

Federal Register

Wednesday
October 2, 1985

Selected Subjects

Air Pollution Control

Environmental Protection Agency

Aviation Safety

Federal Aviation Administration

Coal

Land Management Bureau

Generally Recognized as Safe (GRAS)

Food and Drug Administration

Hazardous Waste

Environmental Protection Agency

Loan and Grant Programs—Agriculture

Farmers Home Administration

Marketing Agreements

Agricultural Marketing Service

Mortgage Insurance

Housing and Urban Development Department

Natural Gas

Federal Energy Regulatory Commission

Motor Carriers

Federal Highway Administration

Organizations and Functions (Government Agencies)

Justice Department

Over-The-Counter Drugs

Food and Drug Administration

CONTINUED INSIDE



Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for \$300.00 per year, or \$150.00 for 6 months, payable in advance. The charge for individual copies is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

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

How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Travel and Transportation Expenses

Animal and Plant Health Inspection Service

Water Pollution Control

Environmental Protection Agency

Contents

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

- The President**
ADMINISTRATIVE ORDERS
 40183 Foreign military sales financing, certification of interest rate (Presidential Determination No. 85-15 of July 12, 1985)
 40321 Steel industry modernization, annual determination (Memorandum of September 30, 1985)
EXECUTIVE ORDERS
 40319 Federal Advisory Committees, continuance (EO 12534)
 40317 Mediation and Conciliation, President's Advisory Committee on (EO 12533)
PROCLAMATIONS
 40181 Employ the Handicapped Week, National (Proc. 5371)
 40323 United Nations Day (Proc. 5372)
- Executive Agencies**
- Agricultural Marketing Service**
RULES
 40185 Kiwifruit; grade standards
PROPOSED RULES
 40200 Filberts/hazelnuts grown in Oregon and Washington
 40200 Kiwifruit; grade standards; withdrawn
- Agriculture Department**
See also Agricultural Marketing Service, Animal and Plant Health Inspection Service; Farmers Home Administration.
NOTICES
 40209 Agency information collection activities under OMB review
- Air Force Department**
RULES
 40197 Privacy Act; implementation
NOTICES
 Meetings:
 40212 Scientific Advisory Board
- Animal and Plant Health Inspection Service**
RULES
 40186 Overtime services relating to imports and exports: Commuted traveltime allowances
- Commerce Department**
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
- Consumer Product Safety Commission**
NOTICES
 Meetings:
 40210 All terrain vehicles hazards
- Defense Department**
See also Air Force Department; Navy Department.
NOTICES
 Meetings:
 40211, 40212 Electron Devices Advisory Group (2 documents)
- 40212 Science Board task forces
- Education Department**
NOTICES
 40213 Accrediting agencies and association, nationally recognized; list
 Grants; availability, etc.:
 40217 Public service education fellowships program
- Energy Department**
See also Federal Energy Regulatory Commission.
NOTICES
 Grant awards:
 40219 National Academy of Sciences
 Meetings:
 40218 Strategic Petroleum Reserve Test Sale; briefing
- Environmental Protection Agency**
PROPOSED RULES
 Air pollution; standards of performance for new stationary sources:
 40280 Quality assurance and control revisions
 Hazardous waste:
 40292 Identification and listing; exclusions
 Water pollution control:
 40274 Ocean dumping; Columbia River, OR-WA; site designations
NOTICES
 Air pollution control:
 40286 Toxic pollutant assessment; ethylene oxide
 Meetings:
 40233 Chesapeake Bay Executive Council
 Water pollution discharge of pollutants (NPDES):
 40228 Puerto Rico
- Farmers Home Administration**
RULES
 Loan and grant programs:
 40187 Debt settlements; approval authority
- Federal Aviation Administration**
RULES
 Airworthiness directives:
 40188 Lockheed-California
 40189 Saab-Fairchild
 40190 Control zones
 40191 Restricted areas
PROPOSED RULES
 Airworthiness directives:
 40202 Garlick Helicopters et al.
 40201 SOCATA
 40203 Control zones
NOTICES
 40253 Exemption petitions; summary and disposition
 Meetings:
 40255 Planning Perspectives Conference
- Federal Communications Commission**
NOTICES
 40256 Meetings; Sunshine Act

- Exchange of lands:
 40237 Idaho
 Geothermal resource areas:
 40240 Washington
 Resource management plans:
 40238 San Juan-San Miguel Planning Area, CO
 Survey plat filings:
 40240 New Mexico (2 documents)
 Withdrawal and reservation of lands:
 40240 Idaho

Maritime Administration**NOTICES**

Applications, etc.:

- 40255 United States Lines (S.A.) Inc.

