks in the population and determine progress toward achieving intervention goals. The official health agencies of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa are eligible to apply for a cooperative agreement. Applicants must establish or maintain monthly survey procedures of the major behavioral risks associated with the ten leading causes of premature death in the United States, and adhere to procedures for insuring accurate and uniform information.

Funds in the amount of $100,000 up to approximately $360,000 will be available in Fiscal Year 1985 for continuing support of 24 cooperative agreements and approximately $30,000 may be available for support of 2 to 3 new cooperative agreements. The average award of the new cooperative agreements is expected to be $15,000 with individual awards ranging from $10,000 to $20,000. Continuing cooperative agreements will be awarded based on the applicant's demonstrated progress in implementing a Statewide behavioral risk factor surveillance system, and the length of the next budget period within the existing project period will depend upon the final amount of funds available for FY 1985. New cooperative agreements will be awarded based upon the applicant's experience in collecting and analyzing behavioral risk factor information and the applicant's commitment to continue the surveillance system in future years with State resources contributed to the system.

Programs are usually funded for a 12-month budget period and a 3-year project period. Continuation awards may diminish based upon future Federal funding and the assumption of support from participating States. These funding estimates described above are subject to change.

During Fiscal Year 1985, the funding criteria for new applications will be:

1. Relevance of the proposal to the scope and objectives provided in the Request for Application.
2. Soundness in describing how the behavioral risk factor surveillance system will be designed, implemented and managed.
3. Extent of prior experience with collecting and analyzing behavioral risk factor prevalence information.
4. Anticipated impact on State or local intervention efforts.
5. Commitment to offer data collection training to communities participating in the Planned Approach to Community Health Program (P.A.T.C.H.) offered by the Division of Health Education, Center for Health Promotion and Education.
6. Plans for assuring uniformity in information collection and designing and implementing quality control procedures.
7. Capability of the applicant to perform the tasks required for a behavioral risk factor surveillance system.
8. Appropriateness of the requested budget relative to the work proposed.
9. Commitment of the applicant to contribute personnel and financial resources to the effort.
10. Assurance that standard data items will be used and sufficient flexibility will be maintained so that additional questions of State and national interest can be employed periodically.

Funding criteria for continuation awards will be:

1. Successful implementation of a behavioral risk factor surveillance system as evidenced by:
(a) Designation of interviewing and supervisory staff or designation of a competent contractor for interviewing services.
(b) Use of a standard questionnaire.
(c) Timely collection of information.
(d) Completion of appropriate data processing activities including keypunching and error corrections.
(e) Adherence to a statistically correct sampling plan.
(f) Adherence to appropriate survey procedures including rules of replacement, refusal conversion, and monitoring or verification of interviews.
2. Demonstrated personnel and/or financial support of the system.
3. Plans to increase the sample size.
4. Demonstrated ability to reduce errors.

There will be one annual review cycle for new applications. The original and two copies of the application must be submitted on or before 4:30 p.m. (E.D.T.) on July 1, 1985, to Leo C. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305. The telephone number is 404/262-6575 or FTS 236-6575.

Deadlines. Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or
2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications. Applications which do not meet the criteria are considered late applications and will be considered for review or funding.

Continuation applications must be submitted to the above address on or before July 1, 1985. Applications are not subject to review as governed by Executive Order 12372; however, they are subject to review as governed by Regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974).

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders at the above address. Technical assistance may be obtained from Gary Hogelin, Center for Health Promotion and Education, Centers for Disease Control, 1600 Clifton Road NE., Building 3, Atlanta, Georgia 30333, telephone 404/329-3075, or FTS 236-3075.

Dated: May 17, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-12408 Filed 5-22-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 85M-0193]

Hybritech, Inc.; Premarket Approval of the Tandem®-E AFP Immunoenzymetric Assay to Aid in the Management of Testicular Cancer

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Hybritech, Inc., San Diego, CA, for

premarket approval, under the Medical Device Amendments of 1976, of the TANDEM®-E AFP Immunoezymetric Assay to Aid in the Management of Testicular Cancer. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by June 24, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: S. K. Vadlamudi, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On July 23, 1984, Hybritech, Inc., San Diego, CA 92121, submitted to CDRH an application for premarket approval of the TANDEM®-E AFP Immunoenzymetric Assay to Aid in the Management of Testicular Cancer. The device is an immunological test system for management of testicular cancer. The device is indicated for the quantitative serial measurement of alpha-fetoprotein (AFP) in human serum to aid in the management of patients with nonseminomatous testicular cancer. On September 25, 1984, the Immunology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 9, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact S. K. Vadlamudi (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 24, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 13, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85-12361 Filed 5-22-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 79P-0257, et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 13 organizations that manufacture and produce laser light shows, light show projectors, or both. The projector provides a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below.

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Summers, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted each of the 13 organizations listed in the table below a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which product is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not in excess of those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by (i) constraints on the physical and optical design of the products, (ii) warnings in the user manual and on the products, and (iii) procedures for personnel who will operate the products. Therefore, on the effective dates specified in the table below, CDRH approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer of that product, each product shall bear on the certification

label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number appearing in the table below, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date/termination date
79P-0257 (extension and amendment).	Knott's Berry Farm, 8039 Beach Blvd. Buena Park, CA 90620	Laser light show in studio "K" in the Fiesta Village area within Knott's Berry Farm. The show will be presented at a fixed, outdoor, unenclosed area and will employ a class IV projector manufactured by Knott's Berry Farm and will include multiple reflection/diffraction effects, reflections from stationary mirrors, and enhanced scattering effects	Jan. 24, 1985 to Jan. 24, 1987.
80P-0065 (extension)	Laserama, 1555 Mesa Verde Drive, East, 37-J Costa Mesa, CA 92628	Laser Fantasy Show (B) incorporating the Laserama class IIIb krypton laser projection system	Mar. 11, 1985 to June 4, 1986.
80P-0495 (extension)	Showlasers, Inc., P.O. Box 470206, Dallas, TX 75247	Class IV showlasers model LP1 laser effects projector containing argon, krypton, or dye lasers and for laser light shows assembled and produced by Showlasers, Inc	Mar. 11, 1985 to Feb. 25, 1986.
81P-0412 (extension)	Center for Advanced Visual Studies, Massachusetts Institute of Technology, W-11, 40 Massachusetts Ave., Cambridge, MA 02139	Laser light shows and the incorporated projection systems assembled and produced by the M.I.T. Center for Advanced Visual Studies at various indoor an outdoor unenclosed locations	Feb. 28, 1985 to Feb. 28, 1987.
82P-0051 (extension)	Bifrost Technical Effects, 6406 Farmdale Ave., North Hollywood, CA 91606	Bifrost technical effects laser light shows incorporating the class IV bifrost lasergraph No. 2 laser projector	Mar. 18, 1985 to Mar. 3, 1987.
82P-0376 (extension)	Malarkey's, 4701 N. 16th St., Phoenix, AZ 85016	Malarkey's laser light show incorporating laser presentations' laser projector model LP-1-1K	Mar. 11, 1985 to Jan. 26, 1987.
82P-0141 (extension)	Fiske Planetarium, University of Colorado, Box 408, Boulder, CO 80309	Fiske Planetarium laser light show which incorporates a class IV argon-krypton laser projection system. Both the laser light show and its projection system are manufactured, assembled, and produced by Fiske Planetarium, University of Colorado	Feb. 22, 1985 to June 8, 1986.
84V-0411	TW Services, Inc., Visitors Center, Kennedy Space Center, FL 32899	Laser light show "Flight of the Aurora" to be purchased by TW Services, Inc. at the Visitors Center of the Kennedy Space Center incorporating the Laser Media Stingray II laser projection system	Dec. 24, 1984 to Dec. 24, 1985.
84V-0422	JEX FX, P.O. Box 185, 17249 Palisades Circle, Pacific Palisades, CA 90272	Five prism laser sculpture laser light show and its projection system manufactured and assembled by JEX FX	Jan. 3, 1985 to Jan. 3, 1987.
85V-0008	Advanced Concepts International, Inc., P.O. Box 15348, Pensacola, FL 32514	Laser light shows and the HN SERIES of helium-neon laser projection systems incorporated in these shows. The HN SERIES projection systems employ class III lasers with a maximum beam power of 5 milliwatts	Feb. 27, 1985 to Feb. 27, 1987.
85V-0031	Mr. Ab Jackson, 328 West Harrison Ave., Claremont, CA 91711	Laser light sculpture and the incorporated class IV laser projection system assembled and produced by Ab Jackson	Jan. 24, 1985 to Jan. 24, 1987.
85V-0094	Lasefx Limited, The Old House, Shepperton Studio Centre, Studios Rd., Shepperton, Middlesex, TW17 OQJ England	Laser light shows and projection systems incorporating the Lasefx MK I Scan Head, MK II Effects Head, and Fibre Optic Assembly assembled and produced by Lasefx, Ltd	Feb. 28, 1985 to Feb. 28, 1987.
85V-0096	Pelton and Associates, 36 14th St., Hermose Beach, CA 90254	Class III or class IV laser projection systems manufactured by Pelton and Associates and the laser light shows assembled and produced by Pelton and Associates	Mar. 5, 1985 to Mar. 5, 1987.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: May 14, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85-12362 Filed 5-22-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Record of Individuals Authorized Entry to HCFA Buildings via a Card Key Access System," HHS/HCFA/OMB No. 09-70-3001. We have provided background information about the proposed system in the "Supplementary Information" section below. HCFA invites public comments by June 24, 1985 with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on May 17, 1985. The new system of records, including routine uses, will become effective July 16, 1985 unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Mr. Richard A. DeMeo, Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G-A-1, East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Alan L. Platt, Division of General Services, Health Care Financing Administration, Room G-F-3 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301-597-4489.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of 41 CFR Chapter 101-20.302, Conduct on Federal Property, and OMB Circular A-123, Internal Control Systems.

These regulations and directives establish that buildings can be closed to the public during other than normal working hours and entry restricted to authorized persons who shall register upon entry to the property. They also stress the necessity for adequate physical security of ADP operations.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosure for purposes that are compatible with the purpose for which we collect the information. The proposed routine uses in the new system meet the compatibility criteria since the

information is collected for administering the security of HCFA buildings and secure areas for which we are responsible. We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: May 16, 1985.

James L. Scott,

Acting Deputy Administrator, Health Care Financing Administration.

09-70-3001

SYSTEM NAME:

Record of Individuals Authorized Entry to HCFA Buildings via A Card Key Access System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, 6325 Security Boulevard (Paper Media), Baltimore, Maryland 21207; 7131 Rutherford Road (Magnetic Media), Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals with a legitimate need who are authorized entry to secured HCFA buildings.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the employees' name, card key number, building/secure area. The system also contains the date and time of actual or attempted entry to secured areas. We do not anticipate the need to record exit data at this time since the system is designed to facilitate entry only.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(e)(10), 41 CFR Chapter 101-20.302 (46 FR 3524, January 15, 1981).

PURPOSE:

To ensure that access to HCFA buildings during security hours is restricted, and to guard against unauthorized entry. Data in the system is used for management purposes to ensure the security of the computer facility and other secured areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made:

1. To the Federal Protective Service if investigating a crime.

2. To management officials inquiring about an individual's arrival time.

3. To contractors and other Federal agencies, as necessary, for the purpose of assisting HCFA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which HCFA may enter a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

4. To congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

5. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or an employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has ageed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic disk.

RETRIEVABILITY:

Magnetic media records are retrieved by the employees' name or key card number; paper records are retrieved alphabetically by name.

SAFEGUARDS:

Unauthorized personnel are denied access to the records areas . For computerized records, safeguards established in accordance with guidelines in the DHHS *ADP Systems Manual*, Part 6, "ADP Systems Security," (e.g., security codes, use of passwords) will be used, limiting access to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for up to 3 years following expiration of an individual's authority to enter secured areas. When an individual is no longer authorized, information is deleted from magnetic media immediately.

SYSTEM MANAGER(S) AND ADDRESS:

Richard J. Rohde, Director, Division of General Services, Office of Administrative Services, Office of Management and Budget, Health Care Financing Administration, G-F-3 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address indicated above and specify name and/or card key number.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requestors should also reasonably specify the records contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

HCFA obtains information in this system from the individuals who are covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-12360 Filed 5-22-85; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Statement of Organization, Functions and Delegations of Authority; Health Resources and Services Administration

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended most recently at 50 FR 3415-16, January 24, 1985), is amended to add the Privacy Act and the Freedom of Information Act functions to the functional statement for the Office of Program Support, Bureau of Health Professions.

Under *Section HB-10, Organization and Functions* amend the functional statement for the Office of Program Support (HBP12) by inserting a new number (13) as indicated below and renumber (13) as (14).

(13) administers the implementation of the Privacy Act and the Freedom of Information Act within the Bureau;

The above functional change is effective upon date of signature.

Dated: May 16, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management/PHS.

[FR Doc. 85-12513 Filed 5-22-85; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-85-1532]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Discrimination Complaint Form
Office: Fair Housing and Equal Opportunity
Form Number: HUD-903 and 903A
Frequency of Submission: On Occasion
Affected Public: Individuals or Households
Estimated Burden Hours: 5,350
Status: Extension
Contact: Thomas J. Jankowski, HUD, (202) 755-5673, Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 7, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-12467 Filed 5-22-85; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Approval for Inclusion in the National Wild and Scenic Rivers System as a State Administered Component

AGENCY: Interior.

ACTION: Notice.

Pursuant to the authority granted the Secretary of the Interior by section 2 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1273), and upon proper application of the Governor of the State of Florida, the Northwest Fork of the Loxahatchee River is hereby designated as a State administered component of the National Wild and Scenic Rivers System. This action is based on the designation of the river by the State of Florida and the protection offered this river and its immediate environment by and pursuant to applicable State laws and regulations.

On December 3, 1984, the Governor of Florida petitioned the Secretary of the Interior to add the Northwest Fork of the Loxahatchee River to the National System. (See **Federal Register** of January 10, 1985, page 1283.) This river had been designated as a State Wild and Scenic River on June 24, 1983. The following river segment is now a component of both the Florida and National Wild and Scenic Rivers Systems and will continue under State administration:

Northwest Fork of the Loxahatchee River. The segment of the river from Riverbend Park in Palm Beach County (approximately River Mile 13.5) to the southern boundary of Jonathan Dickinson State Park in Martin County (approximately River Mile 6).

This action is taken following substantial public involvement and consultation with the Departments of Agriculture and Transportation, Federal Energy Regulatory Commission, U.S. Army Corps of Engineers and other Federal agencies as required by section 4(c) of the Wild and Scenic Rivers Act.

The Loxahatchee River was also a congressionally authorized wild and scenic study river pursuant to section 5(a)(60) of the Wild and Scenic Rivers Act. A final enviornmental statement for that study was filed with the Environmental Protection Agency (See **Federal Register**, November 6, 1984, pages 44329-30, November 9, 1984, page 44802 and November 23, 1984, page 46196). Public meetings were held during the course of that study. All comments received throughout the study and application process have been carefully considered.

Notice is hereby given that effective upon this date, the above-described river segment is approved for inclusion in the National Wild and Scenic Rivers System as a wild, scenic and recreational river area to be administered by the State of Florida except for affected lands in Palm Beach County which fall under the county's jurisdiction.

The primary author of this notice is John Haubert, National Park Service, Department of the Interior, Washington, D.C. 20013, Phone 202/343-4290.

Dated: May 17, 1985.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 85-12439 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Receipt of Application for Permit; Dr. Patrick T. Redig et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is

provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Dr. Patrick T. Redig, University of Minn., St. Paul, MN—PRT 693970

The applicant requests a permit to import up to 35 live captive-born and dead peregrines from Canada for the purpose of enhancement of survival through reintroduction and scientific research. Additionally, the applicant requests permission to recapture 3 released birds 2–4 weeks after hacking for the purpose of providing future broodstock for enhancement of propagation.

Applicant: Burnet Park Zoo, Liverpool, NY—PRT 694079

The applicant requests a permit to purchase in interstate commerce an Asian elephant (*Elephas maximus*) from "Smokey" Jones, Bloomington, CA, for enhancement of propagation.

Applicant: Florida Game & Freshwater Fish Commission, Tallahassee, FL—PRT 692403

The Service extends the comment period for this application for a permit to take 2 female Florida panthers (*Felis concolor coryi*) from the wild in Collier Co., FL for the purpose of enhancement of propagation in a captive breeding program at White Oak Plantation, FL from May 20, 1985 (50 FR 15642) until June 10, 1985, to allow further comment on this complex issue.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: May 17, 1985.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85–12445 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[I–21401]

Realty Action; Competitive Sale of Public Lands in Twin Falls County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–21401, Competitive Sale of Public Lands in Twin Falls County, Idaho. Correction.

SUMMARY: This document corrects the fourth sentence of the summary section of Notice of Realty Action (NORA) I–21401 that was published May 1, 1985 (50 FR 18578). The fourth sentence read:

"The adjacent landowners, Bill Pullin, Ron Waller, Edwin Crockett, Vicki Patrick, James L. Marr and Keith Sligar will be given preference rights as designated bidders in accordance with 43 CFR 2711.3–2."

The fourth sentence is corrected to read:

"The adjacent landowners, Bill Pullin, Ron Waller, Edwin Crockett, Vicki Patrick, and James L. Marr will be given preference rights as designated bidders in accordance with 43 CFR 2711.3–2."

Dated: May 15, 1985.

John S. Davis,

Burley District Manager.

[FR Doc. 85–12415 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-22-M

[A 13140]

Arizona; Conveyance and Order Providing for Opening of Public Lands; Correction

May 16, 1985.

In FR Doc. 83–26002 appearing at pages 43410–43411 in the issue of Friday, September 23, 1983, third column, the last line of legal description under T. 25 N., R. 21 W., is corrected to read:

E½, E½NW¼, E½NW¼NW¼, SW¼NW¼.

The acreage is corrected to read 7,489.24 acres.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–12392 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-32-M

[F–14988]

Proposed Withdrawal and Opportunity for Public Meeting, Alaska; Correction

In FR Doc. 85–8873, beginning on page 14461, in the issue of Friday, April 12, 1985, make the following correction: On page 14461, in the third column, line 14 should read, "Sec. 16, E2SE4;".

Mary Jane Clawson,

Chief, Branch of Lands.

[FR Doc. 85–12393 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-JA-M

[NM–52399]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that an 80-acre withdrawal for the Bureau of Reclamation continue for an additional 35 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

DATE: Comments should be received by August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM, New Mexico State Office, P.O. Box 1449, Sante Fe, NM 87504–1449, 505–988–6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of March 28, 1945, be continued for a period of 35 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. 16 S., R. 4 W.,
Sec. 19, SW¼SE¼;
Sec. 30, NW¼NE¼.

The area described contains 80 acres in Sierra County.

The purpose of the withdrawal is for use in connection with the Rio Grande Project, Caballo Day and Reservior Reservation.

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: May 14, 1985.

David A. Jones,

Acting State Director.

[FR. Doc. 85-12391 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[NM-52391]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that a 1,381.18-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 August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of June 3, 1926, be continued for a peroid 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. 15 S., R. 4 W.,
Sec. 5, SE¼NE¼;
Sec. 6, Lots 3, 6, 7;
Sec. 17, SE¼NW¼, SE¼SW¼;
Sec. 20, NE¼NW¼.

T. 16 S., R. 4 W.,
Sec. 6, Lot 10, NW¼SE¼;
Sec. 7, SW¼SE¼;
Sec. 18, E½NW¼, NE¼SW¼, N½SE¼S W¼, SW¼SE¼SW¼;
Sec. 19, Lot 3, 4.

T. 15 S., R. 5 W.,
Sec. 25, NE¼NE¼;
Sec. 36, NE¼NE¼, W½NE¼, SE¼.

T. 16 S., R. 5 W.,
Sec. 1, Lot 2, W½SE¼;
Sec. 12, Lots 1 thru 6, NW¼SE¼;
Sec. 13, Lots 1 thru 6.

The areas described aggregate 1,381.18 acres in Sierra County.

The purpose of the withdrawal is for use in connection with the Rio Grande Project, Caballo Dam and Reservior Reservation.

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: May 15, 1985.

David A. Jones,

Acting State Director.

[FR Doc. 85-12390 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[NM-52400]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that a 79.06-acre withdrawal for the Bureau of Reclamation continue for an additional 35 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

DATE: Comments should be received by August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of December 21, 1954, be continued for a period of 35 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. 23 S., R. 1 E.,
Sec. 5, lots 2, 3.

The area described contains 79.06 acres.

The purpose of the withdrawal is for use in connection with the Rio Grande Project, South Branch Picacho Arroyo Detention Dam and impoundment basin.

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: May 14, 1985.

David A Jones,

Acting State Director.

[FR Doc. 85-12394 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[5-00258-GP5-136]

Hearing To Discuss the Use of Helicopters and Motorized Vehicles To Gather Wild Horses

AGENCY: Bureau of Land Management, Interior.

ACTION: Montrose District, Colorado: Public Hearing to discuss the use of helicopters and motorized vehicles to gather wild horses in FY 85.

SUMMARY: The Hearing will be scheduled in the latter part of June, 1985, in Nucla, Colorado. Exact date, time and meeting place will be determined on June 10, 1985. Persons interested in attending the Hearing should contact John H. Riel, (303) 249-7791 on June 10, 1985, for specific date, time and place.

SUPPLEMENTARY INFORMATION: The use of helicopters and motorized vehicles to gather horses from the Naturita Ridge and Spring Creek Basin wild horse herds will be discussed.

This hearing is open to the public. Interested persons may make oral or written statements. If you wish to make oral comments please contact Paul W. Arrasmith by June 18, 1985. Written statements must be received by this date also.

ADDRESS: Submit requests to comment or for further information to: District Manager, Montrose District Office, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, (303) 249-7791.

Dated: May 14, 1985.

Paul W. Arrasmith,

District Manager.

[FR Doc. 85-12496 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-JB-M

Correction to Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: A notice of meeting was published on May 16, 1985 (50 FR 20507) containing agenda information which has changed. The following is the correct information:

The meeting will begin at 9:30 a.m. at the Gunnison Resourse Area Office conference room. Public comments can be made to the Council from 1:00 to 1:45 p.m. The tour will leave from the BLM office sometime in the morning.

Dated: May 17, 1985.

Kenneth D. Herman,

Acting Distict Manager.

[FR Doc. 85-12504 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-JB-M

[NM-56608(OK), NM-56614(OK), NM-56610(OK), NM-56609(OK)]

Public Land Sale; Atoka, Haskell, LeFlore, and Pittsburg Counties, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Lands in Atoka (AT), Haskell (HS), LeFlore (LF), and Pittsburg (PT) Counties, Oklahoma.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than $2.50 per acre:

Tract	Legal description	Acres
AT-1	T. 2 N., R. 13 E., I.M.; Sec. 20, Lot 1	1.00
HS-7	T. 8 N., R. 22 E., I.M.; Sec. 17, Lot 1	1.00
HS-10	T. 9 N., R. 20 E., I.M.; Sec. 1, Lot 5	2.50
HS-11	T. 10 N., R. 21 E., I.M.; Sec. 31, Lot 5	2.00
LF-3	T. 6 N., R. 24 E., I.M.; Sec. 16, NE¼NE¼SW¼ (within).	2.50
LF-5	T. 6 N., R. 24 E., I.M.; Sec. 32, SE¼NE¼NW¼ (within).	1.00
LF-6	T. 6 N., R. 25 E., I.M.; Sec. 36, SW¼NE¼ (within).	1.00
LF-8	T. 8 N., R. 24 E., I.M.; Sec. 24, Lot 1	1.00
LF-10	T. 9 N., R. 24 E., I.M.; Sec. 26, Lot 1	1.00
LF-12	T. 9 N., R. 27 E., I.M.; Sec. 20, Lot 1	1.00
LF-13	T. 7 N., R. 25 E., I.M.; Sec. 15, Lot 1,	2.00
LF-14	T. 8 N., R. 27 E., I.M.; Sec. 8, Lot 1	1.00
PT-9	T. 5 N., R. 15 E., I.M.; Sec. 19, SE¼NW¼SE¼NE¼.	1.50
PT-14	T. 5N., R. 16 E., I.M.; Sec. 13, Lot 1	1.00

The lands described encompass approximately 20.50 acres.

The identified tracts are being offered at direct sale to the following adjacent land owners and/or societies at not less than the previously indicated value:

Tract	Name	Residence
AT-1	Lloyd and Barbara Edge	Kiowa, OK.
HS-7, 10, & 11.	Chahta Heritage Society	Lequire, OK.
LF-3	Fay Ray	Wister, OK.
LF-5	John William Martin	Wister, OK.
LF-6	Harlan Tiffee	Howe, OK.
LF-8	Calvin Wiles	Panama, OK.
LF-10	Daryt H. Branscum	Poteau, OK.
LF-12	Denver J. Didier	Spiro, OK.
LF-13	Dennis J. Caldwell	Potoau, OK.
LF-14	Charles F. Hambrick	Cameron, OK.
PT-9	Fred Yoss	McAlester, OK.
PT-14	Lloyd G. Welch	McAlester, OK.

The identified lands consist of abandoned Indian burial grounds. The lands lack legal access and are surrounded by private lands. Both the Choctaw and Chickasaw Indian tribes have been contacted concerning the disposal of these lands to adjacent land owners. The lands in Haskell County will be transferred to the Chahta Heritage Society, which is a group dedicated to the preservation of Native American culture.

The proposed sale is consistent with the Bureau's planning system and the FLPMA of 1976. The public interest will be served by disposing of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department of agency.

The lands will not be offered for sale until 60 days after the date of this notice. Patents, when issued, will contain the following reservations:

1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.

2. The sale of the land will be subject to all valid existing rights and reservations of record.

3. In order to protect cultural values and to prevent further destruction to non-maintained cemeteries, the subject land will be fenced by the patentee in its entirety. The fence will be of a height and strength to prevent entry by grazing animals and will be in compliance with Oklahoma State Law (4 OKL. ST. Ann. 154). The area to be fenced will encompass all of the land shown as being reserved for a cemetery and will be constructed upon issuance of this patent.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, at the address given below. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Tulsa District Office, 6136 East 32nd Place, Tulsa, Oklahoma 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, Oklahoma Resource Area Headquarters, (405) 231-5491.

Dated: May 13, 1985.

Jim Sims,

District Manager.

[FR Doc. 85-12491 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[NM-56614(OK), NM-56613(OK), NM-56610(OK), NM-56609(OK)]

Public Land Sale; Haskell, Latimer, LeFlore, and Pittsburg Counties, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Lands in Haskell (HS), Latimer (LT), LeFlore (LF), and Pittsburg (PT) Counties, Oklahoma.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than $2.50 per acre:

Tract	Legal description	Cemetery	Acres
HS-9	T. 8 N., R. 22 E., I.M.; Sec. 29, Lot 1.	Old Panther	5.00

Tract	Legal description	Cemetery	Acres
LT-4	T. 6 N., R. 19 E., I.M.; Sec. 33, SW¼ (within).	Center Point	4.50
LF-4	T. 6 N., R. 24 E., I.M.; Sec. 29, E½SW¼ (within).	Maxey	5.00
LF-11a & LF-11b	T. 9 N., R. 26 E., I.M.; Sec. 24, Lot 1 and 2.	Macedonia	3.00
PT-1	T. 3 N., R. 15 E., I.M.; Sec. 7, Lot 5.	Blanco	3.00
PT-2	T. 4 N., R. 14 E., I.M.; Sec. 16, Lot 1.	Savanna	2.00
PT-3	T. 5 N., R. 14 E., I.M.; Sec. 34, Lot 1.	Chambers	2.00
PT-12 & PT 13	T. 5. N., R. 16 E., I.M.; Sec. 7, Lot 5, Sec. 8, Lot 1.	Carbon	2.00

The lands described comprise approximately 26.50 acres.

The identified tracts are being offered at direct sale to the following associations, committees, and/or communities at no less than the previously indicated value:

Tract	Patentee
HS-9	Old Panther Cemetery Association.
LT-4	Center Point Community Cemetery.
LF-4	Maxey Cemetery Committee.
LF-11a & LF-11b	Pocola Macedonia Cemetery Association.
PT-1	Blanco Cemetery Association.
PT-2	The Town of Savanna.
PT-3, PT-12, & PT-13	Pittsburg County Cemetery Association.

The identified cemeteries are presently used for burial plots and are maintained by the identified cemetery associations, committees, and/or communities. The proposed sale is consistent with the Bureau's planning system and the FLPMA of 1976. The public interest will be served by disposing of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency.

The lands will not be offered for sale until 60 days after the date of this notice. Patents, when issued, will contain the following reservations:

1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.

2. The sale of the land will be subject to all valid existing rights and reservations of record.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, at the address given below. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Tulsa District Office, 6136 East 32nd Place, Tulsa, Oklahoma 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, Oklahoma Resource Area Headquarters, (405) 231-5491.

Dated: May 13, 1985.

Jim Sims,

District Manager.

[FR Doc. 85-12490 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[W-88630]

Postponement of Realty Actions for Public Land Sale in Weston County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Postponement of sale date for Realty Action (W-88630) in Weston County, Wyoming.

SUMMARY: The sale of May 22, 1985 for Realty Action (W-88630) T. 47 N., R. 61 W., 6th P.M., Section 26, SW¼NW¼, Weston County, Wyoming published in the **Federal Register** on Friday, March 22, 1985 (50 FR 11583) is hereby postponed until further notice pending an analysis and final decision by the State Director of a protest issued against this sale.

Any sale bids will be returned immediately to the party of issance.

When the protest is resolved, the sale date will be rescheduled and all affected and interested parties contacted.

Dated: May 14, 1985.

James W. Monroe,

District Manager, Casper.

[FR Doc. 85-12500 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-22-M

[N-41921]

Realty Action; Direct Sale of Public Lands in Esmeralda County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Esmeralda County, Nevada.

SUMMARY: A certain parcel of public land in Esmeralda County, Nevada, will be offered for sale directly to the County of Esmeralda.

The following described land has been examined, and appears to be suitable for sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the fair market value.