National Archives and Records Administration**NOTICES**

- 40246 Agency records schedules; availability and inquiry

National Oceanic and Atmospheric Administration**PROPOSED RULES**

Fishery conservation and management:

- 40206 Gulf of Mexico reef fish

National Science Foundation**NOTICES**

Meetings:

- 40247 National Medal of Science President's Committee

Navy Department**NOTICES**

Meetings:

- 40212 Naval Research Advisory Committee

Nuclear Regulatory Commission**NOTICES**

Applications, etc.:

- 40247 Commonwealth Edison Co.
 40247 Power Authority of State of New York

Meetings:

- 40248 Health effects models for accident consequence assessment
 40248 Reactor Safeguards Advisory Committee
 40249 Three Mile Island Unit 2 Decontamination Advisory Panel

Occupational Safety and Health Administration**RULES**

- 40268 Federal employees occupational safety and health programs; reporting and recordkeeping requirements

Postal Rate Commission**NOTICES**

Meetings; Sunshine Act

Post office closings; petitions for appeal:

- 40252 Moreno, CA

Prisons Bureau**NOTICES**

Environmental statements; availability, etc.:

- 40245 Federal Correctional Facility, Polk-Yamhill County Vicinity, OR

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

- 40252 Chicago Board Options Exchange, Inc.

Small Business Administration**NOTICES**

Applications, etc.:

- 40253 Greater Washington Investors, Inc.
 Meetings; regional advisory councils:
 40253 South Carolina

Tennessee Valley Authority**NOTICES**

- 40256 Meetings; Sunshine Act (2 documents)

Trade Representative, Office of United States**NOTICES**

International trade agreements; determinations:

- 40250 European Communities et al.

Transportation Department

See Federal Aviation Administration; Federal Highway Administration; Maritime Administration.

Treasury Department

See Internal Revenue Service.

Separate Parts in This Issue**Part II**

- 40260 Department of Health and Human Services, Food and Drug Administration

Part III

- 40268 Department of Labor, Occupational Safety and Health Administration

Part IV

- 40274 Environmental Protection Agency

Part V

- 40280 Environmental Protection Agency

Part VI

- 40286 Environmental Protection Agency

Part VII

- 40292 Environmental Protection Agency

Part VIII

- 40304 Department of Transportation, Federal Highway Administration

Part IX

- 40317 The President

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR	1864.....	40187
Administrative Orders:	Proposed Rules:	
Presidential Determinations:	51.....	40200
No. 85-16 of	982.....	40200
July 12, 1985.....	14 CFR	
Memorandums:	39 (2 documents).....	40188,
September 30, 1985.....		40189
Executive Orders:	71.....	40190
11145 (Continued by	73.....	40191
EO 12534).....	Proposed Rules:	
11183 (Continued by	39 (2 documents).....	40201,
EO 12534).....		40202
11287 (Continued by	71.....	40203
EO 12534).....	18 CFR	
11776 (Continued by	271 (3 documents).....	40192,
EO 12534).....		40193
12131 (Continued by	21 CFR	
EO 12534).....	Proposed Rules:	
12190 (Continued by	182.....	40204
EO 12534).....	186.....	40204
12196 (Continued by	348.....	40260
EO 12534).....	24 CFR	
12216 (Continued by	203.....	40194
EO 12534).....	251.....	40195
12296 (Continued by	990.....	40196
EO 12534).....	26 CFR	
12332 (Revoked by	Proposed Rules:	
EO 12534).....	1.....	40205
12335 (Revoked by	28 CFR	
EO 12534).....	0.....	40196
12345 (Continued by	29 CFR	
EO 12534).....	1960.....	40268
12367 (Continued by	32 CFR	
EO 12534).....	806b.....	40197
12369 (Revoked by	40 CFR	
EO 12534).....	Proposed Rules:	
12382 (Continued by	60.....	40280
EO 12534).....	228.....	40274
12395 (Revoked by	261.....	40292
EO 12534).....	43 CFR	
12399 (Revoked by	3480.....	40197
EO 12534).....	49 CFR	
12400 (Revoked by	386.....	40304
EO 12534).....	50 CFR	
12401 (Revoked by	Proposed Rules:	
EO 12534).....	641.....	40206
12412 (Revoked by		
EO 12534).....		
12421 (Revoked by		
EO 12534).....		
12426 (Revoked by		
EO 12534).....		
12428 (Revoked by		
EO 12534).....		
12433 (Revoked by		
EO 12534).....		
12439 (Revoked by		
EO 12534).....		
12462 (Amended by		
EO 12533).....		
12468 (Revoked by		
EO 12534).....		
12489 (Revoked by		
EO 12534).....		
12499 (Revoked by		
EO 12534).....		
12502 (Revoked by		
EO 12534).....		
12533.....		40317
12534.....		40319
Proclamations:		
5371.....		40181
5372.....		40323
7 CFR		
51.....		40185
354.....		40186