Mount Diablo Meridian

T. 2 S., R. 39 E.,
Sec. 22, NE¼NE¼SW¼NE¼, SE¼SE¼NW¼NE¼.

The area described contains five (5) acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action.

The minimum bid for this parcel will be fair market value, to be determined by appraisal. The proposed sale does not conflict with the existing Esmeralda Management Framework Plan, and is in conformance with the draft proposals of the Esmeralda Resource Management Plan. No conflicts with state or local plans are present. The land is not manageable by the Bureau, is completely surrounded by private land in the Silverpeak townsite, and its current use and greatest potential is as commerical and residential property.

The parcel will be offered directly to Esmeralda County, without competition. The purchaser will be required to deposit one fifth of the full purchase price at the time of sale; failure to deposit this sum will result in cancellation of sale. The authorized officer will at that time decide the appropriate action.

No mineral locations or leases of record encumber the subject land.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391); 43 U.S.C. 945.

2. (a) The United States reserves all minerals in the lands subject to this conveyance, including, without limitation, substances subject to disposition under the general mining laws, the general mineral leasing laws, the materials Act and the Geothermal Stream Act.[1]

(b) The United States reserves to itself, its permittees, licensees, lessees and mining claimants, the right to prospect for, mine and remove the

[1] The county may also submit an application and $50 processing fee for conveyance of available mineral interests. Only those mineral interests, which are determined by a mineral potential evaluation to have no known values, will be offered.

minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the mining, geothermal and mineral leasing, and material disposal laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, open pit or surface mining operations, storage and transportation facilities deemed necessary and authorized under law and implementing regulations.

(c) Unless otherwise provided by separate agreement with the surface owner, mining claimants, permittees, licensees and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

(d) All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be institute against mining claimants, permittees, licensees and lessees of the United States; and the United States shall not be liable for the act or omissions of its mining claimants, permittees, licensees and lessees.

And will be subject to:

1. Those rights for powerline and substation purposes which have been granted to Sierra Pacific Power Company, its successors or assigns, by Permit Nos. Nev–043264 and N–3271, under the Act of March 4, 1911, 36 Stat. 1253; 43 U.S.C. 961.

2. Those rights for communication line purposes which have been granted to Continential Telephone Company of California, its successors or assigns, by Permit No. CC–021863, under the Act of March 4, 1911, 36 Stat. 1253; 43 U.S.C. 961.

3. Any other valid existing rights in effect at the time of sale.

DATE: Under no circumstances will this parcel be sold sooner than 60 days after publication of this notice. Interested parties may submit comments for a period of 45 days from publication of this notice.

ADDRESS: Comments should be sent to: District Manager, Battle Mountains District Office, Bureau of Land Management, North 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

Any adverse comments will be evaluated by the State Director who may uphold, modify or vacate this notice.

The BLM may accept or reject bids, or withdraw any land or interest therein from sale if, in the opinion of the authorized officer, the consummation of the sale would not serve the public interest or would be inconsistent with applicable law or regulation.

H. James Fox,

District Manager, Battle Mountain District.

[FR Doc. 85–12497 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-HC-M

Filing of Plat of Survey: Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land will be officially filed at 8:30 a.m. June 28, 1985 in the Oregon State Office, Portland, Oregon.

Willamette Meridian

T. 25 N., R. 9 W.,
Sec. 6, Tract 37.

The area described is located in Jefferson County, Washington and the plat represents a survey of Tract 37 and the Olympic National Park Boundary.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 17, 1985.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–12502 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-33-M

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Office, Portland, Oregon on the dates hereinafter stated:

Willamette Meridan

T. 30 S., R. 2 W.,
T. 37 S., R. 4 W.

The above two plats were officially filed April 8, 1985.

T. 5 S., R. 4 E.,
T. 26 N., R. 20 E.

The above two plats were officially filed April 15, 1985.

T. 7 S., R. 6 W.,
T. 39 S., R. 11 E.,
T. 39 N., R. 4 E.,
T. 38 N., R. 5 E.

The above-listed plats were officially filed April 29, 1985.

T. 16 S., R. 20 E.,
T. 17 S., R. 20 E.

The above two plats were officially filed May 9, 1985.

All of the above-listed plats represent dependent resurveys, subdivisions, corrective dependent resurveys, and supplemental plats.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N. E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 17, 1985.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 12503 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-33-M

Albuquerque District, New Mexico; Call for Coal and Other Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal and other resource information.

SUMMARY: The Bureau of Land Management (BLM), Farmington Resource Area, New Mexico is currently engaged in the preparation of a Resource Management Plan (RMP) which will include an environmental impact statement (EIS). The major land use decision concerning the coal resource shall be the identification of areas acceptable for further consideration for leasing. This call is to identify new areas not considered in previous planning. However, new information will be considered on those areas evaluated in previous planning documents which could affect the original decisions. Those areas included in previous planning documents and decisions will be carried forward unchanged unless new information is received which would support a possible change from the original decisions. Such new information could include coal potential data, surface owner consultation or environmental information which was not known or available when the original decision was made. The data received from this call may be used to delineate tracts which may be considered for competitive leasing in the San Juan River Coal Production Region.

The purpose of this notice is to solicit coal and other resource information and indications of interest and needs, pursuant to 43 CFR 3420.1–2, for incorporation into the RMP. Coal companies, state and local governments, and the general public are encouraged to

submit information to the BLM to assist in the determination of coal development potential and possible conflicts with other resources. Where such information is determined to indicate development potential for an area, the area may be included in the land use planning for evaluation of acceptability for further consideration for leasing.

DATE: Comments relating to this notice will be accepted until July 29, 1985.

ADDRESS: Send comments to: BLM, Farmington Resource Area Office, Branch of Solid Minerals, Caller Service 4104, Farmington, NM 87499.

Proprietary data should be identified to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Mat Millenbach, Area Manager, or Jim Edwards, Mining Engineer, Farmington Resource Area, (505) 325-3581 or 327-7397.

SUPPLEMENTARY INFORMATION: The area undergoing evaluation includes all of San Juan and McKinley Counties and portions of Rio Arriba and Sandoval Counties. A map showing the area is available in the Farmington Resource Area Office. Significant resource issued will be identified during the first phase of the planning process. The development of the coal resource may be one of the issues addressed in the Resource Management Plan. The purpose of this notice is to solicit coal and other resource information for planing issue identification and definition in the San Juan River Coal Production Region. Industry and other interested parties are asked to provide any information that will be useful in the analysis processes of the Federal Coal Management Program defined in 43 CFR Subpart 3420, including application of the coal screens and future activity planning such as tract delineation, ranking and selection. If industry has an interest in leasing an area not evaluated in previous plans, they must provide BLM with adequate coal data during the response period for this call in order for BLM to consider that area for possible leasing. A major objective is to integrate potential lessees' and other public data and needs with the process of delineating the areas acceptable for further lease consideration. The BLM hopes to gain sufficient information from this call, as well as from its own site-specific analyses, to ultimately make fair market value determinations on specific tracts. It is important to note that availability of information from this call will be a major factor in applying the unsuitability criteria and multiple use trade-off screens. The type of information needed includes, but is not limited to the following:

(1) Location:

a. Tracts desired by mining companies (narrative description with delineation of surface/minerals management quad map or other such map).

b. Public and private industry user facilities in the general region.

(2) Quantity needs (tonnage, average tons per year, and year during which production should commence) for both coal producers and users.

(3) Quality needs (types and grades of coal) for both producers and users.

(4) Coal reserve or drilling data which a company or the public may have pertaining to the Farmington Resource Area.

(5) Proposed Users of Coal:

a. By mining companies.

b. By public and private industries.

(6) Information Relating to Surface and Mineral Ownership:

a. Information on surface owner consents previously granted; e.g., description of the location of the property, whether consents are transferable, surface owner leases with coal companies, etc.

b. Commitments from fee coal owners or from associated non-Federal coal.

(7) For those wishing to identify areas with other resource values which may conflict with coal development, please include the following information:

a. Location—delineations should be made on a suitable map with a scale not less than ½ inch to the mile accompanied with a narrative description.

b. Reasons for non-development.

c. Other pertinent information. Any individual, business entity, governmental entity, or public body may participate and submit coal and other resource information under this call. Public participation activities will be conducted in accordance with 43 CFR Part 1610.2.

Dates, times and locations will be announced through local media and mailings to interested parties. All persons, groups, and other government agencies with an interest in the Farmington Resource Area and its management are asked to submit their comments on the call for coal and other resource information on or before July 29, 1985.

Dated: May 15, 1985.

David A. Jones,

Acting State Director.

[FR Doc. 85-12507 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-FB-M

[Colorado 33052]

Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease C-33052 for lands in Routt County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from February 1, 1985, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective February 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this article may be directed to Karen Purvis of the Colorado State Office at (303) 294-7600.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 85-12506 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-JB-M

Realty Action, Noncompetitive Sale of Public Lands in Mohave County, AR A-21023

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands have been examined and found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at not less than the appraised fair market value of $12,100:

Gila & Salt River Meridian

T. 41 N., R. 15 W.,
Sec. 33, Lots 2, 3, 6.
Containing 43.86 acres more or less.

The lands are proposed to be offered for sale to Arthur Combe not less than 60 days after the date of this notice. Conveyance of the available mineral interest will occur simultaneously with the sale of the land.

The patent, when issued, will contain reservations of oil & gas to the United

States and be subject to existing rights. Information concerning these reservations, as well as conditions of the sale, are available at the Arizona Strip District Office, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770.

Pubication of this notice in the **Federal Register** segregates the lands from operation of the public land laws and the mining laws. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770.

G. William Lamb,

Arizona Strip District Manager.

May 15, 1985.

[FR Doc. 85-12508 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-84-M

[A-9224, et al.]

Yuma, Gila, and Yuma Auxiliary Projects; Proposed Modification and Continuation of Withdrawals

As as a result of the review made pursuant to section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the subject withdrawals for a period of twenty years, rather than for an indenfinite term, and to review the need for continuation at 20-year intervals.

The lands were withdrawn for use by the Bureau of Reclamation for protection and integrity of reclamation project works under the administrative responsibility of the Yuma County Water Users' Association, the Yuma Irrigation District, the Yuma Mesa Irrigation and Drainage District, and the Wellton-Mohawk Irrigation and Drainage District. The Bureau of Reclamation has responsibility to oversee all project operations.

The existing withdrawals, established by Secretarial Orders of July 2, 1902; January 31, 1903; April 19, 1904; September 30, 1904; July 20, 1905; December 9, 1909, June 18, 1914; December 3, 1914; July 12, 1917; November 16, 1918; July 19, 1922; February 19, 1929; and March 14, 1929 segregate the land from operation of the public land laws, the mining laws, and the mineral leasing laws. Any land now closed to mineral leasing would be opened to operation of the mineral leasing laws.

No other change in the segregative effect of the withdrawals or use of the land is proposed.

The following described lands are included in the proposed continuation:

Gila and Salt River Meridian, Arizona

T. 7 S., R. 14 W.,
- Section 19, lots 3 and 4, S½NE¼, E½SW¼;
- Section 30, lot 4, SE¼SW¼;
- Section 31, N½NW¼NE¼, E½SW¼NW¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼.

T 7 S., R. 15 W.,
- Section 25, All;
- Section 26, S½NE¼,. S½;
- Section 27, N½NE¼NE¼SW¼, N½S½NE¼NE¼SW¼, SW¼SW¼NE¼NE¼SW¼, W½W½SE¼NE¼SW¼, W½NE¼SW¼, W½SW¼, W½SE¼SW¼, W½NW¼NE¼SE¼SW¼, NW¼SW¼NE¼SE¼SW½, S½S½NE¼SE¼SW¼, SE¼SE¼SW¼;
- Section 28, N½S½, S½SW¼;
- Section 29, SE¼;
- Section 31, lots 5, 6, 7, 8, 9, 10, 11, 13, and 14, NW¼NE¼, SE¼NE¼, SE¼NW¼, N½N½NE¼SW¼;
- Section 33, SW¼SW¼;
- Section 34, N½NW¼.

T. 8 S., R. 15 W.,
- Section 4, N½SW¼, SW¼SW¼;
- Section 5, lots 1, 5, 6, 7, 9, 10, and 11, NW¼SE¼ excluding that portion in quitclaim: deed from the United States to Donna M. and Eldon H. Wheeler, dated August 17, 1983, Contract No. 1-07-34-L0269;
- Section 6, lots 9, 15, 17, and 18;
- Section 8, N½NW¼NW¼;
- Section 18, NE¼, NE¼NW¼, N½SE¼.

T. 7 S., R. 16 W.,
- Section 22, S½S½NW¼SE¼, S½SE¼;
- Section 24, S½S½NE¼,
- Section 27, lot 3;
- Section 28, S½N½NE¼;
- Section 29, S½S½N½;
- Section 30, S½NE¼SW¼, S½NW¼SE¼;
- Section 34, lots 16 to 21, inclusive, Tract 40;
- Section 35, S½NE¼, W½SW¼NW¼, N½SE¼NW¼, W½W½SW¼.

T. 8 S., R. 16 W.,
- Section 1, lots 12, 13, and 14, Tract 47;
- Section 3, lots 5, 6, 7, 9, 11, 12, 13, and 14, Tracts 39, 40, and 41, SW¼NE¼, NE¼SW¼, SW¼SW¼;
- Section 4, lots 6, 7, and 8, Tract 42, SE¼SE¼.
- Section 5, lot 5 excluding that portion in quitclaim deed from the United States to Walter J. and Juanita M. Rider, dated August 17, 1983, Contract No. 1-07-34-L0270, Tract 43;
- Section 7, lot 5, 6, 7, 8, and 9, Tract 46;
- Section 8, lot 7, 8, 9, and 10, Tract 44, and SW¼SW¼ excluding that portion in deed from the United States to Upton Farms, Incorporated, dated August 17, 1983, Contract No. 1-07-34-L0277.

T. 7 S., R. 17 W.,
- Section 25, S½S½SE¼;
- Section 34, S½NE¼SW¼, S½NW¼SE¼, NE¼SE¼;
- Section 35, S½NE¼NE¼, S½SW¼NW¼, NW¼NE¼SW¼, NW¼NW¼SW¼, NW¼SW¼SW¼.

T. 8 S., R. 17 W.,
- Section 13, lots 2, 3, 4, 5, and 6, Tract 40, SE¼SW¼;
- Section 19, lots 7 and 8;
- Section 20, lots 1, 2, 3, 4, and 5, Tract 43;
- Section 21, lots 1, and 2 Tract 42;
- Section 22, lots 5, 6, 7, 8, 9, 10, 11, 12, and 13, Tract 41;
- Section 23, SE¼NE¼, NE¼SE¼;
- Section 24, NW¼, N½SW¼;
- Section 28, N½NW¼, W½NE¼;
- Section 31, lots 5, 6, 7, and 8.

T. 8 S., R. 18 W.,
- Section 10, lots 3, 4, and 5, Tract 39;
- Section 11, lots 11, 12, 13, and 14, Tract 38;
- Section 112, lots 3 and 4, N½NW¼;
- Section 13, lots 9, 10, 11, 12, 13, 14, and 15, Tract 37, SE¼NW¼, NW¼SE¼;
- Section 15, lots 7, 9, 10, 11, and 12, lot 8 excluding the N½NW¼NW¼, Tracts 40 and 46;
- Section 17, lots S½NE¼SE¼, SE¼SE¼;
- Section 19, lots 16 to 24, inclusive, S½S½ of lot 15, Tracts 43 and 45;
- Section 20, lots 2, 11, 12, 13, 14, and 15, Tracts 44 and 48, N½SW¼;
- Section 21, lots 4, 5, and 6;
- Section 22, lots 12 to 17, inclusive, Tract 41 SW¼NE¼, N½SE¼;
- Section 27, lots 3 and 4, Tract 42;
- Section 28, lots 1, NW¼NE¼, N½NW¼;
- Section 29, lots 18 and 19, and that portion of Parcel C lying in the SE¼NE¼, NE¼NE¼.

T. 9 S., R. 18 W.,
- Section 4, Parcels A, B, C, and D;
- Section 11, S½SW¼SW¼, N½SE¼SW¼;
- Section 12, NW¼NE¼, NE¼NE¼NW¼, S½N½NW¼, S½NW¼;
- Section 15, N½NW¼, N½S½NW¼;
- Section 16, S½SE¼NW¼, N½NW¼SW¼;
- Section 17, S½SW¼SW¼, SE¼SW¼.

T. 8 S., R. 19 W.,
- Section 24, lot 4;
- Section 25, lots 19 to 28, inclusive, Tract 38, NW¼NW¼, S½NW¼;
- Section 26, lots 3 to 11, inclusive, Tract 39, N½N½, SW¼NE¼, SW¼NW¼, N½SW¼;
- Section 28, S½SW¼;
- Section 30, NE¼NE¼, N½NW¼NE¼;
- Section 31, lots 7 to 17, inclusive, Tracts 37 and 44 section 33, lot 5, Tracts 42 and 45, N½SW¼, SE¼SW¼, W½SW¼SE¼, SE¼SW¼SE¼, S½SE¼SE¼;
- Section 34, lots 1, 2, 3, 4, and 11, Tract 41, S½S½SW¼, E½W½SE¼, SW¼SW¼SE¼.
- Section 35, lots 8 to 14, inclusive, Tract 40, SE¼NW¼.

T. 9 S., R. 19 W.,
- Section 3, lot 4;
- Section 5, SW¼SW¼;
- Section 6, lot 7, SE¼SW¼;
- Section 7, lots 1, 2, 3, and 4, SW¼NE¼, E½W½, SE¼;
- Section 8, S½NE¼, E½NW¼, S½;
- Section 9, SE¼NE¼, S½;

Section 10, S½SW¼;
Section 16, E½, S½N½S½SW¼, S½S½SW¼;
Section 17, SE¼SE¼;
Section 18, N½ of lot 1, N½NW¼NE¼, N½NE¼NMW¼;
Section 21, N½N½NE¼;
Section 24, lot 1, NW¼NE¼;

T. 8 S., R. 20 W.,
Section 5, lots 5, 6, and 7, Tract 38, E½SW¼;
Section 6, lots 13 to 18, inclusive, Tract 37;
Section 7, E½E½, and that portion of W½NE¼ lying east of the WMIDD boundary;
Section 8, lots 1, 2, 3, 4, 5, and 6, Tract 40;
Section 10, NE¼NW¼, N½NW¼NW¼, N½NE¼SW¼NW¼NW¼, N½SE¼NW¼NW¼, N½SE¼SE¼NW¼NW¼, SE¼SE¼SE¼NW¼NW¼, N½NE¼SE¼NW¼, N½SW¼NE¼SE¼NW¼, SE¼NE¼SE¼NW¼, NE¼NW¼SE¼NW¼, N½NW¼NW¼, SE¼NW¼, E½NE¼SE¼SE¼NW¼;
Section 14, SE¼SE¼;
Section 17, lots 6, 7, 9, 13, 14, 15, 16, and 17, Tracts 41 and 42, NW¼SW¼, S½S½;
Section 20, lots 4 and 5, SW¼NE¼;
Section 21, lots 23, 24, 25, 26, 27, 29, and 30, Tracts 39 and 43;
Section 27, lots 2, 3, 4, and 5, Tract 44, and lot 1, excluding that portion in quitclaim deed from the United States to Jesse S. and Linda L. Hancock, dated August 17, 1983, Contract No. 1-07-34-L0266;
Section 28, E½NW¼, S½S½NE¼SE¼, and that portion of NW¼SE¼ and SE¼SE¼ lying north and east of the Wellton-Mohawk Irrigation and Drainage District boundary;
Section 34, lots 1, 2, 3, 4, and 5, NW¼NW¼, SE¼NW¼, SE¼, Tract 45;
Section 35, All.

T. 9 S., R. 20 W.,
Section 1, lots 1, 2, 3, and 4, S½N½, S½;
Section 2, lots 1, 2, 3, and 4, S½N½;
Section 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

T. 7 S., R. 21 W.,
Section 35, SE¼SW¼.

T. 8 S., R. 21 W.,
Section 1, lots 16 to 25, inclusive, lots 27 and 28, Tract 40, S½N½, S½SW¼;
Section 3, lots 16 to 23, inclusive, S½S½ of lots 1 and 2, Tract 39;
Section 4, lots 11, 12, 13, 14, 15, and 16, S½NW¼, NW¼SW¼, Tract 38;
Section 7, S½SE¼;
Section 8, lots 9, 10, 11, 12, and 15, Tract 37, NE¼NW¼, NW¼SW¼;
Section 9, NE¼NE¼, S½SW¼, SE¼;
Section 10, N½NE¼, NW¼NW¼;
Section 28, E½E½W½;
Section 33, E½, E½W½, SW¼NW¼, W½SW¼.

T. 8 S., R. 22 W.,
Section 3, lot 1, SE¼NE¼;
Section 8, SE¼SE¼;
Section 19, lots 3, 6, 7, 8, 10, 11, 12, and 13, Tract 37 NE¼SW¼, SE¼SE¼;.
Section 30, N½NE¼;
Section 34, lots 1, 2, and 3, Parcels A and B, S½S½;
Section 35, lots 1 and 2, Tracts 38 and 39, W½SW¼, SE¼SW¼;
Section 36, SE¼SE¼SW¼, SW¼SW¼ SE¼.

T. 9 S., R. 22 W.,
Section 1, lot 1, S½N½, W½SE¼, SE¼SE¼;
Section 9, S½SW¼;
Section 17, NE¼.

T. 8 S., R. 23 W.,
Section 23, lot 19;
Section 24, lot 24;
Section 36, N½.

T. 9 S., R. 23 W.,
Section 2, S½SW¼;
Section 5, lot 1, E½NW¼SE¼NE¼, NE¼SW¼SE¼NE¼, S½SW¼SE¼ E½E½NE¼, E½SE¼;
Section 8, lot 1, 2, 3, 4, and 5, NE¼NE¼, S½NE¼, E½SE¼, NW¼SE¼;
Section 11, Tract B excluding the northerly 220 feet;
Section 17, E½E½;
Section 20, E½E½ that portion excluded from Memorandum of Understanding betweenthe Bureau of Reclamation and the Department of the Navy, Contract No. 14-06-300-1266 (A-6180);
Section 21, W½NW¼ that portion excluded from Memorandum of Understanding between the Bureau of Reclamation and the Department of the Navy, Contract No. 14-06-300-1266 (A-6180);
Section 29, lots 2, 5, 6, 7, and 8, that portion of lots 3 and 4 excluded from Memorandum of Understanding between the Bureau of Reclamation and the Department of the Navy, Contract No. 14-06-300-1266 (A-6180);
Section 30, lots 5, 6, and 7, SE¼SW¼;
Section 31, lots 1, 2, 3, and 4, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Section 33, W¼SW¼SW¼SW¼;

T. 10 S., R. 23 W.,
Section 4, lot 6;
Section 30, lots 9, 10, 13, and 15;
Section 31, lots 1, 2, 3, 4, 6, an 8, S½NE¼, E½W½, Se¼;
Section 32, lots 2, 4, 5, 8, and 9, SW¼NW¼, S½.

T. 11 S., R. 23 W.,
Section 35, lots 2, 3, and 4, SW¼NE¼, S½NW¼, W½SW¼;
Section 6, lots 1 and 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

T. 8 S., R. 24 W.,
Section 28, lots 13 to 19, inclusive;
Section 32, lot 1;
Section 33, lot 7.

T. 9 S., R. 24 W.,
Section 5, lots 11, 12, 13, and 14;
Section 7, lot 6;
Section 8, lots 6, 8, 9, and 10;
Section 18, lots 14, 15, 16, and 17;
Section 19, lots 24 and 25;
Section 30, lots 19, 26, and 27;
Section 36, N½NE¼NE¼NE¼, W½NE¼ SW¼NE¼NE¼, W½SW¼NE¼NE¼, NE¼SW¼NE¼, W½SE¼SW¼NE¼, NW¼NW¼SE¼NE¼, W½NE¼ NW¼NE¼NW¼SE¼, W½NW¼S E¼NW¼SE¼, NW¼NW¼SW¼SE¼.

T. 10 S., R. 24 W.,
Section 1, lots 1, 2, 5, 6, 7, and 8, S½NE¼, E½SE¼;
Section 12, NE¼, E½SE¼;
Section 13, lots 7, 8, and 9, E½NE¼, S½SW¼, E½SE¼, SW¼SE¼;
Section 14, lots 1, and 2, SE¼SE¼;
Section 22, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, NE¼SE¼;
Section 23, lots 1, 2, 3, 4, 5, 6, 7, and 8, E½, SE¼NW¼, SW¼;
Section 25, lots 2, 5, 7, 9, and 10, W½SW¼, SE¼SW¼, SW¼SE¼;
Section 26, lots 3, 5, 6, and 9, S½NW¼, S½;
Section 27, lots 1, 2, 3, and 5, NW¼NE¼, S½NE¼, E½NW¼, SW¼NW¼, S½;
Section 31, lots 5, 6, and 7, SE¼SE¼;
Section 33, lots 1 and 2, S½N½, S½;
Section 34, All;
Section 35, All.

T. 11 S., R. 24 W.,
Section 2, S½, and that portion of the N½ excepted from Public Land Order No. 5417, dated March 12, 1974;
Section 3, lots 1, 2, 3, and 4, S½N½, S½;
Section 4, lots 1, 2, 3, and 4, S½N½, S½;
Section 5, lots 1, 2, 3, and 4, S½N½, S½;
Section 8, lots 1, 2, 3, and 4, E½, E½W½;
Section 9, W½NE¼, W½;
Section 16, lots 1 and 2, NW¼;
Section 17, lots 1, 2, 3, and 4, NE½NE¼, SE¼NE¼, NE¼NW¼.

T. 9 S., R. 25 W.,
Section 24, lots 6, 7, 8, 10, 11, and 12;
Section 34, lots 1 and 2;
Section 35, lots 8, 9, 12 to 26, inclusive, E½SE¼.

T. 10 S., R. 25 W.,
Section 2, lots 12 to 27, inclusive;
Section 10, lots 1 and 2;
Section 11, lots 5 to 16, inclusive;
Section 14, lots 7 to 12, inclusive;
Section 15, lots 5, 6, and 7, NE¼NE¼;
Section 23, lots 2, 3, 6 to 12, inslusive, E½SW¼, W½NE¼NE¼NW¼SE¼, W½NE¼NW¼SE¼, W½NW¼S E¼NE¼NW¼SE¼, W½NW¼SE¼, N½NW¼SE¼NW¼SE¼, W½NW¼N W¼NE¼SW¼SE¼, W½SE¼N W¼SE¼SW¼SE¼, N½NW¼NW¼ SE¼SE¼, SW¼NW¼SW¼SE¼, W½E½SE¼NW¼SW¼SE¼, W½SE¼NW¼SW¼SE¼, NW¼NE¼S W¼SW¼SE¼, W½SW¼NE¼SW¼S W¼SE¼, W½SW¼SW¼SE¼, W½NW¼SE¼SW¼SW¼SE¼;
Section 26, lots 5 and 6;
Section 27, lots 2 and 3, SE¼SE¼;
Section 34, lots 6, 7, and 8;
Section 35, lots 3, 4, 5, and 6.

T. 11 S., R. 25 W.,
Section 1, lots 1 to 10, inclusive W½E½ SW¼;
Section 2, W½SW¼SW¼SW¼NE¼, W½W½NE¼NE¼NW¼, W½E½ SW¼NE¼NE¼NW¼, W½NE¼NW¼, W½SE¼NE¼NW¼, W½NW¼, W½SE¼NW¼, W½NW¼NE¼NE¼ SE¼NW¼, SW¼NE¼NE¼SE¼NW¼, W½NE¼SE¼NW¼, W½SE¼N E¼SE¼NW¼, SE¼SE¼NW¼, SW¼, W½SW¼NE¼NW¼NW¼SE¼, W½W½NW¼SE¼, W½W½S E¼NW¼SE¼, W½W½E½SW¼NW¼ SE¼, N½NW¼NW¼SW¼SE¼, SW¼NW¼NW¼SW¼SE¼, W½NW¼SW¼NW¼SW¼SE¼;
Section 3, lots 3, 9, 10, 11, 12, 13, 14, and 15, S½SE¼;
Section 10, lots 3 and 4;

Section 11, lots 3 to 8, inclusive, lots 14 to 25, inclusive, Tract 37, S½NW¼S W¼SW¼NW¼NE¼, S½SW¼S W¼NW¼NE¼, S½SW¼SE¼SW¼ NW¼NE¼;
Section 12, lots 9 and 14, S½N½S W¼SW¼SW¼NW¼, S½S½S W¼SW¼NW¼.

Containing approximately 39,625 acres in Yuma County, Arizona.

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, and will review the withdrawal rejustification to ensure that continuation or medification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resource. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 85-12505 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-32-M

[Nev-054592]

Proposed Partial Modification and Continuation of Withdrawal, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service proposes that 10 acres of an administrative site withdrawal be continued for an additional 40 years. The land will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

DATE: Comments must be received by June 24, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Bureau of Land Management, Nevada State Office, (702) 784-5481.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that 10 acres of an 80 acre administrative site withdrawal established by Executive Order 1354 of May 6, 1911, and Public Land Order 4493 of July 15, 1968, be continued for a period of 40 years pursuant to section 204(d) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2753, 43 U.S.C. 1714. The remainder of the withdrawal will be terminated. The land in described as follows:

Mount Diablo Meridian

T. 13 N., R. 70 E.,
Sec. 9, SE¼SE¼NW¼.

The area contains 10 acres in White Pine County.

The purpose of the withdrawal is to protect the structures and facilities of the Baker Administrative Site. The withdrawal segregates the land from operation of the public land laws, inlcuding the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

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 Nevada 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 withdrawals will continue until such final determination is made.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 85-12495 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; ARCO 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 ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3242, Block A-466, High 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 Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on May 15, 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 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: May 16, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-12423 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Corpus Christi 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 Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4140, Block 437, Brazos Area, offshore Texas. 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 Freeport, Texas.

DATE: The subject DOCD was deemed submitted on May 15, 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 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: May 16, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–12424 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Seagull Energy E&P) 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 Seagull Energy E&P Inc., has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1258, Block 175, South Timbalier 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 May 13, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

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). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

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. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

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: May 15, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–12425 Filed 5–22–85; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Freeport Sulphur Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Freeport Sulphur Company, Unit Operator of the Grand Isle Block 16(S) Federal Unit Agreement No. 14–08–001–2470, submitted on May 2, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle Block 16(S) Federal unit.

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 plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on

December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 10, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-12514 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Power and Modification Study—Payette River Basin Boise Project, Idaho-Oregon; Intent To Prepare a Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior proposes to prepare a draft environmental impact statement (EIS) on the Payette River basin portion of the Power and Modification Study, Boise Project, Idaho-Oregon.

The purposes of the study are to (1) determine the potential to increase hydroelectric power generation at existing Federal facilities, and (2) analyze the operation of the basin's storage system to identify changes that could enhance power production and meet other water-related needs including recreation, fish, wildlife, water quality, irrigation, and flood control.

Two alternatives for development were identified, and one has been adopted as the preferred plan. Both alternatives include the construction of an addition to the existing Black Canyon Powerplant located on the Payette River near Emmett, Idaho; provision of minimum pools in Cascade and Deadwood Reservoirs for fishery and water quality enhancement; provision of year-round streamflow in the Deadwood River to enhance the river's fishery below Deadwood Dam; construction of a permanent fish barrier on the Deadwood River to enhance the Kokanee fishery in Deadwood Reservoir; and development of overnight camping facilities near Black Canyon and Deadwood Reservoirs. In addition, the preferred plan includes the assignment of 5,000 acre-feet of presently noncontracted storage in Cascade Reservoir for future irrigation use in the Payette River basin. A no action alternative also will be considered in the EIS.

An extensive public involvement program was carried out during planning for the study. Attendees at a series of public sessions provided comments on alternative measures and environmental issues. Therefore, no formal scoping meetings are planned in connection with preparation of the draft EIS.

Interested public entities and individuals may obtain information on the study and provide input to the draft EIS. A combined planning report/draft EIS is expected to be completed and available for review and comment by the end of 1985.

The contact person for this draft EIS is Gaye Lee, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724, telephone (208) 334-1926.

Dated: May 20, 1985.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 85-12441 Filed 5-22-85; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on *Food and Development* which will be held June 26-28, 1985 at the Minneapolis Plaza Hotel, 315 Nicollet Mall, Minneapolis, MN, 55401, Telephones: (800) 654-2000 (toll free) and (612) 332-4000.

Wednesday, June 26, 1985: 3:00 p.m.—Registration. 5:30 p.m.—Reception. 7:00 p.m.—Dinner. 8:00 p.m.—After-dinner speaker.

Thursday, June 27, 1985: 8:45 a.m.—Welcoming Remarks: E. Morgan Williams, Chairman, ACVFA. 9:00 a.m.-12:00 noon—*First Session: U.S. Food Assistance and Development: Focus: Extending the Benefits:* How are U.S. food assistance programs being used to foster development in the Third World, what have we learned from these efforts, and what other ways can food assistance programs be used to generate development? 12:00-1:30 p.m.—Lunch. 1:30-3:00 p.m.—*Second Session: Trade and Development: Focus: Sharing the Benefits:* How is private enterprise investing in food-related development activities in Third World countries? How can those involved in investment and trade help generate development and vice versa? 3:00-3:30 p.m.—Coffee Break. 3:30-5:00 p.m.—*Third Session: Public Education About Development: Focus: Communicating the Benefits.* What are effective strategies for educating the American public about the connection between humanitarian food assistance and development and the benefits of long-term development for the U.S. economy? 5:00-5:30 p.m.—Review of Discussion.

Friday, June 28, 1985: 9:00-10:30 a.m.—Subcommittee Meetings. 10:30-12:30 a.m.—ACVFA Business Session. 12:30 p.m.—Meeting Adjournment.

The meeting is open to the public. Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty five (25) copies. AID representatives will be at the meeting.

Participants are responsible for making hotel reservations and payment directly to Minneapolis Plaza Hotel but Pre-Registration for Meeting Through Advisory Committee Headquarters is requested. Pre-registration and hotel reservation forms are available at the ACVFA. Please call (703) 235-2708 or 3336, or contact by mail, the Advisory Committee on Voluntary Foreign Aid, Room 227, SA-8, Agency for International Development, Washington, D.C., 20523.

Dated: May 14, 1985.

Julia Chang Block,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 85-12409 Filed 5-22-85; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 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. 332-200, Competitive Position of U.S. Producers of Semiconductors, 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: one

(2) Title of form: Competitive Position of U.S. Producers of Semiconductors—Questionnaire for U.S. Producers

(3) Type of request: new

(4) Frequency of use: nonrecurring

(5) Description of respondents: U.S. manufacturers of semiconductor products

(6) Estimated number of respondents: 70

(7) Estimated number of hours to complete the forms: 12,320

(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 otained from Nelson Hogge, (202) 523-0377. Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of the Office of Mangement and Budget, Washington, D.C., 20503 Attention: Francine Picoult, Desk Officer for the U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you 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 E. William Fry (U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

Issued: May 20, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12493 Filed 5-22-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-250 (Preliminary)]

Converted Paper-Related School and Office Supplies From Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty 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 countervailing duty investigation No. 701-TA-250 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of converted paper-related school and office supplies,[1] which are alleged to be subsidized by the Government of Mexico. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by June 28, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: May 14, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-523-0369), 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 with the Department of Commerce on November 16, 1984, by the Stationery International Trade Commission, Washington, DC. Effective April 23, 1985, Mexico became a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 (the Act), and is therefore entitled to an injury test by the Commission in countervailing duty investigations. According to section 102 of the Trade Agreements Act of 1979, once Title VII becomes applicable, any pending investigation under section 303 of the Act must be terminated. Where an initiation, but not a preliminary determination, has been made under section 303, the case is to be treated as if it were initiated under section 702 on the day Title VII first applied to that country. Accordingly, on May 14, 1985, Commerce published in the **Federal Register** (50 FR 20117), a notice terminating its countervailing duty investigation on converted paper-related school and office supplies from Mexico under section 303 of the Act and instituting a countervailing duty investigation on that merchandise under section 703 of the Act. Consequently, the Commission must make its preliminary determination with respect to injury within 45 days of publication of that notice by Commerce in the **Federal Register**.

[1] For purposes of this investigation, the term "converted paper-related school and office supplies" covers typing and filler paper, wirebound notebooks and composition books, and pads, provided for in items 256.56, 256.58, and 256.90 of the Tariff Schedules of the United States (TSUS).

Participation in the Investigation

Persons wishing to participate in the 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 adresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 7, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Bruce Cates (202-523-0369) not later than June 5, 1985 to arrange for their appearance. Parties in support of the imposition of countervailing 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 June 11, 1985 a written statement of information pertinent to the subject of the investigation, as provided in §207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m.

to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information". Confidential submissions and requests for confidential treatment must conform with the requirements of §201.6 of the Commission's rules (19 CFR 201.6 as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: May 17, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12492 Filed 5-22-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 320 (Sub-3)]

Product and Geographic Competition

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed change in guidelines.

SUMMARY: By a notice served April 1, 1985, and published in the **Federal Register** April 2, 1985 (50 FR 13090), the Commission required that comments be filed by May 17, 1985, and replies by June 1, 1985. The Commission is seeking comments on a request that we supplement the evidentiary guidelines in *Market Dominance Determinations*, 365 I.C.C. 118 (1981).

The Rubber Manufacurers Association (RMA) seeks a 30-day extension of the time for filing comments. The Association of American Railroads, National Industrial Transportation League, and the Procompetitive Rail Steering Committee oppose the request. In light of the complexity of the issues, a 14-day extension of time will be granted, and the time for filing comments and replies will be extented accordingly.

DATES: Written comments are due by May 31, 1985; reply comments are due by June 17, 1985.

ADDRESSES: Send an original and 15 copies of all documents referring to Ex Parte No. 320 (Sub-No. 3) to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and serve on all parties to this proceeding.

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

Decided: May 10, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-12387 Filed 5-22-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30618]

New England Southern Railroad Co., Inc.; Lease and Operation Exemption; Boston and Maine Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Corrected notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343(a)(2), the lease and operation by New England Southern Railroad Co., Inc., of certain trackage of Boston and Maine Corporation (B&M), referred to as the "New Hampshire Lines", including: (1) The portion of the main line between milepost B56.00, near Manchester, NH, and milepost B80.68, near Penacook, NH; (2) a portion of the Concord-Lincoln line beginning at the switch with the New Hampshire main line in Concord at milepost B73.72 and extending to milepost 1.17; (3) a 0.49-mile segment of the former Claremont and Concord Railroad line from the switch in Concord at valuation station 1839+42.15 to valuation station 41+98; and (4) one track in the B&M yard at Manchester for interchange purposes. The total mileage will be approximately 27 miles.

DATES: This exemption will be effective on June 17, 1985. Petitions to stay must be filed by May 28, 1985[1] and petitions for reconsideration must be filed by June 5, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30618 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioners' representatives: James E. Howard, One Boston Place, Suite 3210, Boston, MA 02108

Keith G. O'Brien, 1729 H Street, NW., Washington, DC 20006

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 26, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred with a separate expression. Commissioner Simmons did not participate.

James H. Bayne,

Secretary.

[FR Doc. 85-12620 Filed 5-22-85; 8:45 am]

BILLING CODE 7035-01-M

[1] Date corrected from May 20, 1985 date published at 50 FR 20508, May 16, 1985.

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Emission of Air Pollutants; Federated Metals Corp., Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 F.R. 19029, notice is hereby given that a consent decree in *United States* v. *Federated Metals Corporation, Inc.*, Civil Action No. 84-1995(ST), has been lodged with the United States District Court for the District of New Jersey. The consent decree establishes a compliance program for the Newark, New Jersey plant owned and operated by Federated Metals Corporation, Inc., to bring the plant into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* and the New Jersey State Implementation Plan ("SIP"), relating to the operation and maintenance of pollution control apparatuses in its magnesium kettle area, and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Federated Metals Corporation, Inc.*, D.J. Ref. No. 90-5-2-1-690.

The consent decree may be examined at the office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and 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 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.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-12477 Filed 5-22-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Proposed Consent Judgment Pursuant to Its NPDES Permit and the Clean Water Act; Kenner, LA

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on May 6, 1985, a proposed Consent Judgment in *United States* v. *City of Kenner, Louisiana, et al.*, Civil Action No. 84-2105 (E.D. La.) was lodged with the Eastern District of Louisiana. The proposed Consent Judgment requires the City of Kenner to undertake extensive remedial measures. The decree also requires stipulated civil penalties for future violations, imposes a penalty for past violations, and requires a contingent penalty to the State of Louisiana.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent judgment. 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 the *United States* v. *City of Kenner, Louisiana, et al.*, Civil Action No. 84-2105 (E.D. La.), D.J. No. 90-5-1-1-1915.

The proposed consent judgment may be examined at the Office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Lousisana 70130 and at the Region VI Office of the Environmental Protection Agency, Interfirst Two Building, 1201 Elm Street, Dallas, Texas 75270. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Washington, D.C. 20530. A copy of the proposed Consent Judgment may be obtained in person or my mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-12466 Filed 5-22-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Water Act; Wyoming Valley Sanitary Authority et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 6, 1985, a proposed Consent Decree in *United States of America and the Commonwealth of Pennsylvania* v. *Wyoming Valley Sanitary Authority, et al.*, Civil Action No. 83-0573, was lodged with the United States District Court for the Middle District of Pennsylvania. The proposed Consent Decree concerns the Wyoming Valley Sanitary Treatment Plant located in Hanover Township, Luzerne County, Pennsylvania. Further, the proposed Consent Decree requires Wyoming Valley Sanitary Authority to install secondary treatment facilities and to pay a substantial civil penalty for violations of the Clean Water Act.

The U.S. Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *Wyoming Valley Sanitary Authority*, D.J. Ref. 90-5-1-1-1801.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Middle District of Pennsylvania, United States Courthouse, Scranton, Pennsylvania 18501 and at the office of Region III of the U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Rooms 1515 or 1644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 payable to the Treasurer of the United States.

F. Henry Habicht,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-12509 Filed 5-22-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Eradication of Cannabis on Non-Federal and Indian Lands in the Contiguous United States and Hawaii; Availability of a Draft Programmatic Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the U.S. Department of Justice, Drug Enforcement Administration (DEA), has prepared a draft programmatic environmental impact statement (DEIS) on the possible environmental and health implications associated with the eradication of cannabis on non-Federal and Indian lands in the contiguous United States and Hawaii. The DEIS has incorporated by reference relevant portions of a May 1984 Draft EIS on the Eradiction of Cannabis on Federal Lands in the Continental United States.

The DEIS reviews a range of alternative cannabis eradication strategies including manual means; mechanical means; and herbicides, including 2,4-D, paraquat, and glyphosate; alternative methods of application; and several combinations of the above methods. The preferred alternative would permit the full range of the eradication methods described above to be used as appropriate.

In accordance with 40 CFR 1501.6, the following agencies have cooperated with DEA in preparing the DEIS: the U.S. Department of Agriculture (including the U.S. Forest Service); the Department of the Interior (including the Bureau of Land Management, the Fish and Wildlife Service, and the Bureau of Indian Affairs); the Department of State; the Department of Health and Human Services, Public Health Service (including the National Institute on Drug Abuse and the Centers for Disease Control); and the Environmental Protection Agency (EPA). As cooperating agencies, these agencies have participated in the scoping process and offered special expertise in developing information and preparing analyses used in the DEIS.

This DEIS was transmitted to EPA and made available to the public on Friday, May 17, 1985. The official public comment period will begin on Friday,

May 25, 1985 and will close on Monday, July 8, 1985.

The Federal, State, and local agencies, law enforcement officials, and other individuals and organizations who may be interested in or affected by the program are invited to comment on this DEIS.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and to individuals and organizations which requested copies as outlined in the Council on Environmental Quality guidelines. Public meetings on this DEIS will be held at the following locations on the dates indicated:

June 14, 1985—2:00 p.m., U.S. Department of Health and Human Services, North Auditorium, 330 Independence Avenue, Washington, D.C. 20201

June 18, 1985—7:00 p.m., Howard Johnston's Motor Lodge, 603 Lee Road, Orlando, Florida 32810

June 20, 1985—7:00 p.m., Holiday Inn Briley Parkway, 2200 Elm Hill Pike, Nashville, Tennessee 37210

June 25, 1985—7:00 p.m., The New Otani Hotel and Garden, 120 South Los Angeles Street, Los Angeles, California 90012

June 27, 1985—7:00 p.m., Sheraton Waikiki Hotel, Lanai Ballroom, 2255 Kalakaua Avenue, Honolulu, Hawaii 96815.

Mr. John C. Lawn, Acting Administrator, Drug Enforcement Administration, Department of Justice, Washington, D.C. is the responsible official for this action.

Written comments concerning the DEIS should be addressed to Rodolfo Ramirez, Jr., Cannabis Investigations Section, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537. Requests for copies of the DEIS should also be addressed to Mr. Ramirez. Comments must be received by Monday, July 8, 1985 in order to be considered in the preparation of the Final EIS for this action.

John C. Lawn,

Acting Administrator.

May 17, 1985.

[FR Doc. 12438 Filed 5-22-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; McNeilab Inc., et al.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 3, 1985, McNeilab Inc., DBA First State Chemical Company Inc., 803 East Fourth Street, Wilmington, Delaware 19801 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
Codeine (9050)	II
Oxycodone (9143)	II
Morphine (9300)	II
Thebaine (9333)	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 June 24, 1985.

Dated: May 16, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-12437 Filed 5-22-85; 8:45 am]

BILLING CODE 4410-09-M

LEGAL SERVICES CORPORATION

Announcement of Availability of Funds for the Provision of Legal Services in the State of Louisiana; Third Notice

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) announces the availability of grants funds for the provision of legal services to eligible clients residing in the Louisiana parishes of Catahoula, Concordia, and La Salle. No applications were received following the January 30, 1985 and April 16, 1985, **Federal Register** notices of the availability of these funds. Therefore, the deadline for the receipt of applications has been extended to the date noted below.

DATE: All applications for grant funds must be received on or before June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Gail D. Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C., 20005; (202) 272-4080.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation, the national, independent organization charged with implementing the federally-funded system of legal services for low income people, announces the availability of grant funds for the provision of legal services to eligible clients residing in the Louisiana parishes of Catahoula, Concordia, and La Salle.

The annualized level of Legal Services Corporation funding for the service area is $123,354 for calendar year 1985. The exact level of funding for the remainder of 1985 will be contingent on staff recommendations concerning the successful applicant's needs.

All groups and persons interested in applying for this grant should request a grant application from the Grants Assistant, Grants and Budget Unit, Office of Field Services, 733 Fifteenth Street, NW., Washington, D.C. 20005. Subsequent to the application deadline, June 24, 1985, a public hearing may be held at which applicants and other interested parties can make presentations regarding provisions of legal services in the service area.

Three copies of the application should be submitted to the Regional Director, Atlanta Regional Office, 915 Peachtree Street, NE., Ninth Floor, Atlanta, Georgia 30308; and, one copy of the grant application should be sent to the Grants Assistant at the Washington D.C. address noted above.

Any grant application recommended by the Legal Service Corporation will, pursuant to section 1007(f) of the LSC Act, be announced in the **Federal Register**, and additional comments and recommendations will be requested at least thirty days prior to final approval of the grant.

Dated: May 16, 1985.

Peter Broccoletti,

Acting Director, Office of Field Services.

[FR Doc. 85-12426 Filed 5-22-85; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before July 22, 1985.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, D.C. 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency. Copies of the schedules are also available for public inspection during the comment period at the Office of the Federal Register, Room 8401, 1100 L St. NW, Washington, D.C.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

The monthly public notice identifies the Federal agenices and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. *Department of the Army, Office of the Adjutant General (NC1-AU-85-14).* Reduction in retention period for files such as copies of charters, directives, notices, agendas, minutes, and reports relating to the establishment, operation, and dissolution of committees in which the Army participates. Excludes specific committee files designated for transfer to the National Archives.

2. *Department of the Army (NC1-AU-85-22).* Records of various Army arsenals, 1880–1966, including routine correspondence, preliminary specifications, component drawings, manuals, bulletins, and publications relating to administrative management. Related records with research and reference value will be accessioned by the National Archives.

3. *Department of the Army (NC1-AU-85-23).* Records of various Army service schools, 1919–66, including routine correspondence, manuals, bulletins, and publications relating to administrative management. Related records with research and reference value will be accessioned by the National Archives.

4. *Department of the Army (NC1-AU-85-25).* Records of various Army hospitals, 1946–65, relating to administrative and facilities management, security, training, and other routine matters. Related records of this group with reference and research value will be accessioned by the National Archives.

5. *Department of the Army, Office of the Adjutant General (NC1-AU-85-50).* Commercial food establishment reporting files, including reports correspondence, and similar documents relating to sanitary inspections of firms seeking eligibility for food product contracts.

6 and 7. *Central Intelligence Agency (NC1-263-84-1) and (NC1-263-84-2).* These CIA schedules are classified in the interest of national security pursuant to Executive Order 12356 and are further exempted from public disclosure pursuant to the National Security Act of 1947, 50 U.S.C. 403(d)(3), and the CIA Act of 1949, 50 U.S.C. 403g. Therefore, copies of these schedules are not available for public inspection.

8. *Health Care Financing Administration, Office of Administrative Services (NC1-440-85-1).* Regional offices files including working papers, correspondence and other records relating to the review of states' Medicaid claims processing systems.

9. *Department of Labor, Bureau of Labor Statistics, Division of Industrial Prices and Industrial Relations (NC1-257-85-1).* Textual input forms for Producer Price Indexes maintained in machine-readable form only for statistical purposes.

10. *Department of State, Bureau of Communications, Office of Communications/Interagency Affairs (NC1-59-84-7).* Agency copies of records relating to the Department's communications liaison and emergency planning matters.

11. *Department of the Treasury, Financial Management Services (NC1-425-84-2).* Files consisting of published reports prepared by other Federal agencies and utilized in calculating Consoldiated Financial Statements.

12. Tennessee Valley Authority, Office of Power and Engineering (NC1-142-85-4). Video taperecording of a lecture on the merger of the office of Power and the Office of Engineering given by the manager of the newly-created office.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-12472 Filed 5-22-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Challenge/Ensemble Section) to the National Council on the Arts will be held on June 11-12, 1985, from 9:00 a.m.-5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with referrence to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–12402 Filed 5–22–85; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Special Projects Section) to the National Council on the Arts will be held on June 12, 1985, from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for this Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–12403 Filed 5–22–85; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (CityArts/Services to the Field Section) of the National Council on the Arts will be held on June 10–11, 1985, from 9:00 a.m.– 5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 10, from 9:00–10:30 a.m. to discuss program review.

The remaining sessions of this meeting on June 10, from 10.30 a.m.–5:30 p.m. and June 11, from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–12404 Filed 5–22–85; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Printmaking/Drawing Fellowship Section) to the National Council on the Arts will be held on June 10–13, 1985, from 9:00 a.m.–8:00 p.m., and on June 14, 1985, from 9:00 a.m.–6:00 p.m., in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–12405 Filed 5–22–85; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[NUREG–0555]

Environmental Standard Review Plans; Review of Construction Permit Applications for Nuclear Power Plants, Issuance and Availability "For Comment"; "Environmental Impacts of Postulated Accidents Involving Radioactive Materials—Releases to Groundwater"

The U.S. Nuclear Regulatory Commisison (NRC) has published proposed Environental Standard Review Plan (ESRP) Seciton 7.1.1. of NUREG–0555 (Environmental Standard Review Plans for the Environmental Review of Construction Permit Applications for Nuclear Power Plants).

This proposed ESRP provides guidance to the staff for prepartion of environmental assessments of "Radiological Impacts—Releases to Groundwater", an input to the staff's Environmental Statement which addresses the groundwater pathway consequeces from postulated reactor core-melt accidents. The ESRP lists the type of information which should be collected, references that may be useful, and provides a procedure for uniform staff review of applicant analyses. The ESRP is applicable to both Construction Permit and Operating License Stage reviews.

Since July, 1980, the staff has been required to include in Commerical Reactor Environmental Impact Statements an analysis of the radiological exposure pathway to man (including groundwater) from a postulated core-melt accident. This requirement was contained in the Commisison's Statement of Interim Policy Regaring Nuclear Power Plant Accident Considerations Under the National Environmental Policy Act of 1969 (45 FR 40101, June 13, 1980). The ESRP is a codification of staff review practice that has developed in response to the Interim Policy Statement. The ESRP does not place any new requirements on applications. The ESRP also permits the use of future source terms and probabilistic studies when they become available.

Comments are solicited from interested organizations, groups, and individuals. The staff will evaluate the comments received, and address them as appropriate, in the final ESRP.

Requests for copies of the "For Comment" document should be sent to the U.S. Nuclear Regulatory Commission Washignton, D.C. 20555, Attention: Mr. Ronald Ballard. Other copies will be

available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, telephone (202) 634–3273 within two weeks of the publication of this notice.

Comments should be sent to Mr. Ronald Ballard at the above address by July 22, 1985.

Dated at Bethesda, Maryland, this 15th day of May 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

April 1985.

Environmental Standard Review Plan

Section 7.1.1 Environmental Impacts of Postuated Accidents Involving Radioactive Materials Releases to Groundwater

Review Inputs

Environmental Reports Sections

2.1.3 Use of Adjacent Lands and Waters
2.4 Hydrology
2.5 Geology

Environmental Reviews

2.3 Water (ESRP Section)

Standards and Guides

Interim Policy Statement
NUREG–0440, "Liquid Pathway Generic Study"
NUREG–1054, "Simplified Analysis for Liquid Pathway Studies"

Other

- The site visit.
- Responses to requests for additional information.
- Consultation with local, state and Federal agencies.
- Applicant's Safety Analysis Report.

Environmental Statement Section

5.9 Radiological Impacts
5.9.4 Environmental Impacts of Postulated Accidents
5.9.4.5 Accident Risk and Impact Assessment
5.9.4.5(5) Releases to Groundwater

Other Environmental Reviews

None

I. Purpose and Score

The purpose of this environmental standard review plan (ESRP) is to direct the staff's review of the radiological impacts that could result from a core-melt accident by way of the groundwater pathway. The scope of the review directed by this plan will include consideration of site-specific and regional data on ground and surface water hydrology and water use in sufficient detail to calculate probably doses to man from a core melt released to the groundwater through such liquid pathways as drinking water, aquatic food ingestion, and shoreline exposure.

II. Required Data and Information

The kinds of data and information required will be affected by site specific factors including the potential consequences resulting from a core melt at that site. The following data and information could be required depending upon the pathway components identified as major contributors to dose:

A. General

1. Core-melt radiological source terms.[1]

2. Maps of sufficient detail to show the relationship of the site to major hydrological systems that could be impacted by the groundwater pathway from a coremelt accident.

3. Locations of downstream surface water users, as well as population using downstream municipal supplies.

4. Locations of downgradient groundwater users, as well as population using downgradient municipal supplies, if any.

5. Estimates of downstream aquatic food consumption divided into consumption of finfish and shellfish.

6. Shoreline use of downstream water bodies.

Note.—Downstream is used to also mean up and down coast and offshore in the case of Great Lakes, estuary and coastal sites.

B. Groundwater

1. Descriptions of geologic formations in site region and underlying site. Descriptions should include areal extent, elevation, and thickness of aquifers; recharge and discharge areas; and lithology with sufficient detail to adequately identify aquifers and aquicludes.

2. Piezometric contour maps and hydraulic gradients (from the ER, SAR, and general literature).

3. Hydraulic conductivities or transmissivities, storage coefficients or specific yields, total and effective porosities, bulk densities, and distribution coefficient for strontium and cesium.

4. Interactions between surface water and groundwater near the site.

[1] Plant Specific or probabilistic source terms must be reviewed and approved by the appropriate staff technical branches. An acceptable default value may be obtain from the LPGS (ref 4 and 5). Ongoing research is expected to result in improved default values in the future.

C. Surface Water

1. River sites

a. Harmonic mean of daily flows for downstream reaches (reaches must correspond to those for which water users were determined). Note: The procedure for determining this mean is given in NUREG–1054 (ref. 4).

b. Sedimentation parameters for reserviors (sediment depth, density, deposition rate, efficiency, equilibrium coefficient and bottom transfer coefficient). These data are optional.

2. Great Lakes sites

a. Volume and inflow for lake on which site is situated and downstream lakes.

b. Sedimentation parameters for lakes (sediment depth, density, desposition rate, efficiency, equilibrium and transfer coefficients).

3. Estuary sites

a. Salinity and freshwater flow for all segments used to define estuary (segments must correspond to those for which aquatic food catch and shoreline users were determined) and salinity in seawater outside of estuary.

b. Dilution factors for the segments determined by other means than salinity ratio (optional).

c. Sedimentation parameters for segments (sediment depth, density, deposition rate, efficiency, equilibrium coefficient, and transfer coefficient). These data are optional.

4. Coastal site

a. Longshore drift current velocity, and effective water depth offshore.

III. Analysis Procedure

The analysis of the groundwater pathway should begin with a review of the geologic formations underlying the site as well as the soil and backfill around and underneath the reactor building. The molten core is assumed to be capable of melting down to 50 ft below the basemat unless there is evidence to the contrary. Hence, any permeable layer between the ground surface and 50 ft below the basemat should be considered to be a potential pathway for movement of radionuclides. If the release is into a known or suspected leaky aquifer, then even deeper permeable layers (below 50 ft) should be considered as potential pathways. The most critical pathways are generally those that lead to surface water bodies or large municipal water supplies.

Once the major groundwater pathway(s) is identified, travel time to the nearest major groundwater user or surface water body should be determined. This travel time which

should not include the effects of retardation is an indicator of the minimum time available for mitigation following an accident. Longer travel times, taking into account the effects of ion-exchange of strontium and cesium with the pathway medium should also be calculated. These travel times will then be used to determine what fraction of the initial release of cesium-137 and strontium-90 will be available to provide a dose to humans after radioactive decay. It should be recognized that for short groundwater travel times (less than about one year) other radionuclides may contribute significantly to the dose. For longer travel times, however, only the relatively long lived cesium-137 and strontium-90 need be considered for dose estimates.

In determining groundwater travel times, it is often necessary to use hydrogeologic data obtained from the site investigation. This data should consist of hydraulic conductivity as well as effective and total porosity values for the various soil and rock formations. For those formations likely to be pathways for radionuide movement, hydraulic gradient, and retardation coefficients should also be provided. The values assumed in the analysis should be conservative representations of the measured data. An acceptable means of checking the reasonableness of the site measured data, if there appears to be considerable uncertainty or inconsistency in the measurements, is to compare the values with ranges of values determined for similar geologic media as presented in references 1, 2, 3 and 4 or other generally accepted geohydrologic texts and technical papers.

The type of analysis performed once the radionuclides enter a surface water body depends upon whether the surface water body is a river, estuary, ocean or Great Lake. If the water body is a river and contains downstream reservoirs, the reservoirs may require special consideration. However, the overall steps for determining population dose are the same:

(1) Determine the amount of radionuclide available for exposure to humans over infinite time. For any particular radionuclide this is a function of the inventory which escapes the reactor building, the fraction of that inventory which escapes through the groundwater system and the dilution and removal mechanisms in the surface water system.

(2) Determine how much of the available radionuclide released to the ground actually contributes to population dose. This is a function of drinking water ingested, aquatic food ingested and shoreline use of the water bodies downstream of the site.

(3) Use dose conversion factors to convert the amount of radionuclide ingested (or exposed to man) into dose for the various pathways. The total population dose from the liquid pathway is then the sum of these pathway doses.

References 4, 5 and 6 present details on models which can be used to determine dilution and rates of removal for the various hydrologic systems. References 4 and 5 also present detailed guidance for determining the total population dose based on drinking water use, aquatic food ingested and shoreline exposure.