Presidential Documents

Title 3—

Proclamation 5371 of September 30, 1985

The President

National Employ the Handicapped Week, 1985

By the President of the United States of America

A Proclamation

Today disabled men and women are entering the American labor force in unprecedented numbers, finding personal fulfillment and contributing to our society and our economy. The reasons for this welcome development are not hard to find: enhanced enforcement of laws that prohibit discrimination against the handicapped; actions by employers to provide more accessible work places and transportation; improved education and training; more innovative job accommodations; and better attitudes toward the disabled. The most important reason of all is the outstanding work record people with disabilities are achieving at their jobs.

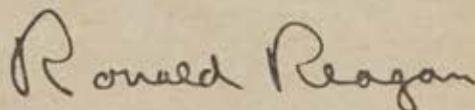
But none of this should make us complacent. Much remains to be done if we are to bring brighter days to all the disabled people of our country.

All of us must constantly strive for full acceptance of disabled people, so that we begin to see people rather than disabilities. We must first learn, and then seek to inculcate in others, especially the young, a deep respect for the human person, whatever that person's handicaps. By doing so, we reaffirm the timeless American principle of equality of opportunity and help build a future in which the unique attributes of every citizen are recognized and allowed to develop for the good of all.

The Congress, by Joint Resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October of each year as "National Employ the Handicapped Week." This special week is a time for all Americans to join together to renew their dedication to meeting the goal of full opportunities for disabled citizens.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning October 6, 1985, as National Employ the Handicapped Week. I urge all governors, mayors, other public officials, leaders in business and labor, and private citizens to help meet the challenge of the future by ensuring that disabled people have the opportunity to participate fully in the economic life of the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, 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 tenth.



Faint, illegible text covering the majority of the page, possibly bleed-through from the reverse side.

[Faint signature or handwritten text]

Presidential Documents

Presidential Determination No. 85-15 of July 12, 1985

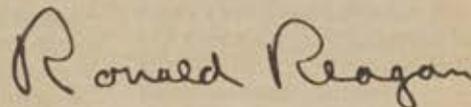
Certification of the Rate of Interest for Countries Designated To Receive FMS Financing

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to the authority vested in me by section 23 of the Arms Export Control Act, as amended, I hereby certify that the national interest requires that concessional FMS financing for the fiscal year 1985 under section 23 of the Act be set at a rate of interest of 50 percent of the appropriate Treasury rate (but not less than 5% per annum) to the following countries: Indonesia, Philippines, Jordan, Morocco, Tunisia, Greece, Turkey, Botswana, Cameroon, Colombia, Ecuador, El Salvador and Peru. Congress will be informed through the normal reprogramming process should additional countries be added to this list.

You are directed on my behalf to report this determination to Congress.

This certification shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 12, 1985.

[FR Doc. 85-23703

Filed 10-1-85; 10:23 am]

Billing code 3195-01-M

Received of the Treasurer of the State of New York

the sum of \$100.00 for the year 1874

in full for the year 1874

(Signature)

THE STATE OF NEW YORK

Rules and Regulations

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Kiwifruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This action will amend the voluntary United States Standards for Grades of Kiwifruit. The Kiwifruit Growers of California have requested that the grade standards be amended by changing the shape requirement for the U.S. Fancy grade, the application of tolerances section, revising the requirements of the definition of fairly uniform in size, and adding a section establishing the sample size used for grade determination. The Agricultural Marketing Service has the responsibility, in cooperation with industry, to maintain current grade standards.

This was originally published as a proposal with a 30 day comment period. However, the kiwifruit harvest is expected to begin about October 1 and this needs to be published as an interim final rule.

DATES: Effective date: October 2, 1985. Comments due by November 1, 1985.

ADDRESS: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the office of the

Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Francis J. O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 475-3125.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect of \$100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary United States Standards for Grades of Kiwifruit became effective September 1982. Recently the Kiwifruit Growers of California requested that the standards be amended to change the shape requirement in the U.S. Fancy grade and the application of tolerances, to redefine fairly uniform in size and to add a section for sample size.