As an option, the analysis may also be performed taking probabilities of releases into account and determining the probabilities of consequences. This may require the probabilities and inventory release fractions for various types of accident sequences, the probability that the core melt may breach the base mat for the various types of accident sequences, and the probability of occurrence of hydrologic variations that could significantly influence dose, such as flow in rivers or level in reservoirs (for short duration releases). All probabilities should be adequately documented.

The final result of the probabilistic groundwater pathway analysis is a value for the total risk from the groundwater pathway. The total risk represents the sum of the products of the consequences and probabilities of the various accident sequences which could result in a groundwater release and hydrologic variations where appropriate.

At this time, there does not appear to be any definitive guidance available to assess the probability of a breach in the base mat, therefore any probabilities assumed should be adequately documented.

IV. Evaluation

The reviewer will ensure that (1) data are sufficient to provide reasonably accurate or conservative analyses regarding groundwater pathways and travel time and (2) all actual downstream water uses and users which could be a significant pathway have been included in the population dose calculations. It is permissible, however, for the reviewer to take into account evaluations showing that one or more of the hydrologic pathways will be insignificant as compared to the other pathways and therefore need not be considered further. For example, where conservatively calculated groundwater holdup times result in radioactive decay of almost all the available strontium-90 and cesium-137, it is permissible to end the analysis at that point, concluding that the groundwater pathway will be insignificant as compared to other pathways.

The reviewer should then make an independent calculation of the population dose using the simplified procedures in NUREG–1054 where appropriate. The result, although conservative in most cases, will be integrated into the total plant risk analysis after transmittal as input to the Environmental Statement. This result should also be compared to the total population dose for the corresponding generic site as presented in the Table 6.1 of NUREG–1054. A finding that the groundwater pathway doses are significantly greater than the doses at the generic site may indicate that the probabilistic study will be required.

If a probabilistic analysis is available for the initial review, the comparison with the generic site need not be made. Instead, the total risk contribution from the groundwater pathway should be presented for integration into the entire accident analysis.

V. Input to the Environmental Statement

The input to the environmental statement should consist of a description of the analysis in sufficient detail to allow an independent appraisal of the relative conservatism of the analysis.

The input should consist of brief description of the hydrosphere (surface and groundwater) pertinent to the liquid pathway and dose assessment. The groundwater description section of the Environmental Statement or the applicant's Environmental Report may be referred to for greater detail.

The description of the hydrosphere should be followed by a description of the analysis procedures and the values of the parameters used by the applicant. The description should include statements regarding the acceptability to the staff of these values and procedures. If NUREG–1054 (ref 4) procedures are used, then the description of the procedures should be brief referencing the NUREG.

The input should then include the calculated dose values and a statement comparing the site specific dose to the dose for the generic cases in terms of a ratio. If the probabilistic assessment was performed, only the total groundwater pathway risk should be stated, the comparison with the generic site is not applicable.

The input should close with a brief statement addressing the feasibility of groundwater pathway mitigation

measures at the site. In determining feasibility, groundwater travel time and site geology should be taken into account.

VI. References

(1) D.K. Todd, *Groundwater Hydrology*, John Wiley and Sons, New York, NY, 1980.
(2) R.A. Freeze and J. A. Cherry, *Groundwater*, Prentice Hall, Inc., Englewood Cliffs, N.J., 1979.
(3) D. Isherwood, *Geoscience Data Base Handbook for Modeling a Nuclear Waste Repository*, U.S. Nuclear Regulatory Commission, NUREG/CR0912, January 1981.
(4) R. Codell, *Simplified Analysis for Liquid Pathway Studies*, U.S. Nuclear Regulatory Commission, NUREG–1054, March 1984.
(5) U.S. Nuclear Regulatory Commission, *Liquid Pathway Generic Study*, NUREG–0440, February 1978.
(6) R. Codell, K.T. Key and G. Whelan, *A Collection of Mathematical Models for Dispersion in Surface Water and Groundwater*, U.S. Nuclear Regulatory Commission, NUREG–0868, June 1982.

[FR Doc. 85–12451 Filed 5–22–85; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 70–1151]

Finding of No Significant Impact; Renewal of Special Nuclear Material License No. SNM–1107; Westinghouse Electric Corp., Nuclear Fuel Division, Columbia, SC

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM–1107 for the continued operation of the Westinghouse Electric Corporation Commercial Nuclear Fuel Fabrication Plant at Columbia, South Carolina.

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License No. SNM–1107. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed license renewal 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 (NUREG–1118) is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of NUREG–1118 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Silver Spring, Maryland, this 16th day of May 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. 85–12457 Filed 5–22–85; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–358]

Cincinnati Gas and Electric Co., Dayton Power and Light Co., Columbus and Southern Ohio Electric Co.; Order Revoking Construction Permit

I

Construction Permit No. CPPR–88 authorizes construction of the Wm. H. Zimmer Nuclear Power Station, Unit 1, located in Moscow, Ohio, approximately 24 miles southeast of Cincinnati, Ohio. This construction permit is held by Cincinnati Gas and Electric Company (CG&E or permittee) on its own behalf and on behalf of Dayton Power and Light Company and Columbus and Southern Ohio Electric Company. Construction Permit No. CPPR–88 was issued on October 27, 1972. The latest construction completion date in the permit, as amended, was December 31, 1982. CG&E filed a timely request on November 24, 1982 to extend the latest completion date to December 31, 1984.

II

On January 27, 1984, CG&E informed the Commission that the owners of Zimmer Unit 1 planned to convert the nuclear fueled facility to a coal fueled plant. By motion dated March 20, 1984, CG&E requested the Atomic Safety and Licensing Board (ASLB) to authorize withdrawal of its application for a license to operate the Zimmer Station. CG&E removed all nuclear fuel from the site and disabled the reactor so that it could not be operated as a nuclear fuel utilization facility. The ASLB authorized withdrawal of the operating license application or August 29, 1984, subject to staff verification that the site would be restored to stable environmental conditions. The NRC staff verified that CG&E had satisfactorily restored the site to an environmentally stable condition. The environmental impact of terminating the plant construction at this stage of completion was assessed by the NRC staff. Pursuant to 10 CFR 51.32, the Commission has determined that the termination of this construction permit will have no significant impact on the environment. An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on April 16, 1985 (50 FR 15018).

III

A notice of withdrawal of the Zimmer operating license application was published in the **Federal Register** on November 8, 1984 (49 FR 44695).

For reasons set forth above, it is hereby ordered that Construction Permit No. CPPR–88 is revoked.

This Order is effective upon issuance.

Effective Date: May 16, 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–12456 Filed 5–22–85; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Co.; Soyland Power Cooperative, Inc.; Western Illinois Power Cooperative, Inc., Clinton Power Station, Unit 1; Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit (CP) No. CPPR–137, issued to Illinois Power Company (the Permittee) on behalf of itself and as agent for Soyland Power Company Cooperative, Inc. and Western Illinois Power Cooperative, Inc. for the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

The amendment modifies two conditions in Section 3E (conditions 3E(1) and 3E(3) and deletes six conditions in section 3E (conditions 3E(2), (4), (5), (6), (7), and (8)). The modifications and deletions update the CP to reflect changes related to the environmental programs that have been approved by various agencies since the CP was originally granted and to reflect the current policies of agencies responsible for the various aspects of environmental protection addressed by the CP.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10

CFR Chapter I, which are set forth in the amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1981 and subsequent letters dated, March 29, 1982, August 22, 1984, October 29, 1984 and December 4, 1984, (2) Amendment No. 2 to Construction Permit CPPR-137; and (3) the Commission's related Notice of Preparation of Environmental Assessment published in the **Federal Register** on April 19, 1985.

These items are available for public inspection in the Commission's Public Document Room in 1717 H Street, NW., Washington, D.C. 20555 and in the Warner Vesparian Library, 120 West Johnson Street, Clinton, Illinois 61727. A copy 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 15th day of May 1985.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 85-12455 Filed 5-22-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352/353]

Philadelphia Electric Co., Limerick Generating Station, Units 1 and 2; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied a Petition filed pursuant to 10 CFR 2.206 by Del-Aware Unlimited, Inc. (Petitioner) regarding the Limerick Generating Station, Units 1 and 2 (the facility).

The Petitioner in its November 21, 1984 Petition requested that the Commission require the licensee to provide to the NRC a full disclosure of its intended sources of interim supplemental cooling water for the Limerick facility and the environmental consequences thereof prior to issuing a full power license. The Petition was supplemented by the Petitioner on February 11, 1985 and March 28, 1985. The Petitioner repeated its request that the NRC should review potential sources of interim supplemental cooling water and suggested that interim sources be considered as permanent alternatives to the currently approved source of supplemental cooling water, specifically, the Point Pleasant Diversion Project.

Upon review of the information available pertaining to the Petitioner's request, the Director of the Office of Nuclear Reactor Regulation has denied the Petition. The reasons for the denial are fully described in a "Director's Decision Under 10 CFR 2.2.6" (DD-85-8) which is available for public inspection in the Commission's Public Document Room located at 1717 H Street NW, Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania.

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Bethesda, Maryland, this 17th day of May 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-12452 Filed 5-22-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Co., Callaway 1; Issuance of a Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision pursuant to 10 CFR 2.206 concerning a petition filed by Billie Garde on behalf of the Concerned Citizens About Callaway and others. The Petitioner requested that the Commission suspend the low-power license for Callaway Unit 1 pending an investigation of the allegations set forth in the letter and the completion of any necessary reinspections of the plant as a result of problems identified during the investigation. The allegations concern primarily improper construction practices and other improper conduct by plant workers such as a drug or alcohol abuse on site.

Upon consideration of the Petitioners' request, the staff has concluded that the Callaway facility has operated and may continue to operate without endangering the public health and safety, and has thereby denied the Petitioners' request. The reasons for this decision are more fully explained in a "Director's Decision under 10 CFR 2.206" (DD-85-07) issued today which is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and in the local public document room at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

A copy of the decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, takes review of the decision within that time.

Dated at Bethesda, Maryland, this 17th day of May 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-12454 Filed 5-22-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-396]

Renewal of Facility Operating License; University of Virginia

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. R-123 for the University of Virginia (the licensee) which renews the license for operation of the CAVALIER training reactor located in Charlottesville, Virginia. The facility is a non-power reactor that has been operating at power levels not in excess of 100 watts (thermal). The renewed Operating License No. R-123 will expire twenty years from the date of issuance.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on August 2, 1984 at 49 FR 31017. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Safety Evaluation Report (NUREG-1119) for the renewal of Facility Operating License No. R-123 and has, based on that report, concluded that the facility

can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission also has prepared an Environmental Assessment, dated May 1, 1985, for the renewal of Facility Operating License No. R–123 and has concluded that this action will not have a significant effect on the quality of the human environment. The Notice of Finding of No Significant Environmental Impact was published in the **Federal Register** on May 16, 1985 at 50 FR 20512.

For further details with respect to this action, see: (1) The application for amendment dated June 22, 1984, as supplemented, (2) the Finding of No Significant Environmental Impact, (3) Amendment No. 4 to Operating License R–123, (4) the Commission's related Safety Evaluation Report (NUREG–1119), and (5) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies of NUREG–1119 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Bethesda, Maryland, this 17th day of May 1985.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Divison of Licensing.

[FR Doc. 85–12453 Filed 5–22–85; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Postal Rate Commission Visits

May 20, 1985.

The members of the Postal Rate Commission and staff will visit the *Baltimore Sun*, 501 North Calvert Street, Baltimore, Maryland at 10:00 a.m. on May 29, 1985, and the *Virginian Pilot and Ledger Star*, 150 West Brambleton Avenue, Norfolk, Virginia at 10:30 a.m. on June 3, 1985.

The Commission will view the operations of both newspapers with emphasis on their total market coverage programs. Persons interested in joining the visits should contact Ms. Dianne Loftus at (703) 620–9500. Since capacity for the tours is limited, please make reservations as soon as possible.

Charles L. Clapp,

Secretary.

[FR Doc. 85–12518 Filed 5–22–85; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–23694; 70–7107]

Central Power and Light Co.; Proposal To Purchase Railroad Cars

May 15, 1985.

Central Power and Light Company ("CPL"), P.O. Box 2121, Corpus Christi, Texas 78403, a subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration pursuant to sections 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act").

CPL proposes to purchase 45, 4,000 cubic foot, 100 ton hi-side gondola railcars from the FMC Marine and Rail Equipment Division of FMC Corporation. The purchase price of the railcars is $36,900 per railcar, f.o.b. Denver, Colorado. CPL will purchase the railcars out of its operating revenues. The railcars will be used by CPL primarily to transport coal from mines located in Colorado to CPL's Coleto Creek electric generating plant located in Fannin, Texas.

The application-declaration and any further amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 10, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–12489 Filed 5–22–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23691; 70–7110]

CNG Energy Co.; Proposal To Enter Into Marketing Contract With Non-Affiliated Manufacturer of Gas Meters

May 14, 1985.

CNG Energy Company ("Energy"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a subsidiary of Consolidated Natural Gas Company, a registered holding company, has filed an application-declaration with this Commission pursuant to sections 9(a), 10, 11(b), and 13(b) of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 90 and 91 thereunder.

Energy proposes to contract with Hexagram Inc. ("Hexagram") whereby Energy would have exclusive marketing rights in the United States and Canada for a system of electronic devices, manufactured and assembled by Hexagram or its manufacturings licensee. Together these devices make the reading of gas or electric meters quicker and more accurate. They permit an inside meter to be read and the results recorded electronically from outside a dwelling while simultaneously recording the meter's number, service address, and other information. The devices are also capable of signaling when a meter has been subject to malfunction or tampering.

Energy's affiliate, The East Ohio Gas Company ("East Ohio") assisted in the development of the prototypes and the field testing of them. In return East Ohio received a 4% royalty agreement which applies to the manufacturer's sales price of essentially all of the devices which are sold. East Ohio has embarked on a program to outfit each of its indoor residential meters with this device. To date, approximately 30,000 have been installed and 120,000 more have been ordered for 1985. East Ohio expects than an additional 300,000 will be needed to complete the program.

East Ohio needs to insure that the production of the units it needs proceeds in a stable manner and at reasonable prices. Furthermore, it desires to secure as much royalty income as possible from the sale of these devices to other utilities.

Energy proposes to secure the marketing rights, and its start-up expenses for approximately $150,000.

There would also be minor costs of the initial marketing effort by 3 or 4 people. This money would come from Energy's own internally generated funds. In addition, Energy would make advances against production of approximately $200,000, which sum would come from utility customers' advances to Energy Company made as downpayments on purchases.

The application-declaration and any amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 11, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12487 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23692; 70-6946]

The Southern Co. and Southern Electric International, Inc.; Proposed Capital Contribution to Subsidiary

May 14, 1985.

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and its subsidiary company, Southern Electric International, Inc. ("SEI"), 3500 Piedmont Road, N.E., Suite 500, Atlanta, Georgia 30305, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to section 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

By order in this proceeding dated March 21, 1984 (HCAR No. 23253), SEI was authorized to issue and sell unsecured notes to Southern from time to time prior to April 1, 1985, with maturities of no later than December 31, 1999, in the aggregate principal amount not to exceed $1,000,000 at any one time outstanding. The companies now seek authorization for a $1,000,000 capital contribution by Southern to SEI in connection with Southern's forgiveness of SEI's outstanding debt of $1,000,000 under the notes. The purpose of the capital contribution is to enable SEI to meet certain net worth requirements in qualifying to conduct business in the State of Arkansas.

The amended application-declaration and any further amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 10, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12488 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22043; File No. SR-CBOE-84-31]

Self-Regulatory Organizations; Amended Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Foreign Currency Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 27, 1985, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission the amended proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The terms of substance of the proposed rule change are summarized below in Section II. A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Bases for, the Proposed Rule Change

The purpose of this proposed rule change is to enable the Exchange to list European-style foreign currency option contracts issued and guaranteed by The Options Clearing Corporation. The mechanics of currency option trading will be the same as equity option trading with all of the regulatory safeguards; however, there will be no Order Book Official. This rule change makes technical changes that are applicable specifically to currency option trading. These contracts will be traded by means of the Exchange's market-maker system and will have the following characteristics. Options will be introduced on six different currencies: the British pound, the Canadian dollar, the French franc, the Japanese yen, the Swiss franc and the West German mark. One option contract will cover 25,000 British pounds (BP), 100,000 Canadian dollars (CD), 250,000 French francs, 12,500,000 Japanese yen (JY), 125,000 Swiss francs (SF) and 125,000 West German marks (DM). Options will be introduced with terms of 1 to 12 months. Currency option contracts only can be exercised on the last trading day prior to the day the contracts expire.

Exercise prices for all currencies except French francs and Japanese yen will be expressed as U.S. cents per unit of underlying currency; French francs

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[1] The CBOE originally filed its proposal on December 14, 1984. Because the CBOE needed to make substantive changes to its original filing, notice of the filing was delayed until Amendment No. 1 was submitted.

will be expressed as tenths of a cent, and Japanese yen will be expressed as hundredths of a cent. For example, an exercise price of 50 represents $.50; for French francs $.05 and for Japanese yen $.005. Option premiums will be denominated in American cents per unit of the underlying foreign currency. The premium quotation will be expressed in points and decimal fractions carried to two decimal places. For each currency contract except Japenese yen, one point will equal one cent per unit of the underlying currency; for Japanese yen, one point will equal 1/100 of a cent per unit of the underlying currency. For example, a bid of "2.37" on 125,000 of West German marks equals $2,962.50 ($.0237 x 125,000 = $2,962.50). the same quotation for Japanese yen also equals $2,962.50 (.000237 x 12,500,000 = $2,962.50). One point equals $1,250 on one contract of DM, JY and SF; $250 on one contract of British pounds; and $1,000 on one contract of Canadian dollars. The following minimum fractional changes are proposed: $.0005 per British pound ($12.50); $.0001 per Canadian dollar ($10.00); $.00005 per French franc ($12.50); $.000001 per Japanese yen ($12.50) $.0001 per Swiss franc ($12.50); and $.0001 per West German mark ($12.50).

Position and exercise limits initially will be set at 25,000 contracts in the same underlying currency on the same side of the market. After experience in currency option trading has been gained, it is expected that these limits will be increased, since the markets in the underlying currencies are so large as to be built in protection against manipulation. Reports required under Rule 4.13 will be required if a position is ten percent of the limit in put and call contracts in the same underlying foreign currency on the same side of the market.

Margin for foreign currency options positions carried short in an account will be 100% of the current market value of the contract plus 2% of the product of units per foreign currency contract and the closing spot price, with an adjustment for out-of-the-money options not to be less than the option market value plus ½%. Under the proposed rule, letters of credit issued in the customer's behalf by a bank approved by the exchange may also satisfy margin requirements.

The existing exchange customer protection rules apply to foreign currency options. In addtion, in approving accounts for institutional customers, the Exchange has set forth specific information which shall be obtained, including evidence of authority for the institution to engage in currency options transactions.

The statutory basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 ("Act"), in that the proposed rule changes are designed to facilitate transactions in foreign currency options and to bring those transactions into the regulatory framework of the Act and of the Exchange's rules.s

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Formal comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by June 13, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 15, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-12482 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22040; File No. SR-OCC-85-3)

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

On April 22, 1985, the Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934. The Commission is publishing this notice to solicit public comment on the proposal.

OCC's proposed rule change enables OCC Clearing Members to use OCC's Clearing Member Trade Assignment ("CMTA") System [1] on any exchange, even if the Clearing Member is a member of the designated exchange. Present OCC rules provide that an authorizing Clearing Member may not use the CMTA procedure if it is a member of the exchange on which the trades will be effected. OCC, however, is eliminating this requirement because OCC has determined through discussions with its participant exchanges that many exchange members have chosen not to maintain an exchange floor presence and, thus, cannot execute or compare their own trades.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4 thereunder. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors,

[1] OCC's CMTA System enables an OCC Clearing Member ("authorizing Clearing Member") to authorize another OCC Clearing Member ("authorized Exchange Member") to execute and compare trades on the floor of an exchange (the "designated exchange") on behalf of the authorizing Clearing Member. The trades then clear through the OCC clearing account of the authorizing Clearing Member, who must deposit OCC margin, make OCC Clearing Fund contributions and satisfy OCC's other clearance and settlement requirements.

or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after notice is published in the **Federal Register**. Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington D.C. 20549. Copies of the submission, with accompanying exhibits, and of all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the proposal's file number and should be submitted by June 13, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: May 14, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-12481 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14523; 812-6084]

AARP Insured Tax Free Income Trust et al.; Application

May 16, 1985.

Notice is hereby given that AARP Insured Tax Free Income Trust ("Insured Trust") and AARP Money Market Trust ("Money Trust" or "Trust") (collectively, "Applicants"), 345 Park Avenue, New York, New York 10154, registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies, filed an application on April 2, 1985, requesting an order of the Commission, pursuant to section 6(c) of the Act exempting Applicants from the provisions of section 12(d)(3) of the Act to the extent necessary to permit each of their present, and any future, series of shares with the same investment objective to acquire standby commitments (also known as "puts") from broker-dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Insured Trust was organized as a Massachusetts business trust on June 8, 1984, and presently offers two funds: AARP Insured Tax Free Short Term Fund and AARP Insured Tax Free General Bond Fund (individually "Fund"). Each seeks to earn a high level of tax-free income, consistent with a portfolio of insured securities. Applicants state that the Money Trust, organized as a Massachusetts business trust on January 30, 1983, under the name Master Investment Services Fund, changed its name on February 8, 1985, to its present name. Its investment objective is to provide income that is exempt from federal income taxes, as well as liquidity, consistent with maintaining stability of capital. It pursues its objective through management of a portfolio consisting primarily of municipal securities. Money Trust currently has three funds; the application seeks exemptive relief only for AARP Tax Free Money Fund and any future series of Money Trust ("Fund") with the same investment objective of providing income that is exempt from federal taxes.

Applicants represent that the Funds have investment policies that permit each to enter into puts transactions solely to facilitate portfolio liquidity and not to protect against changes in the market price of a Fund's portfolio securities. A put, Applicants state, is right acquired by a Fund it purchases a security from a broker-dealer or other financial institution to sell up to the same principal amount of the security purchased back to the seller, at the Fund's option, at a specified price. Applicants state that the acquisition or exercisability of a put by a Fund will not affect the valuation or maturity of the underlying portfolio security. Applicants state that while other investment techniques may achive the same liquidity for taxable money market funds or tax exempt income funds, such techniques are not available to Applicants because they entail adverse tax consequences. In addition, Applicants state that puts are needed as an alternative to short-term tax exempt investments, which are not often readily available to meet short-term investment needs, such as, for example, investment pending settlement for securities purchased on a when-issued basis or pending investment in other securities. Further, municipal securities have a more limited market that most taxable secruties and their maturity dates are relatively infrequent and non-negotiable. Puts are also necessary according to Applicants, because it is not desirable for a Fund to purchase portfolio securities solely to develop a regular maturity schedule; puts are needed, too, so that each Fund will at all times possess the requisite liquidity without sacrifice of yield or value. Finally, Applicants state with respect to the Insure Trust, puts will enable it to eliminate from the Insured Trust's portfolio any securities for which it is unable to secure required insurance.

Applicants represent that each put: (1) Will be in writing and will be physically held by the Funds' custodian; (2) will be exercisable by the Funds, solely at the Funds' option, at any time prior to the maturity of the underlying security; (3) will provide the Funds with and unconditional and unqualified right to exercise the put; (4) will be entered into only with banks or securities dealers which in the opinion of the Funds' investment adviser, present minimal credit risks; (5) will not be transferable, although municipal obligations subject to puts could be sold to third parties at any time and, even though the puts remain outstanding; and (6) with respect to the two current series of Insured Trust and any future series of trusts whose investment objective is to provide income exempt from federal taxes, the exercise price will be the Fund's acquisition cost of the underlying security (excluding any accrued interest which the Fund paid on such acquisition) less any amortized market premium or plus any amortized or original issue discount during the period the Fund owns the security, plus all interest accrued on the security since the last interest payment date during the period it was owned by the Fund, except that if the exercise price of the put so calculated in this manner is greater than the market value of the underlying security, the exercise price of the put will be the market value of the underlying security. With respect to the Money Fund and any future money market series of either Trust the objective of which is to provide income exempt from federal income taxes, the exercise price of the put will be the Fund's acquisition cost of the municipal obligation subject to the put (excluding any accrued interest which the Fund paid upon purchase) less any amortized market premium or plus any amortized market or original issue discount during the period the Fund owned the obligation, plus all interest accrued on the underlying obligation since the most recent interest payment date during the period the Fund held the municipal obligation, except that if the market price of the security subject to such put is less than the exercise price of the put, such security will ordinarily be valued at such exercise price. Applicants state that puts may be available without the payment of any direct or indirect

consideration. It deemed necessary or advisable, Applicants will pay for puts either separately in cash or by paying a higher price for the underlying security. Applicants intend that the total amount "paid" in either manner for outstanding puts held by a Fund will not exceed ½ of 1% of the value of the total assets of such fund calculated immediately after any put is acquired.

Applicants state that during the term of a put, it is difficult to evaluate the likelihood of exercise or the potential benefit to Applicants should the put be exercised. Therefore, Applicants' Trustees will determined that the "fair value" of the puts will be zero, regardless of whether any direct or indirect consideration was paid. Applicants state that, where it has paid for a put, the cost will be reflected as an unrealized loss for the period during which the put is held. Applicants also represent that the maturity of a Fund's portfolio security will not be considered shortened or otherwise affected by any put to which such security is subject.

Applicant submits that the requested exemption to permit the Funds to acquire puts from brokers or dealers is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants assert that a Fund's net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve each Funds' net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve each Fund's liquidity and ability to meet redemptions. Applicants have no assurance that puts will be available nor have Applicants assumed that such puts will continue to be available under all market conditions.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 10, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12486, Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14524; File No. 812-5991]

Technology Fund, Inc, et al.; Application for an Order in Connection With Purchase of Securities From Affiliated Banks

May 16, 1985.

Notice is hereby given that Technology Fund, Inc., Kemper Total Return Fund, Inc., Kemper Growth Fund, Inc., Kemper Summit Fund, Inc., Kemper Income and Capital Preservation Fund, Inc., Kemper Money Market Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Option Income Fund, Inc., Kemper High Yield Fund, Inc., Cash Equivalent Fund, Inc., Kemper U.S. Government Securities Fund, Inc., Kemper International Fund, Inc., Kemper Government Money Market Fund, Inc., Tax-Exempt Money Market Fund, Inc., Kemper California Tax-Free Income Fund, Inc., Investment Portfolios, Inc. (the "Fund Applicants", together with any future investment companies for which the Adviser Applicants may serve as investment advisers, principal underwriters, and/or sponsors, "Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end management investment company, and Kemper Financial Services, Inc., Kemper Murray-Johnstone International, Inc. and Kemper Sales Company (the "Adviser Applicants", together with the Fund Applicants, "Kemper"), filed an application on November 23, 1984, and amendments thereto on March 25 and April 25, 1985. The application requests an order of the Commission pursuant to sections 17(b) of the Act exempting from sections 14(a)(1) and 17(a)(2) certain purchase and sale transactions between the Funds and certain banks, bank holding companies or affiliates thereof which may directly or indirectly own, control or hold five percent or more of the outstanding voting securities of any of the Funds ("Affiliated Banks"). The requested order would cover transactions between Affiliated Banks and any of the Funds which involve either money market instruments of an Affiliated Bank that is one of the 50 largest United States banks (measured by deposits), their bank holding companies or affiliates thereof, or tax exempt obligations ("Covered Transactions"). For purposes of the application, money market instruments are short-term instruments maturing in one year or less from the time of purchase, including but not limited to certificates of deposit, bankers acceptances, and commercial paper. Applicants further request an order pursuant to section 6(c) of the Act exempting from section 17(e)(1) of the Act, any Affiliated Bank which receives compensation where it has acted as agent for the Funds in connection with Covered Transactions. In addition, Applicants request that the order requested be made applicable to all investment companies for which the Adviser Applicants in the future may serve as investment adviser and/or principal underwriter and/or sponsor. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the Complete text of those of its provisions from which the Applicants request exemption.

According to the application, most of the Fund Applicants are currently sold to all types of investors, both individual and institutional. However, several of the Fund Applicants, mainly money market funds, can be used by institutional investors, including banks investing funds on behalf of accounts for which the banks act in an agency, trustee or other fiduciary capacity. Banks acting in those capacities, Applicants represent, normally purchase shares of such Funds through a "master" account, pursuant to which the shares issued by the Funds are registered in the name of the bank (or its nominee). A bank's holdings of shares in these money market funds can fluctuate significantly on a daily basis, and thus, from time to time, the number of shares held for its accounts by a bank in a "master" account may exceed five percent of a Fund's outstanding voting shares. Applicants state that where a bank holds legal title to more than five percent of the outstanding shares of a Fund, the bank may be deemed an "affiliated person" of that Fund. Applicants further state that the Commission has taken the position that registered investment companies may be deemed to be affiliates of each other where they share common officers, common directors, or common investment advisers. Applicants state that although they disagree with this interpretation, they assume for the purposes of the application that the Funds are affiliates of each other, and that, as a result, a bank that is an

affiliate of one of the Funds is an affiliate of all of the Funds. Applicants state that the provisions of section 17(a)(1) and 17(a)(2) of the Act prohibit Affiliated Banks from engaging in any Covered Transactions with the Funds with which they are affiliated. If the Funds are deemed affiliates of one another, then the provisions of sections 17(a)(1) and 17(a)(2) of the Act prohibit all Affiliated Banks from engaging in Covered Transactions with any of the Funds. Applicants assert that an Affiliated Bank would be prohibited from accepting any consideration whatsoever in connection with a brokerage transaction where it acted as agent for a Fund.

According to the application, in accordance with Kemper's internal operating procedures, money market instruments issued by banks may not be purchased for the portfolio of any Fund unless the bank is on Kemper's "approved list" of banks, which is based on strict credit and financial statement criteria established by Kemper. The criteria and the list are reviewed periodically by the Fund's management. Applicants state that they have adopted internal control procedures requiring that banks that would otherwise qualify for Applicants' "approved list" of banks whose money market instruments and repurchase agreements may be purchased for the Funds' portfolios be either removed from the list or eliminated from consideration for inclusion on the list when they have been identified as a possible affiliated person of one of the Funds.

According to the application, at the present time, there are approximately 50 foreign and domestic banks on the Kemper "approved list" which routinely provide the Funds with a significant amount of money market instruments. Currently the Funds have approximately $11 billion invested in money market instruments. If the Funds continue to grow, the demand for money market instruments from this limited number of banks may become even greater. Applicants assert that each bank on the "approved list" contributes substantially to the depth and liquidity of the market for money market instruments, and that if the number of banks utilizing the Funds continues to increase, resulting in more Affiliated Banks, the restrictive impact of the statutory provisions could increase to the point of adversely affecting portfolio liquidity and limit the number of investment options available to the Funds. Applicants state further that one bank that sells the Fund Applicants substantial amounts of Eruodollar CDs, high quality taxable commercial paper, and tax-exempt obligation has indicated that it will limit investments by its clients in any of the Funds in order to insure that Fund shares held in nominee form stay below five percent, so that its ability to sell those securities to the Funds is not impaired.

In addition, Applicants express concern that the prohibition in section 17(e)(1) would significantly limit the Funds' ability to select the best source available for execution of their securities transactions. Applicants state that the Funds frequently purchase or sell securities in transactions executed by commercial banks acting as agent for a particular Fund. If an Affiliated Bank acted on behalf of a Fund in connection with a securities transaction, it could not accept even the customary agent's commission from the Fund, and the Funds might, as a practical matter, be precluded from using that particular bank for securities transactions, even where the bank acting as broker might have provided the Funds with the best available execution.

Applicants assert that it is extremely unlikely that an Affiliated Bank would be able to exercise any adverse influence over the Funds and their investment advisers with respect to Covered Transactions. First, they assert that it is unlikely that a bank could induce the Funds to pay a premium for these instruments, because transactions in these securities occur in an intensely competitive well-informed market among sophisticated parties. Second, they assert that because those Funds that operate pursuant to amortized cost orders must purchase securities which are of "high quality," a bank could not induce those Funds to purchase a security of inferior or questionable quality.

Applicants represent that there is no express or implied understanding between any Applicant and any bank that is (or may become) an Affiliated Bank of a Fund that any Fund will enter into Covered Transactions with any such bank. Moreover, Applicants represent that the Funds will give no preference to any Affiliated Bank in effecting Covered Transactions unless the Fund's board of directors, board of trustees or other governing body ("Board") shall have approved such a policy and appropriate disclosure regarding that policy shall have been made in a prospectus of that Fund declared effective by the Commission. The Adviser Applicants further represent that, consistent with their fiduciary duties to the Funds, they will initiate all purchase and sale transactions between the Funds and Affiliated Banks and that such transactions will be entered into with the purpose of satisfying the respective investment objectives of the Funds.

The Applicants agree that the following conditions may be imposed in any order of the Commission granting their requested exemptive relief:

(a) The Board of each of the Funds: (1) will adopt procedures, pursuant to which covered Transactions may be affected for the Funds, which are reasonably designed to provide that all the conditions in paragraphs (b) through (f) below have complied with, (2) will review those procedures no less frequently than annually for their continuing appropriateness, and (3) will determine no less frequently than quarterly that Covered Transactions made during the preceding quarter were effected in compliance with those procedures. Those procedures will also be approved by a majority of the disinterested members of the Board of each of the Funds. The investment adviser of each Fund will implement those procedures and make decisions necessary to meet these conditions, subject to the direction and control of the Funds' Boards.

(b) No Fund will purchase money market instruments of any Affiliated Bank if, as a result, more than 5% of that Fund's total assets would be invested in the money market instruments of that Affiliated Bank

(c) The Funds (1) will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph (a) of this section, and (2) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any Covered Transactions occurred, the first two years in an easily accessible place, a written record of each Covered Transaction setting forth a descripton of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or material upon which the determinations described below were made.

(d) The security to be purchased or sold by a Fund in a Covered Transaction will be consistent with the investment objectives and policies of that Fund as recited in the Fund's Registration

Statement, and will be consistent with the interests of that Fund and its shareholders. Further, the security to be purchased or sold by that Fund will be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for that Fund and that are being purchased or sold during a comparable period of time.

(e) The terms of a Covered Transaction will be reasonable and fair to the shareholders of that Fund and will not involve overreaching of that Fund or its shareholders on the part of any person concerned. In considering whether the price to be paid or received from the security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time.

(f) The commission, fee, spread or other remuneration to be received by an Affiliated Bank acting as agent for a Fund will be reasonable and fair compared to the commission, fee, or spread or other remuneration received by other agents in connection with comparable transactions involving similar securities being purchased or sold during a comparable period of time but in no event will such fee, commission, spread or other remuneration exceed that which is stated in section 17(e)(2) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of the fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12485 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22042; File No. SR-CBOE-85-09]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Opening Rotations

On March 22, 1985, the Chicago Board Options Exchange, Inc. ("CBOE") submitted a proposed rule change pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] to amend CBOE Rule 6.2, Interpretation .01, by reversing the order of opening options series in opening rotations of equity options. The Commission solicited comments on this proposed rule change, but received none.[3]

The proposed rule change provides that Board Brokers or Order Book Officials conducting opening rotations for equity options ordinarily should open first the one or more series of options of a given class having the most distant expiration, and proceed, in sequence, to the series of options having the least distant expiration. This process should continue until all series have been opened. Currently, the opening rotations in equity options commences with the series of options of a given class having the nearest expiration, and proceeds to the series of options having the most distant expiration. This process similarly continues until all series have been opened.

In its filing, CBOE indicates that its experience has been that the most active series of options are in the near-term. CBOE further states that, by opening these series last, rather than first, it is expected that there would be less time interving between the opening rotation and the opening of trading in the most actively traded series. The exchange believes the reduction in time between opening rotation and the opening of trading in the most actively traded series will enhance price continuity. CBOE notes that reverse opening rotations have been implemented on a pilot basis for index options, and have proven to be effective. Furthermore, CBOE states that the proposed rule change is consistent with section 6(b)(5) of the Act, in that, among other things, the rule change will add to a free, open, and efficient market place.

For the reasons stated above, the Commission also believes that the proposed rule change is consistent with the requirements of the Act applicable to national securities exchanges and, in particular, section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved. For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Dated: May 15, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-12483 Filed 5-22-85; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1982).

[2] 17 CFR 240.19b-4 (1984).

[3] The proposed rule change was noticed for comment in Securities Exchange Act Release No. 21911 (March 29, 1985), 50 FR 13899 (April 8, 1985).

DEPARTMENT OF STATE

[Public Notice CM-8/858]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Safety of Navigation; Meeting

The Working Group on Safety of Navigation of the Sub-Committee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 a.m. on Thursday, June 13, 1985, in Room 6319 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting will be to prepare the U.S. position relating to the bleow listed agenda items to be considered at the 31st session of the Sub-Committee on Safety of Navigation of the International Maritime Organization to be held in London, July 8-12, 1985.

—Routing of Ships
—1972 Collision Regulations
—Standard Marine Navigational Vocabulary
—Search and Rescue
—Navigational aids and related equipment
—Information to be included in the maneuvering booklet
—Units of wind speed in meteorological messages
—Infringements of safety zones around offshore structures.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. E.J. LaRue, Jr., U.S. Coast Guard (G-WWM), Washington, DC 20593, Telephone: (202) 426-4958.

Dated: May 13, 1985.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 85-12389 Filed 5-22-85; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

[Order 85-5-80; Docket 42540]

Application of Iliamna Air Taxi, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 85-5-80) Docket 42540.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Iliamna Air Taxi, Inc. fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATE: Persons wishing to file objections should do so no later than May 31, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 42540 and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 and should be served upon the parties listed in Appendix B to the order.

FOR FURTHER INFORMATION CONTACT: Juliana M. Winters, Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-5-80 is available from our Documentary Services Division at the above address. Persons outside the metropolitan area may send a postcard request for Order 85-5-80 to that address.

Dated: May 16, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-12475 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43006]

Pan Aviation, Inc. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on June 6, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., May 15, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-12476 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-85-11]

Petition For Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 3, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 20, 1985.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24639	Florida West Airlines, Inc	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 until hush kits are installed.
24145-1	Dominicana de Aviacion	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 aircraft until hush kits are installed.
24277-1	ABCO Leasing	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 aircraft.
24333-1	ZAS Airline of Egypt	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 aircraft at U.S. airports.

[FR Doc. 85-12479 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment to be held on June 18-19, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Fifteenth Meeting Held on January 29-31, 1985 (3) Working Group Report on Changes to RTCA Document DO-181, "Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment" Dated March 1983; (4) FAA Report on Applicability of Open Systems Interface (OSI) to Mode S Data Link; (5) MITRE Report on Further Considerations of OSI; (6) Review the

First Draft Section 2.0 to the Committee Report on Minimum Operational Performance Standards for MODE S Data Link (7) Assignment of Tasks; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 17, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 85-12480 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Supplemental Environmental Impact Statement, Broward County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement (EIS) will be prepared for a proposed highway project in Broward County, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida 32301, Telephone: (904) 681-7231.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare a SEIS for I-595 in Broward County. The document to be supplemented is the Final EIS (FHWA-Fla. EIS-78-5-F) for the Port Everglades Expressway I-595 in the city of Fort Lauderdale. The updated design of the I-595/I-95 interchange requires the modification of I-95 to the north of I-595 to the extent that the most desirable design affects the I-95/Davie Boulevard interchange. This SEIS will address the effects of changes to the I-95/Davie Boulevard interchange.

Alternatives under consideration include: (1) Taking no action; (2) widening Interstate Route 95 to the west side of its present alignment; (3) widening Interstate Route 95 to the east side of its present alignment. In conjunction with Alternatives 2 and 3 above, alternatives for the Davie Boulevard crossroad will consider (4) carrying Davie Boulevard over Interstate Route 95 and the adjacent Seaboard System Railroad; and (5) carrying Interstate Route 95 over Davie Boulevard with an at-grade crossing of Davie Boulevard at the Seaboard System Railroad.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project has contacted State, Federal, County, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings are being held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The Draft Supplemental EIS will be made available for public and agency review and comment prior to the public hearing. There will be no scoping meeting for this project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued on: May 15, 1985.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 85-12511 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held June 12 and 13, 1985.

On June 12, the Committee will meet in full session from 9:30 a.m. to 4:30 p.m. in room 2230. The agenda will consist of staff briefings on (1) Traffic Safety Programs overview, (2) Safety Belt Usage program, and (3) Emergency Medical Services program. On June 13, the Committee will meet in full session from 9:00 a.m. to 12:00 noon in room 2230. The agenda will include a staff briefing on Federal Highway programs and Committee discussion on existing Subcommittees and proposed Subcommittees. Starting at 1:15 p.m., the Committee will hold subcommittee sessions: (1) Safety Belt Subcommittee in room 4234 and (2) Emergency Medical Services Subcommittee in room 6236, and return to a full Committee session at 2:00 p.m. for reports on future subcommittee activities.

All meetings will be held in the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C. Attendance is open to the interested public, but may be limited to the space available. Members of the public may present a written statement to the Committee at any time. This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, SW., Room 5221, Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C., on May 20, 1985.

Carole Guzzetta,

Director, Executive Secretariat.

[FR Doc. 85-12474 Filed 5-22-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: May 17, 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, 2101 Constitution Avenue NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0145
Form Number: IRS Form 2439
Type of Review: Extension
Title: Notice of Shareholder of Undistributed Long-Term Capital Gains

OMB Number: 1545–0865
Form Number: IRS Form 8264
Type of Review: Revision
Title: Application for Tax Shelter Registration Number

OMB Number: 1545–0137
Form Number: IRS Form 2032
Type of Review: Revision
Title: Contract Coverage Under Title II of the Social Security Act

Clearance Officer: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Comptroller of the Currency

OMB Number: New
Form Number: None
Tupe of Review: New
Title: Farm Report

Clearance Officer: Eric Thompson (202) 447–1177, Comptroller of the Currnecy, 6th Floor, L'Enfant Plaza, Washington, D.C. 20219.

OMB Reviewer: Robert Neal, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Office of the Secretary

OMB Number: New
Form Number: None
Type of Review: New
Title: Repurchase Transactions Survey of Primary Government Securities Dealers.

OMB Number: New
Form Number: TD F 90–22.25
Type of Review: New
Title: Nicaraguan Trade Control Regulations

Clearance Officer. Joseph Maty, (202) 535–6020, Office of the Secretary, Room 7221, ICC Building, 1201 Constitution Avenue NW., Washington, DC 20220.

OMB Reviewer: Robert Neal, (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. 85–12367, Filed 5–22–85; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination; Amendment

On March 14, 1983, notice was published at page 10791 of the **Federal Register** (48 FR 10791) by the United States Information Agency pursuant to Pub. L. 98–259 relating to the exhibit "China: 7,000 Years of Discovery." A new exhibition site has been added to the itinerary published in the original notice. The exhibit will be on display at the Boston Museum of Science beginning on or about June 1, 1985, to on or about December 1, 1985.

Public notice of this amendment to the notice is ordered to be published in the **Federal Register.**

Dated: May 20, 1985.

Thomas E. Harvey,
General Counsel and Congressional Liaison.
[FR Doc. 85–12435 Filed 5–22–85; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 100
Thursday, May 23, 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 ELECTION COMMISSION

[Federal Register No. 85-11993]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 23, 1985, 10:00 a.m.

THE FOLLOWING ITEM HAS BEEN WITHDRAWN FROM THE AGENDA: Proposed statement of reasons to accompany notification of Commission's final determination regarding January 28, 1985, statement of net outstanding campaign obligations of the Mondale for President Committee, Inc.

* * * * *

THE MEETINGS SCHEDULED FOR THE DATES OF MAY 29 AND MAY 30, 1985: Have been cancelled.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85-12532 Filed 5-21-85; 10:28 am]

BILLING CODE 6715-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, May 28, 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. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Federal Reserve Bank and Branch director appointments.
3. Building proposals regarding the Los Angeles Branch of the Federal Reserve Bank of San Francisco.
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: May 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12516 Filed 5-21-85; 8:51 am]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-23]

TIME AND DATE: 10:00 a.m., Wednesday, May 29, 1985.

PLACE: Room 331 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints: (a) Certain key telephone systems. (Docket No. 1195).
5. Investigations 701-TA-248 [Preliminary] and 731-TA-259 and 260 [Preliminary] (Offshore platform jackets and piles from the Republic of Korea and Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary*, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12494 Filed 5-20-85; 4:52 pm]

BILLING CODE 7020-02-M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published.]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 30, 1985.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting scheduled for Tuesday, May 7, 1985, at 10:00 a.m.

Freedom of Information Act Appeal.

Chairman Shad and Commissioners Marinaccio and Peters determined that Commission business required the above determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Martin at (202) 272-2179.

John Wheeler,

Secretary.

May 16, 1985.

[FR Doc. 85-12484 Filed 5-21-85; 8:51 am]

BILLING CODE 8010-01-M

5

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

SUMMARY: Interested members of the public are invited to attend and observe the meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

(Room 503)

I. Call to Order—Chairman's Opening Remarks
II. Comprehensive Strategy
III. Solicitation Options
  1. Coal Gasification
IV. Great Plains Price Guarantee Agreement

V. Resolution to Close Meeting

Closed Session

(Room 403)

VI. Great Plains Price Guarantee Agreement—Confidential and Proprietary Material

TIME AND DATE: 2:30 p.m., May 28, 1985.

PLACE: 2121 K Street, NW., Rooms 403 and 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. March Coleman, Assistant General Counsel—Corporate & Litigation, at (202) 822–6571.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant Secretary.

May 21, 1985.

[FR Doc. 85–12548 Filed 5–21–85; 12:12 pm]

BILLING CODE 0000-00-M

federal register

Thursday
May 23, 1985

Part II

National Occupational Information Coordinating Committee

Occupational Information Announcements; Notice

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

Occupational Information Announcements

ACTION: Notice.

SUMMARY: Published herewith attached are two announcements of the National Occupational Information Coordinating Committee (NOICC). Attachment I is a revised Interagency Agreement of the NOICC. This agreement replaces the interagency agreement of the NOICC signed on January 24, 1978, and published in the **Federal Register** on February 7, 1978 (43 FR 5348). Attachment II is the announcement concerning NOICC policies and its grants program.

The basic mission of NOICC is as follows:

(1) Improve coordination and communication concerning the use of occupational information among producers and users of these data;

(2) Develop and implement, in cooperation with State and local agencies, an occupational information system designed to meet the common occupational information and data needs of education and training programs at the national, State, and local levels;

(3) Give special attention to the labor market information needs of youth and adults, including the implementation of career information delivery systems; and

(4) Assist State Occupational Information Coordinating Committees.

FOR FURTHER INFORMATION CONTACT: Russell B. Flanders, Executive Director, National Occupational Information Coordinating Committee, 2100 M Street NW., Suite 156, Washington, D.C. 20037, (202) 653-5665.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1976 (Pub. L. 94-482) amended the Vocational Education Act of 1963 and established a National Occupational Information Coordinating Committee and State Occupational Information Coordinating Committees. An Interagency Agreement specifying the purpose of NOICC and designed to activate working arrangements was signed by the statutory members on March 2, 1977.

A revised agreement among the agencies was signed on January 24, 1978, that incorporated those provisions mandated in the Youth Employment and Demonstration Projects Act of 1977 (Pub. L. 95-93). The Interagency Agreement presented in Attachment I takes into consideration the provisions of the most recent Federal legislation cited therein as it relates to NOICC mandates.

The Carl D. Perkins Vocational Education Act of 1984 (Pub. L. 98-524) reestablished NOICC. This Act requires the Secretary of Education to transfer funds to NOICC to carry out its responsibilities each fiscal year. The Job Training Partnership Act of 1982 (Pub. L. 97-300) adds to NOICC's responsibilities and authorizes the Secretary of Labor to transfer funds to NOICC for its operation. NOICC is an independent organization contained in both the Department of Labor and Department of Education appropriations.

The policies announced in Attachmaent II apply to NOICC relative to the development of an occupational information system for which the Committee is responsible. The occupational information system is to be implemented through State Occupational Information Coordinating Committees (SOICCs). NOICC is required to assist SOICCs in that implementation, and the grants program announced in Attachment II of this notice applies only to SOICCs.

Signed at Washington, D.C., this 16th day of May 1985.

Russell B. Flanders,

Executive Director, National Occupational Information Coordinating Committee.

Attachment I—Interagency Agreement of the National Occupational Information Coordinating Committee

The Vocational Education Act of 1963, as amended in 1976, established the National Occupational Information Coordinating Committee (NOICC). This Agreement replaces the NOICC Interagency Agreement executed on January 24, 1978. The Committee's present mandates are set forth in section 422 of the Carl D. Perkins Vocational Education Act of 1984 (Pub. L. 98-524) and sections 125, 463 and 464 of the Job Training Partnership Act (JTPA) of 1982 (Pub. L. 97-300). The statutory members of NOICC agree to carry out the intent of Congress as set forth in these Acts.

Statutory members of the Committee are the:

- Assistant Secretary for Vocational and Adult Education, Administrator of the National Center for Education Statistics, Commissioner of the Rehabilitation Services Administration, Director of the Office of Bilingual Education and Minority Language Affairs, U.S. Department of Education;

Commissioner of Labor Statistics, Assistant Secretary for Employment and Training, U.S. Department of Labor;

Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture;

Assistant Secretary for Economic Development, U.S. Department of Commerce;

Assistant Secretary for Manpower, Installations and Logistics, U.S. Department of Defense.

The members agree to the following paragraphs and to the . . . Memoranda of Understanding on Administrative Support Services and on Delegation of Authority.

Note. The Memoranda of Understanding are not provided herewith.

1. NOICC shall improve coordination and communication concerning the use of education and employment data among vocational education, employment and training and other appropriate personnel as indicated in the Acts cited above. NOICC shall also assist the Department of Defense in developing and implementing an occupational information system for recruiting, mobilization, and career and transition counseling purposes.

2. NOICC shall develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education and employment and training programs at the national, State and local levels.

3. NOICC shall provide training, technical assistance and fiscal support to State Occupational Information Coordinating Committees (SOICCs) in the development, maintenance and use of: (a) Occupational information systems for planners and administrators of education and training programs and (b) career information delivery systems for persons engaged in career exploration and decisionmaking. Special emphasis shall be placed on supporting the automation of such systems.

4. NOICC shall conduct research and demonstration projects designed to improve any aspect of occupational and career information delivery.

5. NOICC shall publish at least annually a report on the status of occupational information capabilities at the State and national levels.

6. NOICC will utilize funds for these and other activities consistent with fulfilling the requirements of the Job Training Partnership Act and the Vocational Education Act. NOICC may use all funds available to it under the Acts to carry out any of its functions and responsibilities authorized by law.

7. The statutory members of NOICC agree that each may delegate authority

to a person on his or her staff to serve on a Technical Steering Group. The Steering Group will carry out the functions assigned to it in accordance with Memoranda of Understanding agreed to by the statutory members. These memoranda may be revised or new ones developed, as needed, and implemented with the agreement of the statutory members.

8. Any new members that are added to NOICC by legislation may sign the Interagency Agreement, without requiring new signatures from existing members, as long as all other conditions remain unchanged.

/s/ Janet L. Norwood,

Commissioner, Bureau of Labor Statistics, U.S. Department of Labor, 1/18/85.

/s/ Emerson J. Elliott,

Administrator, National Center for Education Statistics, U.S. Department of Education, 2/10/85.

/s/ J. Bonnie Newman,

Assistant Secretary for Economic Development, U.S. Department of Commerce, 3/15/85.

/s/ George A. Conn,

Commissioner, Rehabilitation Services Administration, U.S. Department of Education, 3/7/85.

/s/ Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, 3/21/85.

/s/ Frank C. Casillas,

Assistant Secretary for Employment and Training, U.S. Department of Labor, 1/25/85.

/s/ Robert M. Worthington,

Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, 1/31/85.

/s/ Lawrence J. Korb,

Assistant Secretary for Manpower, Installations and Logistics, U.S. Department of Defense, 2/28/85.

/s/ Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Language Affairs, U.S. Department of Education, 3/19/85.

March 21, 1985.

Attachment II—National Occupational Information Coordinating Committee Policies and Grant Program

Policies of NOICC

Occupational information that must comprise a national occupational information system (OIS) is produced by many different agencies and organizations to serve various needs. Since NOICC seeks to avoid duplication, many data sources will be integrated into and become component parts of the OIS. Accordingly, it is vital that these efforts be as comparable and compatible as possible. This means that the terminology and procedures must be as uniform as possible; that results of data analysis must be shared to avoid duplication of work; and that dissemination of information must be efficient, timely, and applicable to user needs.

The development of a completely integrated OIS requires the efforts of many organizations at all governmental levels. It will be developed in stages as policy decisions are rendered, as existing subsystem components are standardized or modified and as new subsystem components are created. Several NOICC policies have been made relative to the development of the OIS and career information delivery systems. The policies are:

A. NOICC will not be a data collection agency. NOICC shall coordinate such efforts and recommend changes relative to data collection, as well as the use of data, principally among the agencies represented by the statutory members of NOICC.

B. NOICC considers the Standard Occupational Classification system published by the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, as the standard overall classification system for occupational data.

C. NOICC adopts the Occupational Employment Statistics Survey program of the U.S. Department of Labor as the standard principal source of current occupational employment data at the local, State, and national level.

D. In developing the occupational supply model of the OIS, NOICC will utilize data and information from available sources such as the Employment Service and Unemployment Insurance programs of the State Employment Security Agencies and the data reporting systems of the National Center for Education Statistics.

E. NOICC encourages the implementation of statewide career information systems for delivery of occupational and educational information used for career choice and job search purposes. The information used in these systems should be obtained from the OIS to the maximum possible extent.

F. In adopting the use of data from established programs, NOICC also adopts the confidentiality standards of each of the programs as established by the agency administering the program. For example, the confidentiality standards established by the Bureau of Labor Statistics for the Occupational Employment Statistics program must be observed.

G. The State Occupational Information Coordinating Committees (SOICCs) are responsible for the quality of data and information included in occupational information systems implemented by the SOICCs.

NOICC policies will be published in the **Federal Register** as they are changed or amended by NOICC.

Grants Programs

NOICC accomplishes mandates through grants to State Occupational Information Coordinating Committees as follows:

A. NOICC will provide basic assistance grants to support SOICCs, SOICC staff leadership, OIS implementation and training and other activities covered by the Job Training Partnership Act of 1982 and the Carl D. Perkins Vocational Education Act of 1984.

B. NOICC will provide special purpose grants to SOICCs on a competitive basis to support research, development and demonstration activities related to the mandates of these two Acts.

The NOICC grant application procedures will be provided to SOICCs through NOICC administrative memorandums.

[FR Doc. 85-12374 Filed 5-22-85; 8:45 am]

BILLING CODE 4510-23-M

federal register

Thursday
May 23, 1985

Part III

Environmental Protection Agency

40 CFR Part 799

Diethylenetriamine; Identification of Specific Chemical Substance and Mixture Testing Requirements; Final Rule

Diethylenetriamine; Proposed Test Rule; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42012B; TSH-FRL 2815-5b]

Identification of Specific Chemical Substance and Mixture Testing Requirements; Diethylenetriamine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of diethylenetriamine (DETA; CAS No. 111-40-0) consisting of (1) oral subchronic (90-day) toxicity in at least one mammalian species, (2) dermal absorption in the same mammalian species used for the subchronic testing, (3) chemical fate under aerobic conditions, and (4) mutagenicity (including tests for both gene mutations and chromosomal aberrations). This Phase I final test rule constitutes EPA's final decision concerning the testing needs for DETA as recommended by the Interagency Testing Committee for all effects except carcinogenicity.

Elsewhere in this issue of the **Federal Register**, EPA is proposing under section 4(a) of TSCA that DETA be tested in chronic oncogenicity bioassays, if this substance exhibits positive results in certain of the mutagenicity tests required in this final rule.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1:00 p.m. eastern daylight time on June 6, 1985. This rule shall become effective on July 8, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1982 (47 FR 18386), EPA issued a proposed rule under section 4(a) of TSCA to require testing of DETA for a variety of health effects and for chemical fate under both aerobic and anaerobic conditions. Today, under section 4(a) of TSCA, EPA is promulgating a final Phase I test rule requiring health effects testing and chemical fate testing (under aerobic conditions only) for DETA.

I. Introduction

This notice is part of the overall implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) which contains authority for EPA to require development of data relevant to assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Administrator finds that:

> (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
> (B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package [chloromethane and chlorinated benzenes, published July 18, 1980 (45 FR 48510)] and to the second package [dichloromethane, nitrobenzene, and 1,1,1-trichloroethane, published June 5, 1981 (46 FR 30300)] for in-depth discussions of the general issues applicable to this action.

II. Background

A. Profile

DETA, CAS No. 111-40-0, is an alkaline, hygroscopic, viscous liquid. The estimated annual production of DETA in 1982 ranged from 26 to 32 million pounds. The primary uses of DETA are for the production of paper wet-strength resins, epoxy-curing agents, chelating agents, lubricating oil and fuel additives, surfactants, and corrosion inhibitors. DETA also has a minor use as a decontaminant for military chemical agents. As discussed in detail in the Agency's Diethylenetriamine Support Document, which is available from the TSCA Assistance Office at the address given above, DETA reacts with CO_2 in the air to form carbamates which precipitate from solution. For this reason, DETA is manufactured in an essentially closed system and is transported under a nitrogen atmosphere. Due to DETA's reactivity with air and to the conditions used during its processing, the Agency concludes that it is unlikely that significant emissions of DETA to the atmosphere will occur. On the other hand, EPA believes that significant releases of DETA to water will occur during manufacturing and processing operations. EPA believes that occupational exposure to DETA (primarily by the dermal route) occurs during manufacturing, storage, transport, processing, and clean-up activities, and that the most likely source of consumer exposure to DETA consists of dermal contact with epoxy-resin products containing the substance as a curing agent.

B. ITC Recommendations

The Interagency Testing Committee (ITC), organized under section 4(e) of the Toxic Substances Control Act (TSCA), included DETA in its Eighth Report to the Administrator of EPA on

April 24, 1981, published in the Federal Register of May 22, 1981 (46 FR 28138). The ITC designated DETA as a priority chemical and recommended that it be tested for health effects, to include chronic effects, reproductive effects, and teratogenicity. The ITC based its designation of DETA on the substance's known biological effects, the reported production in excess of 10 million pounds per year, and the National Occupational Hazard Survey (Ref. 1) estimates that 63,000 workers are potentially exposed to DETA.

C. Proposed Rule

EPA issued a proposed rule published in the **Federal Register** of April 29, 1982 (47 FR 18386) in response to the testing recommendations by the ITC on DETA.

1. *Test Requirements.* The proposed rule requires that DETA be tested for:

a. Subchronic (90-day) health effects in at least two mammalian species

b. Mutagenicity (gene mutation and cytogenicity)

c. Chemical fate (under both aerobic and anaerobic conditions).

The EPA based its proposed testing requirements on the authority of section 4(a)(1)(A) of TSCA.

2. *Findings.* The Agency found that the manufacture, processing, use, and disposal of DETA may present an unreasonable risk of injury to human health, due to subchronic and mutagenic effects, for the following reasons:

a. There are existing data which indicate a potential human health hazard from DETA with respect to these effects.

b. EPA believes that persons are exposed to DETA in the workplace, in using consumer products, and as a result of release of DETA into the environment.

c. The Agency also found that there are insufficient data to predict the subchronic and mutagenic effects of DETA, and testing of DETA is necessary to develop such data.

In addition, EPA found that the manufacture, processing, use, and disposal of DETA may present an unreasonable risk to human health, due to oncogenic effects elicited by the *N*-nitrosamine derivative of DETA, for the following reasons:

d. Many *N*-nitrosamines have been shown to be carcinogenic. There are existing data which indicate a theoretical potential for the conversion of DETA to a *N*-nitrosamine in the environment and that persons may be exposed to this *N*-nitrosamine as a result of the release of DETA to the environment.

e. The data are insufficient to predict the existence of an *N*-nitrosamine resulting from DETA release to the environment, and chemical fate testing (under both aerobic and anaerobic conditions) is needed to develop such data.

3. *Differences from ITC's Recommendations.* In the proposed rule for DETA, the EPA also presented the reasons why the Agency's proposed testing requirements for DETA differed from the ITC recommendations for the substance, as follows:

a. The Agency proposed subchronic testing rather than full-lifetime chronic studies because the Agency believes that properly conducted 90-day studies, with comprehensive histopathology, may be used as surrogates for the lifetime studies to characterize all effects other than oncogenicity and certain other age-related effects. The available data provided no sound basis for supension of DETA's ability to cause oncogenic or age-related effects.

b. EPA did not propose testing for reproductive and teratogenic effects, because, in the Agency's judgment, the available data (although limited) did not suggest a potential for these effects.

The analysis and finding on which the above determinations were based are presented in the Diethylenetriamine Support Document, which is available from the Office of Toxic Substances' TSCA Assistance Office. The ITC's recommendations and EPA's proposed testing requirements are summarized below:

Characteristic	ITC recommendation	EPA proposed testing
Chronic effects	X	X (1)
Reproductive effects	X	
Teratogenicity	X	
Mutagenicity		X
Chemical fate		X

[1] Subchronic in lieu of full chronic test.

4. *Issues for Comment in Proposed Rule.* In the proposed test rule for DETA, the Agency raised the following major issues for public comment:

a. Should toxicity data on other ethyleneamines (such as ethylenediamine and triethylenetetramine) be used as a surrogate for DETA toxicity?

b. What protocols should be used for the chemical fate testing of DETA aimed at quantifying the extent of the biological (or chemical) transformation of DETA to an *N*-nitrosamine derivative of DETA by microorganisms present in water, sewage, and soil?

c. Because of difficulties involved in quantitating the dose of DETA that animals would receive in dermal subchronic (90-day) studies of DETA, is not the Agency's choice of the oral route of exposure for the required subchronic studies appropriate?

d. Although the Agency is specifying the oral route of exposure for the required subchronic (90-day) testing of DETA, the Agency is primarily concerned about dermal exposures to this chemical; would it, therefore, not be necessary to require the performance of a dermal absorption study of DETA to provide data needed to evaluate the risks posed by dermal exposures?

e. Although the ITC recommended full-lifetime chronic testing of DETA, would not subchronic (90-day) toxicity testing, including the comprehensive histopathological examination of body tissues, be adequate to detect all DETA-related effects that would be observed in full-lifetime toxicity testing, except for those effects requiring long latency periods?

D. New Developments Following Proposed Rule

The proposed rule for DETA (47 FR 18386; April 29, 1982) indicated that, if interested parties requested an opportunity for oral comments on the proposed rule, then the Agency would hold a meeting on this rule in Washington, D.C., on July 13, 1982. Since no requests were received by the EPA for the presentation of oral comments on this rule, no public meeting was held. A meeting between representatives from the Union Carbide Corporation and members of the scientific staff of the Office of Toxic Substances of EPA was held on September 10, 1982, to discuss mutagenicity studies of DETA (Ref. 3) performed for that manufacturer, which are discussed in detail in Unit III. F.

1. *Industry Comments.* The Dow Chemical Company and the Union Carbide Corporation submitted the following additional relevant studies to the Agency together with these firms' comments, dated June 25, 1982, on the proposed test rule for DETA:

a. Structural and Biological Activity Relationships Between Ethylenediamine and Diethylenetriamine (included preliminary absorption, distribution, metabolism, and pharmacokinetics studies of ^{14}C-radiolabelled DETA and ethylenediamine following oral or endotracheal administration to male rats).

b. A brief description of studies perfomed by Dow Chemical Company to determine if a *N*-nitrosamine derivative of DETA would form in an aqueous *in vitro* chemical model system.

2. *Section 8(d) Submission: June 24, 1983.* In a TSCA section 8(d) submission on DETA received by the Agency on

June 24, 1983, Union Carbide Corporation included the following additional relevant reports:

a. Pharmacokinetics and Metabolism of Diethylenetriamine in the Rat (A complete report of preliminary studies in Item 1.a.).

b. Diethylenetriamine-Commercial Dermal Carcinogenesis Study in Male C3H/HeJ Mice.

c. Diethylenetriamine-High Purity Dermal Carcinogenesis Study in Male C3H/HeJ Mice.

3. *Additional Section 8(d) Submission: March 22, 1984.* In a TSCA section 8(d) submission on DETA received by the Agency on March 22, 1984, Union Carbide Corporation included the following report and associated document:

a. Summary of Exploratory Tests at BRRC (Bushy Run Research Center) with the CHO/HGPRT (Chinese hamster ovary cells/hypoxanthine-guanine phosphoribosyltransferase locus) Test System.

b. A memorandum to Mr. D.L. Heywood, Union Carbide Corporation, from Dr. Ronald S. Slesinski, Bushy Run Research Center, describing how the results of the above study relate to various EPA guidelines and U.S. EPA Gene-Tox Program reports on this assay system.

Items 1.a. and 2.a. have been judged by the Agency as insufficient evidence that toxicity data for ethylenediamine can substitute for the required toxicity testing of DETA (see discussion in Unit III. A.).

4. *EPA Review of Submitted Bioassay Data.* The Agency has carefully reviewed the two dermal carcinogenicity bioassays of DETA (DETA-Commercial and DETA-High Purity) submitted by the Union Carbide Corporation (Items 2.b. and 2.c.), to determine if these studies were performed in a manner which would negate the need for oral subchronic (90-day) testing of DETA. The Agency has concluded that these studies are inadequate to negate the need for oral subchronic testing for the following reasons:

a. In both of the submitted studies, only male mice were used; thus, sex-related differences in response to DETA administration could not be investigated.

b. In both studies, only a single dermal dosage level of DETA was employed; thus, no dose-response relationships with respect to DETA-related effects could be investigated.

c. The Agency is requiring comprehensive histopathological examination of tissues in the required oral subchronic (90-day) testing of DETA; both of the submitted studies contain only very limited histological data.

The Agency has reviewed the data on DETA contained in Items 3.a. and 3.b., and has used these data in reaching conclusions regarding the ability of DETA to induce specific locus mutations (at the hypoxanthine-guanine phosphoribosyl-transferase locus) in Chinese hamster ovary cells (see discussion in Unit III.F.). In addition, the Agency has reviewed the information on DETA contained in Item 1.b., and has concluded that these data do not negate the necessity for chemical fate testing of DETA to determine if an *N*-nitrosamine derivative of this substance could be formed under environmental conditions (see discussion in Unit III.E.).

III. Public Comment

The comments received by the Agency in response to the proposed test rule for DETA were from the affected industry and trade association sources. The major issues identified during the comment period are discussed below.

A. Appropriateness of Using Analogue Data to Assess DETA's Toxicity

One of the major issues for which the Agency requested public comment in the proposed test rule for DETA is the appropriateness of using available toxicological information on ethylenediamine (EDA) and triethylenetetramine (TETA), proposed structural analogues of DETA, as a substitute for test data on DETA itself to assess the potential toxicological hazards posed by DETA. The two major manufacturers of DETA in the United States, the Dow Chemical Company (Dow) and the Union Carbide Corporation (Union Carbide), submitted the only comments addressing this issue. These manufacturers believe that EDA is a close structural analogue of DETA, stating that DETA may be regarded as the dimer of EDA, and that both substances contain two primary amino groups, while DETA (but not EDA) also contains a secondary amino group. Dow and Union Carbide believe that the chemical behavior of both DETA and EDA will be dominated by the presence of the two terminal primary amino groups in the substances. Furthermore, these firms point out that the physical properties which influence behavior in biological systems are also similar for the two substances: both are completely soluble in water, both form basic aqueous solutions, both are relatively nonvolatile, and both are low with respect to molecular weight. These manufacturers believe that, because of these similar chemical and physical properties, these two substances are likely to be handled similarly in biological systems.

Dow and Union Carbide submitted the results obtained from studies using ^{14}C-radiolabelled DETA and EDA and aimed at determining the excretion pattern, the tissue distribution, and the blood-level pharmacokinetics of the radioactivity observed following the oral or endotracheal administration of these radiolabelled compounds to Fischer 344 rats. In addition, the urinary radioactivity obtained following the administration of radiolabelled DETA and EDA to rats was characterized by ion-exchange chromatographic methods. Dow and Union Carbide interpret the results of these studies as indicating that DETA and EDA have the same general pattern of disposition in rats, and that DETA and its metabolites are more rapidly eliminated from rats than EDA and its metabolites. These firms submitted to the Agency the results of both a 7-day range-finding feeding study in rats of the dihydrochloride of EDA and the results of a 3-month subacute feeding study of EDA dihydrochloride in rats, and believe that an extensive toxicity testing program for DETA should be delayed until the results of further toxicological testing on EDA become available.

The Agency must disagree with the major manufacturers of DETA that the proposed toxicity testing of this substance should await further information regarding the toxic effects of EDA. While DETA and EDA are similar in that they both possess two primary amino groups, they are vastly different with respect to the fact that DETA also possesses a secondary amino group, while EDA does not. Substances having secondary amino groups are well known to be much more susceptible to stable *N*-nitrosamine formation than substances possessing only primary amino groups. Other, as yet unknown, differences with respect to the production of toxic metabolites may also exist for substances containing secondary amino groups as opposed to those containing only primary amino groups.

In addition, studies submitted by these manufacturers do not, in fact, demonstrate that the metabolites produced by rats from DETA and EDA are the same, since the radioactive metabolites appearing in the urine following the administration of the two radiolabelled substances have been compared only by ion-exchange column chromatographic techniques which, by themselves, do not allow structural identifications. Even this comparison is

flawed by the fact that different elution systems were employed in the column chromatography of the radioactivity found in the urine of rats treated with radiolabelled DETA or EDA, making comparisons of radioactive metabolites by their column elution volumes impossible. In addition, the column chromatographic profile for the radioactivity found in the urine of rats treated with radiolabelled DETA contains at least seven radioactive peak fractions, while the corresponding chromatographic profile for the radioactivity found in the urine of rats treated with radiolabelled EDA contains only three radioactive peak fractions. This fact may well indicate that DETA is, in fact, metabolized differently than EDA by the rat. In any case, the data from these studies do not indicate that the metabolites produced from DETA following oral or endotracheal administration to Fischer 344 rats are the same as those produced under the same conditions from EDA. Even if data were available to demonstrate that the metabolites derived from EDA were identical to those derived from DETA, the Agency could not accept toxicological data on EDA as a substitute for the testing of DETA itself, because there is currently no accepted methodology for determining the potencies expected for DETA for the health effects of concern from analogue data available for EDA or other potential analogues.

On the basis of radioactivity alone (saying nothing about the chemical structures actually containing the radioactivity), the metabolism studies in the rat submitted by Union Carbide and Dow indicate that both DETA and EDA are readily absorbed via the oral and endotracheal routes, distributed throughout the body, and excreted primarily in the urine and feces. These data also indicate that DETA and its metabolites are eliminated from the body at a faster rate than EDA and its metabolites, and, in addition, that DETA and/or its metabolites are retained to a lesser degree than EDA and/or its metabolites in body tissues.

In summary, the underlying mechanisms responsible for the toxic effects noted by Fujino (Ref. 2), primarily in the livers, kidneys, and lungs of Wistar rats receiving chronic treatment with DETA via the dermal or subcutaneous routes, are as yet unknown. The Agency has no evidence to indicate that the metabolites produced from DETA by rats (which may be responsible for some or all of the observed toxic effects of this substance) are the same metabolites as those produced from EDA by rats. In addition, even if data were available to demonstrate that identical metabolites were produced from both DETA and EDA by rats, analogue data available for EDA cannot currently be used to arrive at expected potencies of DETA for the health effects of concern. Therefore, based on the above considerations, the Agency has concluded that it would be inappropriate to utilize the toxicity data available for EDA (or other proposed structural analogues of DETA, such as TETA) to assess the potential toxicological hazards posed by DETA, and that testing of DETA itself is necessary.

B. Appropriateness of Subchronic Rather than Chronic Testing of DETA

Another issue for which the Agency requested comments in the proposed test rule for DETA is the appropriateness of a 90-day subchronic test duration rather than a full-lifetime chronic test duration for the proposed toxicity testing of DETA. The major manufacturers of DETA in the United States, Dow and Union Carbide, submitted the only comments on this issue. The position of these manufacturers is that an oral 90-day subchronic study of DETA will suffice to provide adequate information on all systemic toxic effects which would be observed for the substance in an oral full-lifetime chronic study of this substance, with the exception of carcinogenic effects. The Agency also believes that, in general, a properly conducted 90-day study, including comprehensive histopathology, can be used as a surrogate for the full-lifetime chronic study with respect to the detection of chemical-related health effects, except for those requiring long latency periods, such as carcinogenicity. Therefore, the Agency is requiring subchronic (90-day) testing in the final Phase I test rule for DETA, in lieu of full-lifetime chronic testing.

C. Appropriateness of the Oral Route for Subchronic Testing of DETA

In the proposed test rule for DETA, the Agency also requested comments on EPA's selection of the oral route of exposure as the route of choice for the required 90-day subchronic toxicity testing of DETA. Although the Agency believes that exposures to DETA will occur primarily by the dermal route, the difficulties associated with determining the actual doses of the test substance received by the animals in studies utilizing this route of administration, together with the fact that preliminary pharmacokinetics data submitted to EPA by Union Carbide indicate that DETA is absorbed following oral administration, led the Agency to conclude that the oral route of administration should be required for the subchronic testing of DETA. Only Dow and Union Carbide commented on this issue. These manufacturers agreed with the Agency that oral studies of DETA would allow the adequate evaluation of the systemic toxicity of this substance without the difficulties of determining the effective doses received by treated animals which would arise in dermal studies. In addition, these manufacturers pointed out that the known skin irritancy and sensitization potentials of DETA would likely lead to stressful conditions in animals receiving DETA by the dermal route, making the evaluation of the systemic toxicity observed in such studies difficult. These difficulties would not arise in oral feeding studies. Therefore, the Agency is requiring oral 90-day subchronic toxicity testing in the final Phase I test rule for DETA.

D. Necessity of a Dermal Absorption Study of DETA

Another issue which the Agency raised for comment in the proposed test rule for DETA was the possible necessity of requiring a dermal absorption study of DETA, since the Agency is primarily concerned about potential hazards posed by this substance due to exposures via the dermal route. Only Dow and Union Carbide commented on this issue, and these manufacturers believe that such a dermal absorption study would, indeed, be necessary. In addition, these manufacturers submitted a protocol to the Agency for a study aimed at determining the degree of dermal absorption of DETA in rats from data obtained in disposition studies of the substance, using both intravenous and dermal routes of exposure.

Since humans are expected to be exposed to DETA primarily by the dermal route, the Agency concludes that a dermal absorption study of DETA is, in fact, necessary in order to assess the hazards posed by DETA by this route of exposure, and is, therefore, requiring such testing in the final Phase I test rule for DETA in the same mammalian species selected for the required oral subchronic (90-day) testing.

E. Protocols for Required Chemical Fate Studies of DETA

The final issue for which the Agency requested comments in its proposed test rule for DETA involved which protocols should be used for the chemical fate

studies the Agency is requiring for DETA. Since the microbial formation of *N*-nitrosamines from secondary amines present in water, sewage, and soil has been reported by several investigators (Refs. 5 through 7), the Agency is concerned that an *N*-nitrosamine derivative of DETA may be formed in these environments (especially in sewage treatment facilities), may be transported to water sources used for the production of drinking-water, survive drinking-water treatment procedures, and, thus, pose a potential carcinogenic hazard to the general public by its presence in drinking water. A close structural analogue of the *N*-nitrosamine derivative of DETA, *N*-nitrosodiethanolamine (NDELA), is a known animal carcinogen (Refs. 8 through 10). In addition, Yordy and Alexander (Ref. 7) have demonstrated that NDELA was formed from diethanolamine in lake water and in sewage, and that at least some of this NDELA production was probably due to the action of microorganisms or some other heat-labile factor. These data also indicate that some of the NDELA production was due to purely chemical (nonbiological) reactions. Whether the *N*-nitrosamine derivatives of diethanolamine or DETA are formed by purely chemical or biological means has no bearing on the toxic hazards posed by the *N*-nitrosamine derivatives themselves. Therefore, the Agency proposed chemical fate testing of DETA, under both aerobic and anaerobic conditions, to quantify the amount of the potentially carcinogenic *N*-nitrosamine derivative of DETA which might form from DETA in water, sewage, and soil. The Agency invited comments on experimental protocols which might be used for this purpose, and referred interested parties to the methodologies reported in the studies of Yordy and Alexander (Ref. 7).

Comments were received on this issue from Dow, Union Carbide, and the Chemical Manufacturers Association (CMA). Dow and Union Carbide believe that the proposed chemical fate testing of DETA aimed at determining if a *N*-nitrosamine will be produced from DETA due to aerobic or anaerobic biodegradation is unnecessary. With its comments, Dow submitted a description of an unpublished preliminary *in vitro* chemical study performed by Dow aimed at determining if an *N*-nitrosamine of DETA would form in aqueous solution when NO_x vapor was bubbled through a 50 percent solution of DETA in D_2O (used for nuclear magnetic resonance purposes) under aerobic conditions. Using ultraviolet and nuclear magnetic resonance spectrometry, Dow concluded from this preliminary experiment that almost all of the original DETA had disappeared from the reaction solution, but that no characteristic UV absorption band at 300–400 nm could be detected to indicate the presence of a nitrosamine. Dow concluded that it is unlikely that the *N*-nitrosamine of DETA can be produced under aerobic conditions, or, if produced, the *N*-nitrosamine of DETA must decompose rapidly.

With respect to the anaerobic biotransformation of DETA to an *N*-nitrosamine derivative, Union Carbide and Dow believe this to be highly unlikely, since DETA (which is very water soluble) would not be expected to sorb to soils and sediments having anaerobic environments; additionally, these firms believe (citing Refs. 11 through 13) that any nitrites present in such environments would be metabolized by microorganisms to nitrogen gas, thus removing a required reactant for nitrosamine formation.

Union Carbide and Dow believe that chemical fate testing for the formation of an *N*-nitrosamine derivative of DETA by microorganisms under aerobic conditions is a far reaching research effort which is not within the scope of a TSCA section 4 test rule. These firms claim that no standard methodology for determining low concentrations of *N*-nitrosamines in water currently exists, and that the synthesis and characterization of the *N*-nitrosamine derivative of DETA would be required, prior to the development of an analytical method for the detection of the *N*-nitrosamine derivative of DETA in water at the 1 μg/1 level. In addition, Dow and Union Carbide believe that the work of Yordy and Alexander (Ref. 7) is insufficient as a model to use for the biotransformation study, since the method does not distinguish between biological and chemical production of *N*-nitrosamines, and that a new methodology would have to be developed for studying the biotransformation of DETA to an *N*-nitrosamine derivative under real environmental conditions.

Union Carbide and Dow are uncertain as to whether EPA is proposing to require qualitative or quantitative chemical fate testing of DETA for determining if the *N*-nitrosamine derivative of DETA would be formed by microorganisms under aerobic and anaerobic conditions. The firms believe that, with respect to aerobic conditions, the preliminary *in vitro* chemical testing by Dow under aerobic conditions is sufficient to state that either an *N*-nitrosamine derivative of DETA does not form or, if formed, rapidly degrades. These firms also believe that the scope of work involved in answering the question in a quantitative fashion is too great to be within the proper scope of a TSCA section 4 test rule.

With respect to this issue, CMA comments that EPA should avoid requiring testing under TSCA section 4 in cases in which the testing methodology is not sufficiently well developed. Specifically, CMA believes that the chemical fate testing required in the proposed rule (aimed at determining if an *N*-nitrosamine is produced from DETA by microorganisms under aerobic or anaerobic conditions) is inappropriate, since to CMA's knowledge there is no current standard methodology for performing these tests. CMA believes that the results from these tests are unlikely to be sufficiently reliable for use in EPA's decisionmaking; therefore, such testing falls outside the scope of what can be required under TSCA.

Certain of the comments described above indicate uncertainty or confusion concerning the Agency's rationale for the proposed chemical fate testing of DETA, as described in the proposed test rule for this substance. In actuality, the Agency is concerned about the total transformation, whether biological or purely chemical in nature, of DETA present in water, sewage, or soils to an *N*-nitrosamine derivative of the substance, which the Agency views as a potential carcinogen and which may enter the drinking water supply.

With this clarification regarding the Agency's concerns about the chemical fate testing of DETA, EPA disagrees with both Dow and Union Carbide, as well as CMA, that appropriate methodology does not exist, or cannot be easily modified, for the successful completion of this testing requirement. In addition, the Agency disagrees with the manufacturers that the results of the chemical studies performed by Dow, aimed at determining if an *N*-nitrosamine derivative of DETA could be formed from DETA in aqueous solution, obviate the need for the proposed chemical fate testing of DETA. Dow concluded from these studies that it is unlikely that an *N*-nitrosamine derivative of DETA will form in aqueous solutions, or if it does form, it will decompose rapidly. Based on the brief description of these studies which was submitted to the Agency (no protocol for these studies or final study reports were submitted by the manufacturers), EPA believes that an *N*-nitrosamine derivative of DETA did, in fact, form but

decomposed under the experimental conditions employed. The fact that a *N*-nitrosamine derivative of DETA can, indeed, form in aqueous solutions is demonstrated by the studies of Popp (Ref. 14), in which DETA was detected in water by chemical transformation of this substance to a *N*-nitrosamine derivative, which was subsequently detected by polarography. The fact that the *N*-nitrosamine derivative of DETA proved to be unstable in Dow's *in vitro* chemical system does not indicate that it would necessarily be unstable under environmental conditions. Yordy and Alexander (Refs. 7 and 15) have shown that a substance very similar in chemical structure to the *N*-nitrosamine derivative of DETA, *N*-nitrosodiethanolamine, was essentially stable to degradation in some environmental waters, especially during the winter months, and was slowly degraded in others, primarily due to microbial metabolism. In addition, Tate and Alexander (Ref. 16) demonstrated that three aliphatic *N*-nitrosamines (*N*-nitrosodimethylamine, *N*-nitrosodiethylamine, and *N*-nitrosodi-*n*-propylamine), which may be viewed as analogues of the *N*-nitrosamine derivative of DETA, were resistant to degradation in soil, sewage, and lake water. No degradation of these *N*-nitrosamines was observed in lake water during a 3.5-month period. Thus, the results of Dow's *in vitro* chemical study do not, in fact, obviate the need for the chemical fate testing which the Agency is requiring in the final Phase I test rule for DETA.

The Agency disagrees with the manufacturers' contention that no methodology is currently available for determining low concentrations of an *N*-nitrosamine derivative of DETA in water, and refers these firms to the polarographic method of Popp (Ref. 14), the details of which are unpublished, but which is based (Ref. 17) on the published studies of the polarographic detection of various *N*-nitrosamines by Dahmen *et al.* (Ref. 18) and Chang and Harrington (Ref. 19). Although Popp (Ref. 14) had demonstrated that an *N*-nitrosamine of DETA can, in fact, be detected by polarographic techniques, the Agency is aware that contaminants present in the environmental samples to be utilized in the chemical fate studies of DETA may present difficulties with respect to the polarographic detection of an *N*-nitrosamine derivative of DETA in these samples. Should this prove to be the case, however, the Agency notes that the thin-layer chromatographic detection systems which Yordy and Alexander (Refs. 7 and 15) have developed for separating diethanolamine (a close structural analogue of DETA) from *N*-nitrosodiethanolamine (a close structural analogue of the *N*-nitrosamine derivative of DETA), and for detecting *N*-nitrosodiethanolamine in aqueous solutions at a detection level of 1 nanogram/ml (1 ppb), should be adaptable for use with DETA and its *N*-nitrosamine derivative. These thin-layer chromatographic methods have proven to be resistant to interference by contaminants present in environmental samples used for chemical fate studies of diethanolamine. In addition, the Agency notes that several investigators (Refs. 20 and 21) have published comprehensive procedures for the detection and quantitation of a variety of *N*-nitrosamines in contaminant-containing environmental samples, which should easily be adaptable for use with respect to the *N*-nitrosamine derivative of DETA.

With respect to the chemical fate testing of DETA under anaerobic conditions, the Agency is aware that denitrification of the nitrites present in the anaerobic environment, thus removing a necessary reactant for the formation of an *N*-nitrosamine derivative of DETA, may, indeed, occur. On the other hand, the presence of heavy metals or certain pesticides in the anaerobic environment may inhibit the denitrification process (Refs. 22 through 24) so that a *N*-nitrosamine derivative of DETA may still form. In addition, Bollag *et al.* (Ref. 25) have shown that unfavorable environmental growth conditions, related to temperature, pH, nitrite or nitrate concentrations, led to the accumulation of nitrite, conditions conducive to the formation of the *N*-nitrosamine derivative of DETA, under anaerobic conditions in isolated cultures of soil bacteria. Thus, the *N*-nitrosamine derivative of DETA might well be produced from DETA even under anaerobic conditions. However, the Agency believes that the production of the *N*-nitrosamine of DETA observed in chemical fate testing of DETA under aerobic conditions would represent the upper bound for production of this derivative under less favorable anaerobic conditions. In addition, EPA believes that most waste water containing DETA would be subjected to sewage treatment processes containing at least one aerobic step (more favorable to *N*-nitrosamine formation) before release into waters which might be used for the production of drinking water, and that for treatment processes involving both anaerobic and aerobic steps, or anaerobic steps only, an upper-bound approximation for the production of the *N*-nitrosamine derivative of DETA from DETA could be made by summing the expected derivative production at all steps and assuming aerobic conditions at all steps. For these reasons, the Agency will now require the chemical fate testing of DETA only under aerobic conditions in the final Phase I test rule for this substance.

In contrast to the manufacturers of DETA, the Agency believes that the methodologies described in the studies of Yordy and Alexander (Refs. 7 and 15) and of Popp (Ref. 14) and the references upon which his polarographic method is based (Refs. 18 and 19) do, in fact, together with other studies (Refs. 16, 20 and 21), constitute a sufficient model for the chemical fate studies proposed by EPA for DETA and are capable of distinguishing between the chemical and biological production of an *N*-nitrosamine derivative of DETA. The latter point is now, however, moot, since the Agency has clarified its position that concern actually exists for the total production (both chemical and biological) of an *N*-nitrosamine derivative of DETA rather than just the biological portion of the total production.

In summary, the Agency is continuing to require quantitative chemical fate testing of DETA, using environmental samples of lake water, sewage, and soil under aerobic conditions, in the final Phase I test rule for this chemical substance, and believes that adequate published methodologies are available which, with minor modifications, will permit the completion of this required testing in a timely fashion, without the expenditure of undue time and effort.

F. Necessity for Mutagenicity Testing of DETA

Many additional comments were received on the proposed TSCA section 4 test rule for DETA in subject areas other than the five major issues which the Agency raised for public comment in that rule. Comments were received from the major manufacturers of DETA in this country, Dow and Union Carbide, on the gene mutation and cytogenetics testing required in the proposed test rule for DETA. These manufacturers believe that there is convincing evidence to demonstrate that DETA does not have mutagenic potential in bacterial or mammalian cell systems, and, therefore, they feel that the requirement for gene mutation and cytogenetics testing should be deleted in the final Phase I test rule for DETA.

The evidence to which these manufacturers are referring consists of

the results of mutagenicity testing, sponsored either by Dow or by Union Carbide, which were submitted to the Agency by these manufacturers prior to the publication of the proposed test rule for DETA, and which are, therefore, discussed in the Agency's "Diethylenetriamine Support Document" for that proposed test rule. As described in the support document, the submitted studies consist of: (1) mutagenicity testing performed by Litton Bionetics for Dow using the Ames *Salmonella*/Microsome Plate Test and 5 strains of *Salmonella typhimurium*, as well as the D4 strain of *Saccharomyces cerevisiae*, with and without metabolic activation (Ref. 4), and (2) the following tests performed by Bushy Run Research Center for Union Carbide (Ref. 3) for each of three samples of DETA (DETA-high purity; DETA-commercial; and DETA-hearts cut): (a) An *in vitro* assay for specific locus mutation (at the hypoxanthine-guanine phosphoribosyltransferase locus) in Chinese hamster ovary (CHO) cells (with and without metabolic activation); (b) an *in vitro* assay for sister-chromatid exchange (SCE) in CHO cells (with and without metabolic activation); and (c) an *in vitro* assay of the ability of the test substances to induce unscheduled deoxyribonucleic acid (DNA) synthesis (UDS) in primary cultures of rat liver cells. EPA notes that only two of these test procedures, the Ames *Salmonella*/Microsome Plate Test and the specific locus mutation test in CHO cells, are tests for gene mutation *per se*. The tests for SCE in CHO cells and for UDS in primary cultures of rat liver cells are useful as indicators of genetic damage, but they do not substitute for assays of gene mutation *per se*, and they do not address the ability of the test chemicals to induce chromosomal aberrations (cytogenic effects). No cytogenicity test data are currently available for DETA.

DETA was recently tested in the Ames *Salmonella*/Microsome Plate Test by the Environmental Mutagenesis Test Development Program, a part of the National Toxicology Program, and the investigators concluded that DETA gave negative test results in *Salmonnella typhimurium* strains TA–98, TA–100, TA–1535, and TA–1537, with or without metabolic activation by liver microsomal enzyme preparations obtained from Aroclor-pretreated rats or hamsters. DETA was tested in a series of concentrations ranging from 33.0 μg to 10,000 μg per plate (Ref. 26). These results essentially agree with those observed in a study performed by Litton Bionetics for the Dow Chemical Company (Ref. 4). In this study, the Ames *Salmonella*/Microsome Plate Test was used with *S. typhimurium* strains TA–1535, TA–1537, TA–1538, TA–98, and TA–100. DETA was also tested in this system with the D4 strain of the yeast, *Saccharomyces cerevisiae*. DETA was tested over concentrations ranging from 0.01 to 10.0 μl per plate, both with and without the addition of a liver microsomal enzyme preparation obtained from the livers of Aroclor-pretreated rats. The highest dose tested in this study, 10.0 μl per plate, representing 9.5 mg of DETA, was selected because it produced toxicity, which was not clearly described, in *S. cerevisiae*. Litton Bionetics (Ref. 4) reported that DETA was negative in all test systems, both with and without metabolic activation, and concluded that DETA was non-mutagenic under the conditions of the tests.

The essential agreement of the negative results obtained by the testing of DETA in the Ames *Salmonella*/Microsome Plate Test by the National Toxicology Program (Ref. 26) and by Litton Bionetics (Ref. 4) calls into question the earlier report by Hedenstedt (Ref. 27) that DETA might have demonstrated a direct mutagenic effect in this test system. Hedenstedt (Ref. 27) tested DETA in the Ames *Salmonella*/Microsome Plate Test using *Salmonella typhimurium* strains TA–1535 and TA–100, both with and without the addition of liver microsomal enzyme preparations obtained from the livers of rats pretreated with Clophen A50, a polychlorinated biphenyl mixture similar to Aroclor. DETA demonstrated a direct mutagenic effect in this test system, which was not affected by the presence or absence of the metabolic activation system. However, the DETA used for the tests was found to be contaminated with unidentified impurities, which the author believed might be alkylating agents. The author concluded that DETA, or some unidentified alkylating impurities in the DETA sample tested, may pose a mutagenic and carcinogenic hazard. Based on evidence from the studies conducted by the National Toxicology Program (Ref. 26) and by Litton Bionetics (Ref. 4), the Agency concludes that the positive results observed in the study by Hedenstedt (Ref. 27) were probably due to the unidentified impurities detected in the sample of DETA used for testing.

Based on the data contained in the Litton study (Ref. 4), as well as the data presented in the NTP study (Ref. 26), the Agency concludes that DETA has been demonstrated to be nonmutagenic in the bacterium, *Salmonella typhimurium* (strains TA–1535, TA–1537, TA–1538, TA–98, and TA–100), as well as in the yeast, *Saccharomyces cerevisiae* (strain D4), under the conditions of the Ames *in vitro* assay. On the other hand, the Agency must point out that it does not regard these negative findings with respect to DETA's non-mutagenicity to a single bacterium and a single yeast as representative of DETA's complete mutagenic potential. In order to adequately assess the complete mutagenic potential of DETA, further gene mutation and cytogenicity testing will be required.

Since the time when the mutagenicity studies performed on DETA for Union Carbide Corporation (Ref. 3) were discussed in the Technical Support Document for the proposed test rule on DETA, the Agency has audited, during February 28 to March 2, 1982, the Bushy Run Research Center in Export, Pennsylvania, where these studies were performed. Therefore, the Agency's current conclusions with regard to these studies were reached following an examination of the actual raw data for these studies at the test facility, scientific discussions between scientists who performed the tests at the facility and EPA staff, as well as EPA review and evaluation of the submitted study reports.

Bushy Run Research Center has conducted *in vitro* mutagenicity studies of the ability of three samples of DETA (DETA-high purity; DETA-commercial; and DETA-hearts cut) to induce specific locus mutations in Chinese hamster ovary (CHO) cells (Ref. 3). In the presence or absence of a microsomal liver enzyme preparation from Aroclor 1254-pretreated male rats (S–9 fraction), the three samples of DETA were tested in this *in vitro* system at concentrations ranging from 1.25×10^{-2} percent to 40×10^{-2} percent. The investigators concluded that none of the three samples of DETA produced specific locus mutations in CHO cells under the experimental conditions employed, with or without metabolic activation by S–9 faction. The Agency agrees with this conclusion, and has, therefore, determined that no further *in vitro* gene mutation testing is required for DETA. However, as discussed below, the Agency is requiring *in vivo* gene mutation testing of DETA in this final Phase I test rule.

Bushy Run Research Center has conducted *in vitro* studies of the ability of three samples of DETA (DETA-high purity; DETA-commercial; and DETA-hearts cut) to induce sister-chromatid exchanges (SCE) in Chinese hamster ovary (CHO) cells, both in the presence

and absence of a microsomal liver enzyme preparation (S–9 fraction) obtained from the livers of Aroclor 1254-treated rats (Ref. 3). In the absence of S–9 fraction, a statistically significant increase in SCE was observed for both DETA-high purity and DETA-commercial at the highest dosage level tested (20.0×10^{-2} percent), and a similarly statistically significant increase was observed for DETA-hearts cut at the second highest dosage level tested (10.0×10^{-2} percent) under the same conditions. An elevated incidence of SCE was observed at a DETA-hearts cut concentration of 20×10^{-2} percent, but the increase was not statistically significant. In the presence of S–9 fraction, a statistically significant increase of SCE was seen only for the DETA-hearts cut sample at a dosage level of 1.25×10^{-2} percent.

Dow and Union Carbide contend that these results are not indicative of a positive response because they occur at single dosage levels and no dose-response relationships can be demonstrated. The Agency does not agree with this contention. The OTS test guideline for the *in vitro* SCE assay (Ref. 28) states: "There are several criteria for determining a positive result, one of which is a statistically significant dose-related increase in the number of SCE's. Another criterion may be based upon detection of a reproducible and statistically significant positive response for at least one of the test substance concentrations." Since Slesinski *et al.* (Ref. 3) performed only one experiment for each of three DETA samples in the absence of the metabolic activation system for SCE in CHO cells, as well as one experiment for each sample in the presence of the metabolic activation system, nothing can be said regarding the exact reproducibility of the four statistically significant positive results which occurred at single dosage levels. However, since statistically significant increases of SCE were observed in separate experiments with the three DETA samples in the absence of S–9 fraction at concentrations ranging from 10.0×10^{-2} percent to 20.0×10^{-2} percent, the Agency concludes that DETA (constituting the major fraction of all three samples tested) has exhibited a positive response in this *in vitro* system. Therefore, no further *in vitro* testing of DETA for SCE in mammalian cells is necessary, but, as discussed below, the Agency is requiring *in vivo* gene mutation testing of DETA in *Drosophila melanogaster*, based, in part, on DETA's positive response in the *in vitro* test for SCE in CHO cells.

With respect to the studies by Slesinski *et al.* (Ref. 3) on the ability of three samples of DETA (DETA-high purity; DETA-commercial; and DETA-hearts cut) to induce unscheduled DNA synthesis (UDS) in primary cultures of rat hepatocytes, the range of doses tested was inappropriately selected. This dose range was selected on the basis of toxic effects elicited by DETA in CHO cells in the course of studies of the ability of DETA to elicit specific locus mutations in these cells. The dose range selected for UDS testing should have been selected on the basis of DETA's toxicity to the primary cultures of rat hepatocytes used for the UDS studies, not on the toxicity observed for DETA in CHO cells. In addition, there is no indication in the results presented for the UDS studies that the highest dose of DETA tested (10.0×10^{-2} percent) was, in fact, toxic to the primary cultures of rat hepatocytes used for this test, as is recommended in both the OTS test guideline (Ref. 28) and the Gene-Tox Work Group report on this assay (Ref. 29). Nonetheless, statistically significant increases in UDS were observed both with DETA-high purity and DETA-hearts cut at concentrations of 0.01×10^{-2} percent and 0.3×10^{-2} percent (based on DNA-bound radioactivity), but neither sample of DETA elicited statistically significantly elevated UDS at a concentration of 0.1×10^{-2} percent. DETA-high purity induced an elevated UDS at 0.1×10^{-2} percent, but the increase was not statistically significant. No significant effects were observed for DETA-commercial in this test system.

The Agency disagrees with Dow and Union Carbide that, because the statistically significant positive resposes in the UDS assays of DETA could not clearly be shown to be dose-related, the responses observed were not truly positive. The OTS test guideline for the *in vitro* UDS test (Ref. 28) contains a statement to the effect that a reproducible, statistically significant response with respect to UDS for at least one dosage level may be an indication of a positive response in this test system. No attempt was made by Slesinski *et al.* (Ref. 3) to verify the reproducibility of the results of the UDS studies. However, because two of the three DETA samples (DETA-high purity and DETA-hearts cut) each gave statistically significant positive responses with respect to UDS in separate experiments at concentrations of 0.01×10^{-2} percent and 0.3×10^{-2} percent, the Agency believes that DETA must be regarded as an *in vitro* inducer of UDS in rat hepatocytes. The fact that DETA-commercial (which is less pure than either DETA-hearts cut or DETA-high purity) failed to give a statistically significant elevation of UDS in this test system may be related to inhibitory effects of impurities present in this sample of DETA. The conclusion that DETA elicits UDS in primary cultures of rat hepatocytes, together with the conclusion that DETA induces SCE in CHO cells cultured *in vitro*, indicate that DETA should be tested for its ability to induce *in vivo* gene mutations in *Drosophila melanogaster*, as discussed below.

In summary, the Agency cannot adequately assess the mutagenic potential of DETA with the information currently available. DETA has been shown (Refs. 4 and 26) to be nonmutagenic to five strains of the bacterium, *Salmonella typhimurium*, and to the D4 strain of the yeast, *Saccharomyces cerevisiae*, under the conditions of the Ames *Salmonella*/Microsome Plate Test. In addition, studies exist (Ref. 3) which indicate that DETA does not induce specific locus mutations in Chinese hamster ovary (CHO) cells, but does induce sister-chromatid exchange (SCE) in CHO cells, and does induce unscheduled DNA synthesis (UDS) in primary cultures of rat hepatocytes. On the other hand, the Agency notes that no cytogenicity test data are currently available for DETA. The Agency believes that the positive responses which DETA has exhibited in the SCE and UDS mutagenicity assays indicate that this substance may pose an unreasonable risk of both gene mutations and chromosomal aberrations, notwithstanding the negative results exhibited by this substance in *in vitro* gene mutation assays in bacteria, yeast, and mammalian cells in culture. Therefore, the Agency is requiring both *in vivo* gene mutation and *in vitro* and *in vivo* cytogenicity testing of DETA in the final Phase I test rule for this substance.

The Agency is requiring that DETA be tested for *in vivo* gene mutation effects, utilizing the sex-linked recessive lethal assay in *Drosophila melanogaster*. If the results are negative for DETA in the test in *Drosophila*, no further *in vivo* gene mutation testing is required. If the results are positive for DETA in the *Drosophila* system, then the Agency is requiring that DETA be tested in the mouse specific locus assay. Guidelines for all of these test procedures have been published by the Office of Toxic Substances (Ref. 28). EPA is also requiring that DETA be tested for its ability to induce both *in vitro* and *in vivo* chromosomal aberrations, using the

test sequences outlined in Unit IV.B. of this final Phase I test rule.

The general sequences of tiered tests usually employed by EPA in assessing the mutagenic (both gene mutation and cytogenetic) potential of chemical substances, portions of which are required in this final Phase I test rule for DETA [see Unit IV.B.], have been previously described in proposed test rules issued by the Agency for mesityl oxide (48 FR 30699), cresols (48 FR 31812), and ethyltoluenes, trimethylbenzenes, and C_9 aromatic hydrocarbon fraction (43 FR 23088), and are more completely described in the final Phase I test rule for C_9 aromatic hydrocarbon fraction (50 FR 20662; May 17, 1985). Although these general test sequences are usually employed, the Agency ultimately specifies the required mutagenicity test for each specific chemical substance on a case-by-case basis. With respect to gene mutation testing, if a substance tests negatively in the gene mutation assay in *Salmonella*, it is then tested in the specific locus mutation assay in mammalian cells in culture. If the substance tests negatively in the latter assay, then no further gene mutation testing is required (in the absence of other positive mutagenicity test data). If the substance tests positively in either the *Salmonella* assay or the specific locus mutation assay in mammalian cells in culture, then it is tested in the sex-linked recessive lethal assay in *Drosophila*. If the substance yields positive results in the *Drosophila* assay, then it is tested in the mouse specific locus assay. Negative results in either the *Drosophila* assay or the mouse specific locus assay indicate no further requirements for gene mutation testing.

DETA tested negatively, both with and without metabolic activation, in Ames assays using both *Salmonella typhimurium* and *Saccharomyces cerevisiae*, and also tested negatively in a specific locus mutation assay in Chinese hamster ovary cells in culture. DETA would, therefore, normally not be subject, in the absence of other positive mutagenicity test data, to a requirement for further gene mutation testing. However, as previously discussed, the Agency has concluded that DETA induces sister-chromatid exchanges (SCE) in Chinese hamster ovary cells in culture and induces unscheduled DNA synthesis (UDS) in primary cultures of rat hepatocytes. The positive results displayed by DETA in these latter two assays indicate to the Agency that DETA should reenter the tiered test sequence for gene mutation testing at the second-tier level, the sex-linked recessive lethal assay in *Drosophila*, and this requirement is contained in the final Phase I test rule for DETA.

With respect to cytogenicity testing, if a substance gives a negative response in an *in vitro* cytogenetics assay, it is then tested in an *in vivo* cytogenetics assay. If the substance exhibits a negative response in the latter assay system, then no further cytogenicity testing is required. If a substance exhibits a positive response in either the *in vitro* or *in vivo* cytogenetics assay, then the substance is tested in the dominant lethal assay. A positive response in the dominant lethal assay indicates that the substance should be tested in the heritable translocation assay. A negative response in either of the latter two assays indicates that no further cytogenicity testing is required for the substance. Since no cytogenicity test data are available for DETA, the final Phase I test rule for this substance requires that DETA be tested in accordance with the tiered testing sequences for both *in vitro* and *in vivo* cytogenetics, as described above. The Agency's responses to comments on the tiered testing sequences for gene mutation testing and for cytogenetics testing may be found in the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (50 FR 20662).

As described in detail in the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (50 FR 20662), the Agency feels that there is a consensus in the scientific community on both the need for, and the manner of, identifying mammalian mutagens, and that its proposed scheme for identifying these agents is in keeping with those recommended by experts in the field of mammalian mutagenesis. Further, while it is recognized that there is, as yet, no generally accepted single methodology for estimating human risk from mutagenic agents, it is the Agency's view that appropriate methodologies do exist and are usable. Therefore, the Agency concludes that it is appropriate at this time to obtain mutagenicity data on DETA with which to perform estimates of mutagenic risk for this substance for regulatory use, should DETA prove to be a mammalian germ-cell mutagen.

For reasons more fully described in the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (50 FR 20662), EPA believes that the use of automatic triggers between the assays contained in the mutagenicity testing scheme for DETA is appropriate; however, in an effort to incorporate scientific judgement prior to the use of the end-point mutagenicity tests (i.e., the mouse specific locus test and the heritable translocation test), EPA has decided to utilize automatic triggers between assays contained in lower-tier tests, and a "presumptive automatic trigger and opt-out" approach between lower-tier tests and end-point tests in this final Phase I test rule for DETA. Under this approach, EPA is promulgating a tiered testing scheme for mutagenicity for DETA with automatic triggers to additional mutagenicity testing (including the two end-point tests). Before testing is initiated in one or both of the end-point mutagenicity tests, EPA will hold a public program review, if the results of the previous tier tests are positive. Public participation in this program review will be either in the form of written public comments or a public meeting. Request for public comments or notification of a public meeting will be published in the **Federal Register**. If, after the review of public comments, no change in the test program is deemed necessary by EPA, testing will continue to the next test without delay. EPA will provide notification to the test sponsor(s) that the next tier test should be conducted. If the Agency believes additional testing is no longer warranted as a result of the earlier test results, public comment, scientific judgment, and other appropriate factors, EPA will issue a proposed amendment to "opt-out" by repealing the existing requirement and, after consideration of public comments on the proposed amendment, issue a final decision whether to rescind the rule requirement. This approach offers the advantage of allowing the incorporation of scientific judgment based on the weight of the evidence after the initial testing tiers have been completed and allowing change in test requirements to respond to specific chemical issues, while not significantly delaying higher-tier testing when it is deemed necessary.

EPA has decided not to use the public program review approach between the lower-tier mutagenicity tests for the DETA test rule. EPA believes the use of automatic triggers between these tiers is suitable. It should be noted that this does not exclude the public from requesting modifications in the test program. Provisions are available under section 21 of TSCA for the public to petition EPA at any time to amend a rule under section 4. EPA's Test Rule Development and Exemption Procedure rule, published in the **Federal Register** of October 10, 1984 (49 FR 39774), includes procedures for industry test sponsors to request modifications to test guidelines (but not to test requirements).

Since the time at which the proposed test rule for DETA was published by the Agency (47 FR 18386; April 29, 1982), the EPA has adopted an approach of requiring tiered testing sequences for both gene mutation and cytogenetics testing which contain automatic triggers for required chronic oncogenicity testing when a chemical substance elicits positive test results in certain of the mutagenicity assays. The mutagenicity testing actually required for a given chemical substance, as well as the selection of those mutagenicity assays (if any) for which positive results will trigger an automatic requirement for chronic oncogenicity testing, is determined on a case-by-case basis. Following careful evaluation, the Agency has concluded that such triggers for chronic oncogenicity testing are appropriate for DETA. Because the proposed test rule for DETA contained no requirement for oncogenicity testing, either as an absolute requirement or as a result of positive test results in specified required mutagenicity assays, EPA is proposing elsewhere in this issue of the **Federal Register** under section 4(a) of TSCA, that manufacturers and processors of DETA be required to conduct chronic oncogenicity bioassays of this chemical substance, if positive test results are obtained for DETA in any of the following mutagenicity assays required for this chemical in the final Phase I test rule for DETA: (1) The sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster*, (2) the *in vitro* cytogenetics assay, or (3) the *in vivo* cytogenetics assay.

G. Role of Processors in the Testing of DETA

Many comments were received with respect to the responsibilities and obligations of processors, both with regard to the specific proposed test rule for DETA and with regard to the TSCA section 4 Test Rule and Exemption Procedures, in general. These comments were considered and addressed in the final rule on Test Rule Development and Exemption Procedures, published in the **Federal Register** on October 10, 1984 (49 FR 39774).

H. Requirement of Study Protocols Rather Than General Study Plans

Another issue relating to the proposed test rule for DETA, which was commented upon by CMA and Allied Corporation (Allied) is the Agency's intention to publish proposed study plans submitted for DETA for public comment and to incorporate the specific test protocols (appropriately modified as a result of public comments) into the final Phase II test rule for DETA as enforceable testing requirements. Any modification of these requirements would require the Agency's approval and, when appropriate, publication of the proposed modifications for public comment. Comments from these firms were considered and addressed in the final rule on Test Rule Development and Exemption Procedures, published in the **Federal Register** on October 10, 1984 (49 FR 39774).

I. Confidential Information Contained in Study Protocols

Comments from Allied on the proposed rule for DETA were received by the Agency which raised that firm's concern about the possible breach of the confidentiality of proprietary information which might occur in Phase II of the test rule development process, in general, through the negotiation and publication of detailed protocols for required tests for DETA or for other substances which are the subjects of different TSCA section 4 test rules. Allied's comments were considered and addressed in the final rule on Test Rule Development and Exemption Procedures, published in the **Federal Register** on October 10, 1984 (49 FR 39774).

IV. Final Test Rule for Diethylenetriamine

A. Findings

The EPA finds that the manufacture, processing, use, and disposal of DETA may present an unreasonable risk of injury to human helath due to potential mutagenic, oncogenic, and subchronic effects of the substance for the reasons presented in the proposed test rule for DETA (47 FR 18386; April 29, 1982) and more fully described in the support document prepared for that proposed rule. The finding of potential mutagenic risk is based on the studies of Slesinski *et al.* (Ref. 3), which indicate that DETA induces sister-chromatid exchanges (SCE) in CHO cells in culture and induces unscheduled DNA synthesis (UDS) in primary cultures of rat hepatocytes. The finding of potential oncogenic risk is based on the hypothesis that a *N*-nitrosamine derivative of DETA may be formed in environmental waters, soils, and sewage, and may survive the treatment of contaminated waters prior to their use for drinking water, thus exposing the general population to a suspect carcinogen. *N*-Nitrosodiethanolamine, a known animal carcinogen (Refs. 8 through 10), is formed under environmental conditions in waters containing diethanolamine, a close structural analogue of DETA (Ref. 7). Chemical fate testing of DETA is required to determine if the *N*-nitrosamine derivative of DETA can be formed under environmental conditions. The finding of potential adverse health effects as a result of subchronic or chronic exposure to DETA is based, in part, upon the studies of Fujino (Ref. 2), which indicate DETA-related adverse effects on the liver, lungs, and kidneys (and, possibly, the spleen and adrenals) of rats chronically exposed to DETA. This finding is also based, in part, upon the studies of Trubko and Teplyakova (Ref. 30), which demonstrate that exposure of rabbits for 6 months to DETA via the drinking water can result in a significant decrease in prothrombin activity and significant increases in the activities of serum glutaminate-oxalate transaminase and glutaminate-pyruvate transaminase. The Agency also finds that there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of DETA or any combination of such activities on human health can reasonably be determined or predicted, and that testing of DETA with respect to such effects is necessary to develop such data.

B. Required Testing

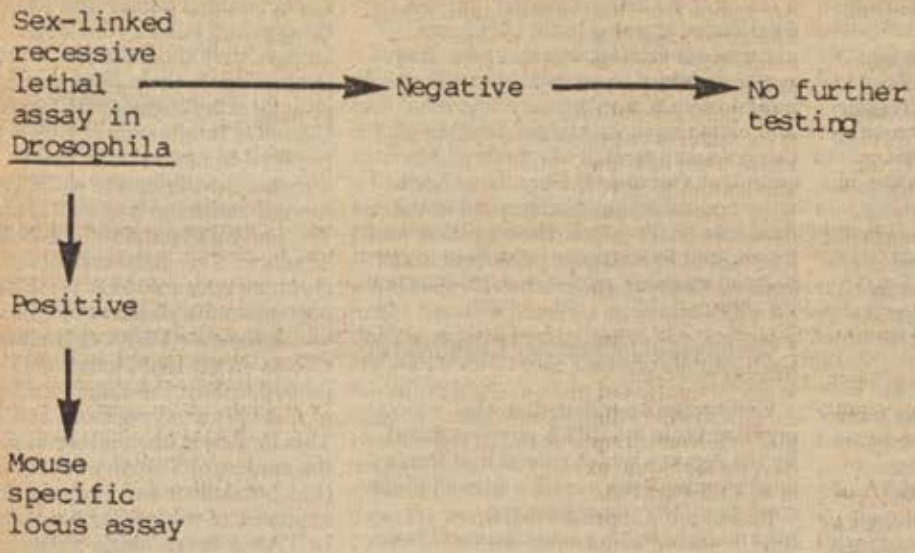
The EPA is requiring that DETA be tested for oral subchronic (90-day) toxicity in at least one mammalian species. In accordance with the OTS Health Effects Test Guidelines, published by the National Technical Information Service (NTIS; PB 82-232984), with respect to oral subchronic toxicity studies, testing of DETA in at least one mammalian species will be considered sufficient, as opposed to the requirement for testing in at least two mammalian species, as presented in the proposed test rule for DETA.

The Agency is requiring that a dermal absorption study be conducted with DETA in the same mammalian species selected for oral subchronic (90-day) testing.

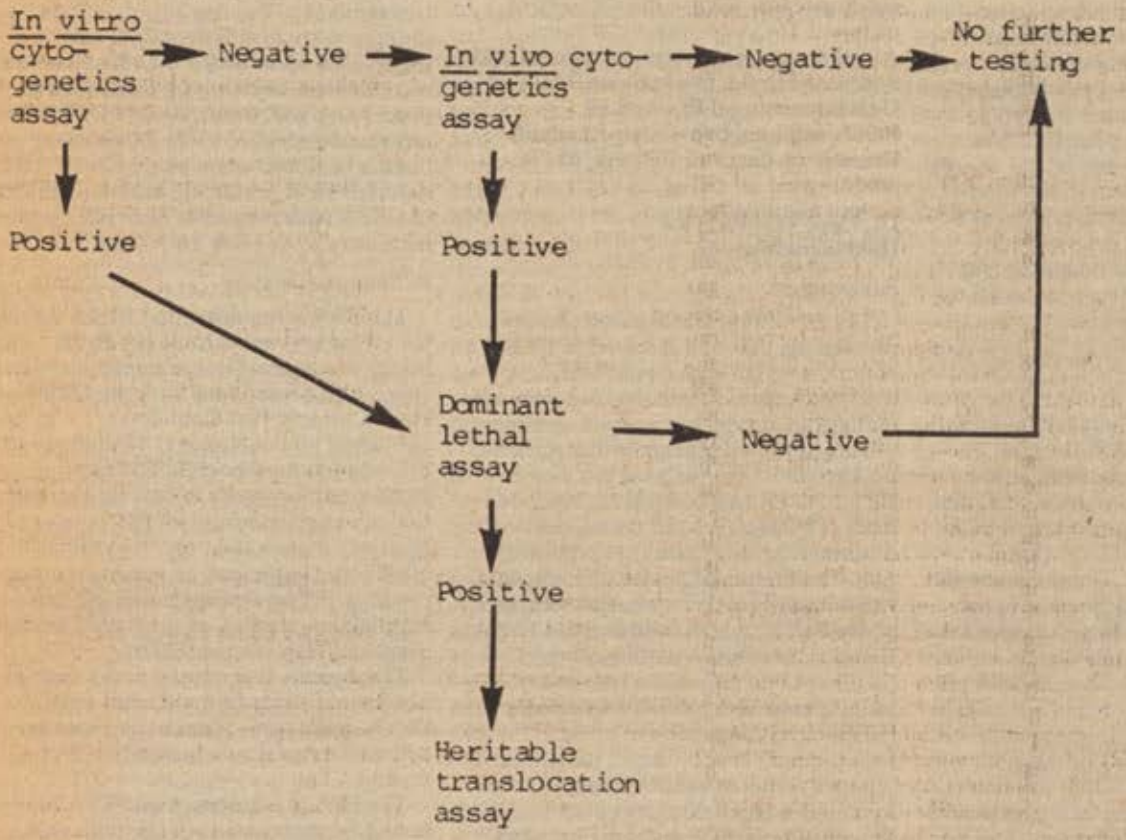
The EPA is requiring that DETA be tested for mutagenic effects, both with gene mutation and cytogenetics testing, and is requiring the following sequence for this testing:

BILLING CODE 6560-50-M

Testing of DETA for Inducing In Vivo Gene Mutations



Testing of DETA for Inducing Chromosomal Aberrations



BILLING CODE 6560-50-C

The Office of Toxic Substances has previously issued guidelines for all of the test methods mentioned above (Ref. 28).

The Agency is also requiring chemical fate testing of DETA in environmental samples of soil, lake water, and sewage, under aerobic conditions, following the general methodology utilized by Yordy and Alexander (Refs. 7 and 15) and Tate and Alexander (Ref. 16). The final requirement for chemical fate testing of DETA has changed from that appearing in the proposed test rule for DETA in that no anaerobic chemical fate testing is now required.

C. Test Substance

EPA is requiring that a relatively pure grade of DETA be used as the test substance. A purity of at least 99 percent is specified in this rule. DETA of this purity (DETA-High Purity) is commercially available.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, distribution, use, or disposal. "Manufacture" is defined in section 3(7) of TSCA to include "import." Processors are required to test if the findings are based on processing, distribution, use, or disposal.

Because industrial workers, consumers, and the general population may be exposed to DETA during manufacture, processing, use and disposal, EPA is requiring that persons who manufacture or process or who intend to manufacture or process this chemical from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period will be 5 years after the deadline for submitting the last final report under the Phase II test rule. As discussed in the Agency's test rule development and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement. EPA's final regulations for the issuance of exemptions from testing requirements are in 40 CFR Part 790. In accordance with these regulations, any manufacturer or processor subject to a Phase I test rule may submit an application to EPA for an exemption from submitting study plans and from conducting any or all of the tests required under such a rule. If manufacturers perform all the required testing, processors will be granted exemptions automatically without having to file applications. Manufacturers and processors who are subject to the testing requirements of this rule must comply with the test rule development and exemption procedures in 40 CFR Part 790.

EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing. As noted above, EPA is interested in evaluating the effects attributable to DETA itself, and has specified a relatively pure grade substance for testing.

E. Test Rule Development

Development of this test rule for DETA will be a two-phase process. In Phase I, this test rule is being promulgated for DETA specifying certain health effects and environmental fate characteristics for which test data are to be developed. In Phase II, following promulgation of the Phase I test rule, those persons subject to the rule will be required to develop study plans for the development of data pertaining to the effects and characteristics specified in the Phase I rule. Within 30 days from the effective date of the final Phase I test rule, manufacturers must submit to EPA a letter stating their intention to sponsor testing or an application for exemption. Test sponsors must submit their study plans to EPA within 90 days from the effective date of the Phase I test rule. After an opportunity for public comment, EPA will promulgate a rule adopting the study plans, as proposed or modified, as the test standards and schedules for DETA for the tests required by the Phase I rule. Testing will also be subject to EPA's generic TSCA GLP standards. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards and schedules developed. Modifications to the adopted study plans can be made only with EPA approval.

Processors will not be required to submit letters of intent, exemption applications, and study plans, and to conduct testing, unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to indirectly pass the costs of testing on to processors through any price increase of DETA.

F. Reporting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the TSCA Good Laboratory Practice (GLP) standards which were published in 40 CFR Part 792. These final GLP standards apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the second phase of this rulemaking in which study plans are approved. The procedures for the second phase rulemaking are described in 40 CFR Part 790.

TSCA section 12(b) requires that persons who export or intend to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4, such as DETA, notify EPA of such exportation or intent to export. While the results of required testing may not be available for some time, a notice to the foreign government about the export of DETA serves to alert them to the Agency's concern about the substance. It gives these governments the opportunity to request such data that the Agency may currently possess on the substance, plus whatever data may become available as a result of testing activities. Thus, upon the effective date of this rule, persons who export or intend to export DETA must submit notices to the Agency pursuant to TSCA section 12(b)(1). For additional information, see 49 FR 45581 (November 19, 1984).

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person, except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of

TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of determining compliance with the final rule for DETA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the TSCA GLP standards and the test standards established in the second phase of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Rule

To assess the potential economic impact of this final Phase I test rule, EPA has prepared an economic evaluation that examines the costs of the required testing and analyzes four market characteristics of the chemical: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations.

Based on a total testing cost of $220,400 to $487,200 and an annualized cost of $57,110 to $126,243, the economic evaluation of DETA indicates that the potential for adverse economic effects due to the estimated testing costs is low. This conclusion is based on the following observations: (1) The demand for DETA is relatively inelastic due to limited potential for substitution in end uses; (2) the market expectations for DETA are generally favorable; and (3) the relative magnitude of the test cost is minor, i.e., an estimated 0.49 cent per pound in the upper bound. This represents 0.31 percent of the sales price of DETA. The economic analysis presenting these conclusions is included in the public record for this rulemaking.

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October, 1981, can be obtained through the NTIS under publication number PB 82-140773.

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Rulemaking Record

EPA has established a public record for this rulemaking (docket number OPTS-42012B) which is available for inspection in the OPTS Reading Room, Rm. E-107, 401, M Street SW., Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. This record includes basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. The record now includes the following:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule, consisting of:

(a) Notice of final rule on DETA.

(b) Notice of proposed rule on DETA (47 FR 18386).

(c) Notice containing the ITC designation of DETA to the Priority List (46 FR 28138).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922).

(e) Notice of final rule on test rule development and exemption procedures (49 FR 39774).

(f) Notice of final rule concerning data reimbursement (48 FR 31785).

(2) Support documents, consisting of:

(a) Diethylenetriamine support document.

(b) Economic impact analysis of final test rule for DETA.

(3) Communications, consisting of:

(a) Written public comments.

(b) Summaries of telephone conservations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

(4) Test protocol for a dermal absorption study of DETA.

B. References

(1) NIOSH. National Institute for Occupational Safety and Health. National Occupational Hazard Survey Data Base. Washington, D.C.: U.S. Department of Health, Education and Welfare. 1981.

(2) Fujino, M. "Experimental Studies on the Chronic Toxicity of Diethylenetriamine in Rats." Graduate thesis, University of Kyushu, School of Medicine, Department of Hygiene. 1970. (Translated by Scientific Translation Service for Dow Chemical Company).

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(12) Betlach, M.R., and Tiedje, J.M. "Kinetic Explanation for Accumulation of Nitrite, Nitric Oxide, and Nitrous Oxide during Bacterial Denitrification." Appl. Environ. Microbiol. 42:1074–1084. 1981.

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(20) Fan, T.Y., Krull, I.S., Ross, R.D., Wolf, M.H., and Fine, D.H. "Comprehensive Analytical Procedures for the Determination of Volatile and Non-volatile, Polar and Non-polar *N*-Nitroso Compounds." In: "Environmental Aspects of *N*-Nitroso Compounds." Walker, E.A., Griciute, L., Castegnaro, M., and Lyle, R.E., eds. IARC Scientific Publications No. 19. Lyon, France: IARC. 1978.

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VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The regulation for this chemical substance is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of the testing prescribed for DETA is less than $126,243 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects (less than 0.31 percent a year) on producers' costs or users' prices for this chemical. Finally, taking into account the nature of the market for this substance, the level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to these comments, are included in the public record for this rule.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. Based on the Economic Impact Analysis prepared for this rule, there is only one small manufacturer of DETA that manufactures less than 0.003 percent of the estimated annual domestic production of DETA. Although no figures are available to indicate whether or not there are small businesses which import DETA, the total amount of DETA imported is estimated to represent less than 1 percent of the estimated domestic production of DETA. Thus, the estimated number of small manufacturers (including importers) affected by this rule will be quite small.

2. Small manufacturers and small processors are not expected to perform testing themselves, or to participate in the organization of the testing effort.

3. Small manufacturers and small processors will experience only minor costs, if any, in securing exemption from testing requirements.

4. Small manufacturers and small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork

Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0033.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: May 16, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By adding § 799.1575 to read as follows:

§ 799.1575

Diethylenetriamine (DETA).

(a) *Identification of chemical test substance.* (1) Diethylenetriamine (CAS No. 111-40-0, also known as DETA) shall be tested in accordance with this part.

(2) Diethylenetriamine of at least 99 percent purity shall be used as the test substances in all tests.

(b) *Persons required to submit study plans, conduct tests and submit data.* All persons who manufacture or process diethylenetriamine from July 8, 1985, to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans and shall conduct tests and submit data as specified in this section, Subpart A of this part and Part 790 of this chapter (Test Rule Development and Exemption Procedures).

(Approved by the Office of Management and Budget under control number 2070-0033)

(c) *Health effects testing*—(1) *Mutagenic effects—Gene mutation*—(i) *Required testing.* (A) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted with DETA.

(B) A mouse specific locus assay shall be conducted with DETA, if the sex-linked recessive lethal test in *Drosophila melanogaster* conducted pursuant to paragraph (c)(1)(i)(A) of this section produces a positive result.

(ii) *Study plans.* For guidance in preparing study plans, the OTS Health Effects Test Guidelines for gene mutation assays published by the National Technical Information Service (NTIS) (PB 82-232984), should be consulted. Additional guidance may be obtained from the Organization for Economic Cooperation and Development (OECD) Health Effects Test Guidelines for genetic toxicology, as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(2) *Mutagenic effects—Chromosomal aberrations*—(i) *Required testing.* (A) An *in vitro* cytogenetics test shall be conducted with DETA.

(B) An *in vivo* cytogenetics test shall be conducted with DETA, if the *in vitro* cytogenetics test conducted pursuant to paragraph (c)(2)(i)(A) of this section produces a negative result.

(C) A dominant lethal assay shall be conducted with DETA, if either the *in vitro* cytogenetics test conducted pursuant to paragraph (c)(2)(i)(A) of this section produces a positive result.

(D) A heritable translocation assay shall be conducted with DETA, if the dominant lethal assay conducted pursuant to paragraph (c)(2)(i)(C) of this section or the *in vivo* cytogenetics test conducted pursuant to paragraph (c)(2)(i)(B) of this section produces a positive result.

(ii) *Study plans.* For guidance in preparing study plans, the OTS Health Effects Test Guidelines for chromosomal effects, published by NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the OECD Health Effects Test Guidelines for genetic toxicology, as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(3) *Subchronic effects*—(i) *Required testing.* A ninety-day oral subchronic toxicity test shall be conducted with DETA in at least one mammalian species.

(ii) *Study plans.* For guidance in preparing study plans, the OTS Health Effects Test Guidelines for oral subchronic testing, published by NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the OECD Health Effects Test Guidelines for oral subchronic testing, as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916).

(4) *Dermal absorption*—(i) *Required testing.* A dermal absorption test shall be conducted with DETA in the same mammalian species used for the oral subchronic (90-day) test conducted pursuant to paragraph (c)(3)(i) of this section.

(ii) *Study plans.* For guidance preparing study plans, the OTS Health Effects Test Guidelines for metabolism studies, published by NTIS (PB 82-232984), should be consulted. Additional guidance may be obtained from the OECD Health Effects Test Guidelines for metabolism studies, as adopted by the OECD Council on May 12, 1981, and the Pesticide Assessment Guidelines, published by NTIS (PB 83-153916). Additionally, the following references should be consulted:

(A) Feldman, R.J., and Maibach, H.I. "Absorption of Some Organic Compounds through the Skin in Man." J. Invest. Dermatol. 54:399-404. 1970.

(B) Feldman, R.J., and Baibach, H.I. "Percutaneous Penetration of Steroids in Man." J. Invest. Dermatol. 52:89-94. 1969.

(d) *Chemical fate testing*—(i) *Required testing.* Testing to assess *N*-nitrosamine formation, resulting from aerobic biological and/or chemical transformation, shall be conducted with DETA using environmental samples of lake water, sewage, and soil.

(ii) *Study plans.* For guidance in preparing study plans, the following references should be consulted:

(A) Yordy, J., and Alexander, M. "Formation of *N*-Nitrosodiethanolamine from Diethanolamine in Lake Water and Sewage." J. Environ. Qual. 10:266-270. 1981.

(B) Yordy, J., and Alexander, M. "Microbial Metabolism of *N*-Nitrosodiethanolamine in Lake Water and Sewage." Appl. Environ. Microbiol. 39:559-565. 1980.

(C) Tate, R.L., III, and Alexander, M. "Stability of Nitrosamines in Samples of Lake Water, Soil, and Sewage." J. Nat. Cancer Inst. 54:327-330. 1975.

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(F) Chang, S.V., and Harrington, G.W. "Determination of Dimethylnitrosamine and Nitrosoproline by Differential Pulse Polargraphy." Anal. Chem. 47:1857-1860. 1975.

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(H) Issenberg, P. "Analytical Methods for Nitrosamines." In: *N*-Nitroso Compounds." Scanlan, R.A., and Tannenbaum, S.R., eds. ACS Symposium Series 174. Washington, D.C.: American Chemical Society. 1981.

(e) *Availability of test guidelines.* The OTS Health Effects Test Guidelines cited in this final rule are available from the: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703-487-4650).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42012A; TSH-FRL 2815-5a]

Diethylenetriamine; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of diethylenetriamine (DETA; CAS No. 111-40-0) be required to conduct chronic oncogenicity bioassays of this substance in both rats and mice, if positive test results are obtained for DETA in certain of the mutagenicity assays required for this substance in the final Phase I test rule for DETA, which the Agency is promulgating elsewhere in this issue of the **Federal Register**. Oncogenicity bioassay testing of DETA is being proposed as a single-phase test rule.

DATE: Comments on this proposed rule must be submitted on or before July 22, 1985.

ADDRESS: Written comments should bear the document control number OPTS-42012A, and should be submitted in triplicate to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Room E-108, 401 M St., SW., Washington, D.C. 20460

All written comments filed under this proposal will be available for public inspection in room E-107 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is proposing to amend its final Phase I test rule for DETA, which appears elsewhere in this issue of the **Federal Register**, to include an automatic requirement for chronic oncogenicity testing, if positive results are obtained for DETA in certain of the mutagenicity assays required in the final test rule for this substance.

I. Background

A. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003; 15 U.S.C. 2601) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration by EPA. TSCA requires EPA to respond to such designations within 12 months of the date they are made, either by initiating rulemaking under section 4(a) or by publishing in the **Federal Register** reasons for not initiating rulemaking.

The ITC designated DETA for priority consideration in its Eighth Report, published in the **Federal Register** of May 22, 1981 (46 FR 28138). The ITC recommended that DETA be tested for the following health effects: Chronic effects, reproductive effects, and teratogenicity.

EPA issued a proposed test rule for DETA, published in the **Federal Register** of April 29, 1982 (47 FR 18386), in which the testing of DETA in at least two mammalian species for oral subchronic (90-day) health effects, for mutagenicity (both gene mutations and chromosomal aberrations), and for chemical fate under both aerobic and anaerobic conditions was proposed. The proposed test rule for DETA did not include chronic oncogenicity bioassay testing of DETA, either as an absolute requirement or as a result of positive test results in specified mutagenicity assays.

Since the test rule for DETA was proposed, EPA has adopted the general approach of requiring tiered testing sequences for both gene mutation testing and chromosomal aberration testing in its TSCA section 4 test rules for mutagenic effects. These sequences usually include an automatic requirement for chronic oncogenicity bioassays of chemical substances exhibiting positive responses in any of the following mutagenicity tests contained in the tiered testing sequences: (1) The gene mutation assay in mammalian cells, (2) the sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster*, (3) the *in vitro* cytogenetics assay, or (4) the *in vivo* cytogenetics assay. These mutagenicity testing sequences, as well as the assays within these sequences for which positive test results usually automatically trigger a requirement for chronic oncogenicity bioassays of the tested chemical substance, have been previously described in proposed test rules for mesityl oxide (48 FR 30699; July 5, 1983), cresols (48 FR 31812; July 11, 1983), and ethyltoluenes, trimethylbenzenes, and the C9 aromatic hydrocarbon fraction (48 FR 23088; May 23, 1983). Responses to comments on these mutagenicity testing sequences and the triggers within them for required chronic oncogenicity testing may be found in the final Phase I test rule for the C9 aromatic hydrocarbon fraction (50 FR 20662; May 17, 1985). The Agency believes that there is a high correlation between positive test results in any of the four previously listed mutagenicity assays and positive test results in chronic oncogenicity bioassays for a large number of substances tested in both types of assay systems. Therefore, the Agency believes that chemical substances exhibiting a positive response in any of these four mutagenicity tests should be viewed, under section 4(a)(1)(A) of TSCA, as potentially posing an unreasonable risk of oncogenicity, assuming a potential for human exposure and the lack of substantial scientific evidence to the contrary.

Elsewhere in this issue of the **Federal Register**, EPA is promulgating a final Phase I test rule for DETA, requiring testing of this chemical substance for oral subchronic (90-day) health effects in at least one mammalian species, for dermal absorption in the same mammalian species used for the subchronic study, for chemical fate under aerobic conditions, and for inducing *in vivo* gene mutations (tiered testing sequence) and *in vitro* and *in vivo* chromosomal aberrations (tiered testing sequences). Consistent with the Agency's approach of requiring oncogenicity bioassay testing under section 4 of TSCA when certain mutagenicity tests are positive, EPA now is proposing under TSCA section 4(a)(1)(A) to require chronic oncogenicity bioassays of DETA in both rats and mice, if this substance exhibits positive test results in any of the following mutagenicity assays in the tiered mutagenicity testing sequences (for *in vivo* gene mutation testing and both *in vitro* and *in vivo* chromosomal aberration testing) required in the final Phase I test rule for DETA: (1) The sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster*, (2) the *in vitro* cytogenetics assay, or (3) the *in vivo* cytogenetics assay.

B. Change in Process for Adopting Test Standards

In the **Federal Register** of March 26, 1982 (47 FR 13012), EPA announced an approach to adopting test rules that involved two-phase rulemaking. In the first phase of rulemaking, EPA would

specify the test substance, who would be responsible for testing and the required tests. In the second phase, EPA would establish the test methodologies (test standards) and the deadlines for submission of test data. EPA has used this approach for most of the test rules it has proposed for chemicals recommended in the first through the thirteenth ITC reports.

In December, 1983, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) filed an action under TSCA section 20, which challenged, among other things, the use of the two-phase process [*NRDC and AFL-CIO* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y., 1984)]. In an August 23, 1984 Opinion and Order, the Court found that utilization of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgating test rules within a reasonable time frame [*NRDC and AFL-CIO* v. *EPA*, 595 F. Supp. 1255, 1267-1270 (S.D.N.Y., 1984)].

Subsequent to the issuance of this Opinion, the Agency submitted papers to the Court which indicated that in order to expedite the test rule development process, EPA would utilize a single-phase rulemaking process for most test rules. The Agency also indicated that EPA would publicly announce this policy in the first test rule proposal to be published in the spring of 1985 [Declaration of Don R. Clay, at 12 (September 24, 1984)]. In accordance with this commitment, the Agency has promulgated a rule on Test Rule Development and Exemption Procedures (50 FR 20652; May 17, 1985), which describes in detail the procedures to be utilized in the one-phase rulemaking process. These one-phase rulemaking procedures are, therefore, being utilized in this proposed test rule for DETA.

Section 4(b)(1) of TSCA specifies that test rules shall include standards for the development of test data ("test standards") and deadlines for submission of test data. Under the two-phase process, both test standards and data submission deadlines are established during the second phase of rulemaking. However, in the single-phase approach, EPA will propose the pertinent OTS guideline(s) or other suitable test guideline(s) as the required test standard(s) in the initial notice of proposed rulemaking, and EPA will also propose time frames for the submission of the test data. Industry and other commenters may suggest an alternative methodology or modifications to the OTS guideline, *i.e.*, the proposed test standard, during the public comment period, and such comments should state why the alternative methodology or modification is more suitable for the chemical substance in question than the EPA-proposed test standard. Comment will also be sought on the proposed data submission deadlines. All such submissions, including alternative test methodologies, will be placed in the rulemaking record and will be available for review by the public. The final rule will promulgate as the test standards either the OTS guidelines, or other suitable guidelines, a modified version of these guidelines, the alternative methodology submitted by commenters, or a modified version of the alternative methodology. The proposed test standards and data submission deadlines will be open for discussion at any public meeting held pursuant to TSCA section 4(b)(1).

The single-phase approach offers a number of advantages over the two-phase approach. First, the Agency believes that the single-phase approach will shorten rulemaking by as much as 18 months, resulting in the expedited initiation of the required testing. Secondly, by allowing commenters to submit alternative test methodologies during the comment period, it preserves the flexibility of the two-phase process, but at reduced administrative cost. Because of these advantages, the Agency intends to utilize single-phase rulemaking for most rules promulgated under TSCA section 4(a).

II. DETA

A. Data Contained in Final Phase I Test Rule

The final Phase I test rule for DETA, appearing elsewhere in this issue of the **Federal Register**, contains (1) DETA's profile, (2) EPA's previous findings with respect to DETA, (3) a description of the persons who would be required to conduct the proposed chronic oncogenicity biossays of DETA, should the substance exhibit positive results in certain mutagenicity assays, and (4) a description of the test substance to be utilized for this bioassay testing. The test standard for the oncogenicity testing of DETA, if required, will be the OTS test guideline for chronic oncogenicity bioassay testing, published by the National Technical Information Service (NTIS) in report number PB 82-232984. The final Phase I test rule for DETA also contains a detailed description of the tiered testing sequences for both *in vivo* gene mutation testing and for *in vitro* and *in vivo* cytogenetics testing which are required for this chemical substance.

B. Automatic Triggers for Chronic Oncogenicity Bioassays

EPA's approach of using sequences of tiered tests to assess the mutagenic potential (with respect both to gene mutations and chromosomal aberrations) of chemical substances, as well as the use of positive test results in certain assays in these test sequences to trigger a requirement for chronic oncogenicity bioassays, has been previously described in test rules proposed by the Agency for mesityl oxide (48 FR 30699), cresols (48 FR 31812), and ethyltoluenes, trimethylbenzenes, and the C9 aromatic hydrocarbon fraction (48 FR 23088). The Agency's responses to a variety of public comments on this approach, the test sequences, and the assays (and triggers for oncogenicity testing) contained within them, may be found in the final Phase I test rule for the C9 aromatic hydrocarbon fraction (50 FR 20662)

As discussed in the final Phase I test rule for the C9 aromatic hydrocarbon fraction (50 FR 20662), the Agency believes that the use of sequences of tiered tests for mutagenicity testing, and the use of automatic triggers to require chronic oncogenicity bioassays based on the results of certain mutagenicity assays, is consistent with both current scientific knowledge and the regulatory approach to chemical testing established under section 4 of TSCA. Existing data show a strong correlation between positive results in certain mutagenicity tests and positive results in animal chronic oncogenicity bioassays for a large number of substances tested in both types of systems. Thus, positive results in one or more of these mutagenicity assays provide a basis for concluding that the substance may be an oncogen, and, in conjunction with evidence of potential for human exposure to the substance, that such exposure may present an unreasonable risk of oncogenicity. Conversely, negative results in all of the "trigger" mutagenicity tests provide substantial evidence that the tested substance is not likely to be an oncogen. In the absence of chemical-specific evidence of possible non-genotoxic oncogenicity of the substance, or evidence that the screening mutagenicity assays are unsuitable for the substance, EPA would not require chronic oncogenicity bioassays for such a substance.

Because the different mutagenicity assays used to trigger chronic oncogenicity bioassay testing generally

measure different genotoxic effects, or similar effects under substantially different test conditions (e.g., *in vitro* versus *in vivo* metabolic activation), and because each test has independently shown a strong ability to identify animal carcinogens, EPA believes that it generally is appropriate for positive results in any one of these mutagenicity tests to trigger a requirement to perform chronic oncogenicity bioassays. However, EPA agrees with commenters on the proposed test rules mentioned above that the overall scientific weight-of-evidence as to a substance's potential oncogenicity should be appropriately factored into these testing decisions. Furthermore, EPA believes that the weight-of-evidence should apply differently in the case of substances where testing is required under section 4(a)(1)(A) alone (as in the case of DETA) when compared with substances where the Agency finds that testing is supported only under section 4(a)(1)(B) (as is the case for the C9 aromatic hydrocarbon fraction). Where EPA has made findings of substantial production and significant or substantial exposure under section 4(a)(1)(B), there is a presumption that testing of the substance for oncogenicity is needed and the question before the Agency is whether the weight-of-evidence from the mutagenicity testing shows that oncogenic potential of the substance is sufficiently unlikely that EPA can reasonably predict that the anticipated exposures to the substance will not present an unreasonable risk of oncogenicity. In contrast, where testing is being required under section 4(a)(1)(A) alone, EPA must consider whether all of the relevant data available to the Agency after completion of the required mutagenicity tests provide substantial evidence that the substance may present an unreasonable risk of oncogenicity.

In the case of DETA, where testing is being required under section 4(a)(1)(A) alone, existing mutagenicity data show the chemical to be negative in gene mutation assays using bacteria (*Salmonella typhimurium*), yeast (*Saccharomyces cerevisiae*) and cultural mammalian cells (Chinese hamster ovary). However, DETA did produce positive results in tests for sister chromatid exchange (SCE) in Chinese hamster ovary cells and for unscheduled DNA synthesis (UDS) in cultured rat liver cells. Among these tests, only the gene mutation test in cultured mammalian cells (which was negative for DETA) would be used by EPA to trigger oncogenicity testing directly. However, the positive SCE and UDS test results provide some basis for suspicion that DETA could be a mutagen and/or oncogen. Thus, EPA is requiring an *in vivo* gene mutation test and both *in vitro* and *in vivo* chromosomal abberation tests for DETA in a final test rule published elsewhere in this **Federal Register**.

If any of these tests produces a clearly positive result, EPA considers that finding to show sufficient potential of DETA to be an oncogen to warrant required chronic oncogenicity bioassays of this substance, despite the existing evidence that DETA does not cause gene mutations in bacteria, yeast, or cultured mammalian cells.

C. EPA's Findings

The EPA finds that, if DETA elicits positive test results in any of the following mutagenicity assays required for DETA in the final Phase I test rule for this substance (published elsewhere in this issue of the **Federal Register**), then the manufacture, processing, use, and disposal of DETA may present an unreasonable risk to humans of carcinogenicity: (1) The *in vitro* cytogenetics assay, (2) the *in vivo* cytogenetics assay, or (3) the sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster*. This finding is based on the Agency's belief that there is a high correlation between positive test results in any of these three mutagenicity assays with positive test results in chronic oncogenicity bioassays for a large number of chemical substances tested in both kinds of assay systems.

The EPA also finds that, if the mutagenicity assays indicate DETA to be a potential oncogen, there are insufficient data and experience upon which the potential carcinogenic effects of DETA's manufacture, distribution in commerce, processing, use, or disposal, or any combination of these activities, on human health can be reasonably determined or predicted, and that chronic oncogenicity bioassay testing of DETA is necessary to develop such data.

III. Economic Analysis of Proposed Rule

To assess the economic impact of this proposed rule, EPA has prepared an economic evaluation (Ref. 1) that examines the cost of the required testing and analyzes four market characteristics of DETA: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The economic evaluation for the DETA proposed test rule, which estimates a total testing cost of $480,700 to $1,442,200 for chronic oncogenicity bioassays in both rats and mice, indicates that the potential for adverse economic effects due to the estimated cost of testing is low. The annulized test costs for DETA range from $124,600 to $373,650. This conclusion is based on the following observations (Ref. 1):

1. The demand for DETA is relatively inelastic, due to limited potential for substitution in end uses.

2. The market expectations for DETA are relatively favorable.

3. The relative magnitude of the test cost is negligible (i.e., an estimated 1.40 cents per pound in the upper-bound case); this represents 0.88 percent of the sales price of DETA.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry; Profile of Toxicological Testing," October, 1981, can be obtained through the NTIS under publication number PB 82-140773.

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this proposed rule.

V. Public Record

EPA has established a public record for this rulemaking (docket number OPTS-42012A). This record includes the basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule, consisting of:

(a) Notice of proposed rule on DETA.

(b) Notice of previous proposed rule on DETA (47 FR 18386).

(c) Notice of final Phase I rule on DETA.

(d) Notice containing the ITC designation of DETA to the Priority List (46 FR 28138).

(e) Notice containing EPA's Good Laboratory Practice Standards (48 FR 53922).

(f) Notice of final rule on test rule development and exemption procedures for one-phase rulemaking (50 FR 20652).

(g) Notice of final rule concerning data reimbursement (48 FR 31786).

(2) Support documents, consisting of:

(a) Diethylenetriamine support document.

(b) Economic impact analysis of proposed test rule for DETA.

(3) Communications, consisting of:

(a) Written public comments on previous proposed rule on DETA (47 FR 18386).

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

(4) OTS Health Effects Test Guidelines—chronic oncogenicity bioassay testing.

B. References

(1) MATHTECH, Inc. "Economic Impact Analysis of Proposed Test Rule for Diethylenetriamine." Washington D.C.: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Contract No. 68-01-6630. 1985.

The Agency will supplement the record with additional information as it is received. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Room E-107, 401 M Street, SW., Washington, D.C.

VI. Other Statutory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. The regulation for this chemical is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the actual cost of the testing prescribed for DETA is less than $1,442,200 over the testing and reimbursement period. Second, because the costs of the required testing will be distributed over a large production volume, the rule will have only very minor effects on producers' costs or users' prices for this chemical substance. Finally, taking into account the nature of the market for this substance, the level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have significant impact on a substantial number of small businesses for the following reasons:

1. Based on the Economic Impact Analysis prepared for this rule (Ref. 1), there is only one small manufacturer of DETA that manufactures less than 0.003 percent of the estimated annual domestic production of DETA. Although no figures are available to indicate whether or not there are small businesses which import DETA, the total amount of DETA imported is estimated to represent less than 1 percent of the estimated domestic production of DETA. Thus, the estimated number of small manufacturers (including importers) affected by this rule will be quite small.

2. Small manufacturers and small processors of DETA are not expected to perform testing themselves or to participate in the organization of the testing efforts.

3. Small manufacturers and small processors will experience only minor costs, if any, in securing exemption for testing requirements.

4. Small manufacturers and small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0033.

List of Subjects in 40 CFR Part 799

Testing, Environmental Protection Agency, Environmental protection, Hazardous material, Chemicals.

Dated: May 16, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

It is proposed that 40 CFR Part 799 be amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By adding paragraph (c)(5) to § 799.1575 to read as follows:

§ 799.1575 Diethylenetriamine (DETA).

* * * * *

(c) * * *

(5) *Carcinogenicity*—(i) *Required testing.* A chronic dermal oncogenicity bioassay shall be conducted in both rats and mice with DETA, if this substance yields a positive test result in any one of the following mutagenicity tests: the *in vitro* cytogenetics assay conducted pursuant to paragraph (c)(2)(i)(A) of this section, the *in vivo* cytogenetics assay conducted pursuant to paragraph (c)(2)(i)(B) of this section, or the sex-linked recessive lethal assay in *Drosophila melanogaster* conducted pursuant to paragraph (c)(1)(i)(A) of this section. Positive test results are those which meet the criteria established for these three mutagenicity assays in the OTS Health Effects Guidelines, published by the National Technical Information Service (NTIS; PB 82-232984).

(ii) *Test Standard.* The OTS Health Effects Test Guideline for chronic exposure-oncogenicity, published by the National Technical Information Service (NTIS; PB 82-232984), shall be the test standard for the required oncogenicity bioassay testing of DETA. It is U.S. Environmental Protection Agency Publication No. EPA 560/6-82-001 and is for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161. When ordering, use NTIS Accession No. PB 82-232984. It is also available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St., NW., Washington, D.C. 20408. A copy of this publication has also been included in the public record for this rule (docket no. OPTS-42012A) and is available for inspection in the OPTS Reading Rm., E-107, 401 M St., SW., Washington, D.C. 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

(iii) *Reporting requirements*—(A) *Data contained in reports.* In addition to the reporting requirements as specified in the EPA GLP standards in 40 CFR Part 792, the specific information listed in part III. C. of the test standard identified in paragraph (c)(5)(ii) of this section shall be reported.

(B) *Interim quarterly summary reports.* The interim quarterly summary reports shall be submitted to EPA at least every three months, beginning with the start of oncogenic testing and ending with submission of the Final Test Report.

(C) *Final test report submission date:* The final test report shall be submitted to EPA no later than 48 months following the date the test sponsor(s) are notified by the Agency that EPA has determined that DETA has exhibited a positive test result in one or more of the mutagenicity assays conducted pursuant to paragraph (c)(1)(i)(A), (2)(i) (A) or (B) of this section.

* * * * *

[FR Doc. 85-12421 Filed 5-22-85; 8:45 am]

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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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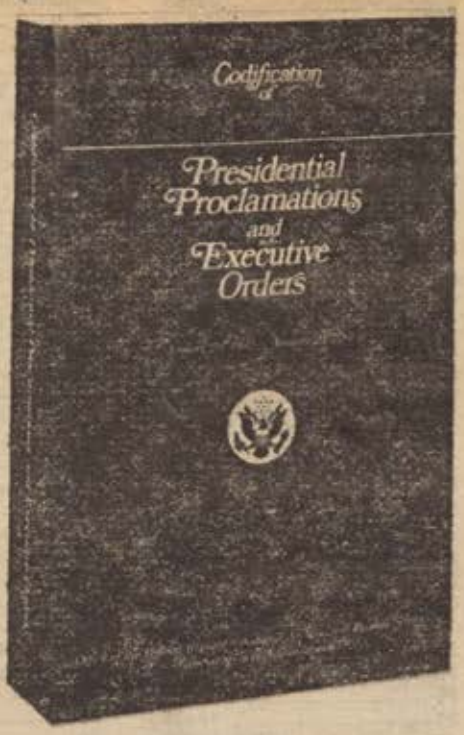

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