The U.S. Fancy grade requires fruit to be well formed. Due to varying degrees of shape encountered over the years, it is felt that well formed is too restrictive. This interim final rule will allow U.S. Fancy or U.S. No. 1 to be fairly well formed.

Recent changes in marketing practices include packing kiwifruit in consumer size containers. The present application of tolerances section applies to individual containers but does not make a distinction for consumer containers. This interim final rule will bring the application of tolerances in line with current industry practices.

A provision will be added to the application of tolerances permitting one

fruit which is frozen or affected by decay in any consumer container, provided that the average percentage of defects for the entire lot not exceed lot tolerances. Present application of tolerances allows two such fruit in any container provided the average for the entire lot does not exceed the tolerance.

The present standards define "fairly uniform size" to mean that fruit in any container may not vary more than 1/4 inch in diameter. Industry has pointed out that limiting diameter variation to only 1/4 inch for large size fruit is too restrictive. Therefore, this interim final rule incorporates a sliding scale approach to the problem by allowing a greater variation in diameter for larger fruit than for fruit of smaller size. For fruit in containers numerically marked to denote size, fairly uniform in size will allow a variation of not more than 1/2 inch in container count sizes 30 or larger, 3/8 inch in container count sizes 31 thru 38, and 1/4 inch in container count sizes 39 and smaller. A tolerance of 5 percent will be provided for fruit in any container which exceeds the diameter range specified.

A section will also be added concerning sample size. Industry in the last few years has added other types of containers to their standard tray flat. This section will address sampling for new and old types of containers.

As mentioned before this was previously published as a proposal. However, industry has now asked for immediate relief pertaining to the shape requirement in the U.S. Fancy grade.

Pursuant to 5 U.S.C. 553, it is found impracticable, unnecessary and contrary to public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this interim rule until 30 days after publication for a number of reasons. The kiwifruit harvest begins early in October and making such a change in mid-harvest would cause great confusion in the marketplace. The industry is also prepared and looking forward to marketing kiwifruit in accord with this change. Comments, however, are being solicited for 30 days in order to allow public participation before finalization of any interim rule.

List of Subjects in 7 CFR Part 51

Agriculture commodities.

PART 51—[AMENDED]

Accordingly, 7 CFR Part 51 is amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended, 7 U.S.C. 1622, 1624.

2. In Subpart—United States Standards for Grades of Kiwifruit, the table of contents thereof is revised to read as follows:

Subpart—United States Standards for Grades of Kiwifruit

Sec.	
51.2335	Grades.
51.2336	Tolerances.
51.2337	Application of tolerances.
51.2338	Standard pack.
51.2339	Definitions.
51.2340	Classification of defects.
51.2341	Sample size for grade determination.

3. Section 51.2335 paragraph (a)(1)(vi) is revised to read as follows:

§ 51.2335 Grades.

- (a) * * *
- (1) * * *
- (vi) Fairly well formed.

4. Section 51.2337 paragraph (a) is revised to read as follows:

§ 51.2337 Application of Tolerances.

(a) Individual samples shall not have more than double a specified tolerance except that at least two defective specimens may be permitted in any container: *Provided*, That not more than one fruit which is frozen or affected by decay be permitted in any container 3 pounds or less; and, *Provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

5. Section 51.2338 paragraph (d) is revised to read as follows:

§ 51.2338 Standard pack.

(d) "Fairly uniform in size" means that fruit in containers marked numerically to denote size may not vary in diameter more than 1/2 inch (12.7mm) in sizes 30 or larger; 3/8 inch (9.5mm) in sizes 31 through 38; and 1/4 inch (6.4mm) in sizes 39 or smaller. Not more than 5 percent, by count, of the fruit in any container may exceed the diameter range specified.

§ 51.2339 [Amended]

6. Section 51.2339 is amended by removing the definition for "Well formed."

7. 7 CFR Part 51 will be amended by adding a new § 51.2341, as follows:

§ 51.2341 Sample size for grade determination.

For fruit place-packed in tray pack containers, the sample shall consist of the contents of the individual container. For fruit jumble-packed in volume filled containers, the sample shall consist of at least 50 fruit. When individual containers contain at least 50 fruit, each individual sample is drawn from one container. When individual containers contain less than 50 fruit, a sufficient number of adjoining containers are open to form a 50 fruit sample.

Done in Washington, DC, on September 27, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-23545 Filed 10-1-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service**7 CFR Part 354**

[Docket No. 85-377]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 7 CFR Part 354 which prescribe commuted traveltime allowances. The regulations are amended by adding commuted traveltime periods for traveling from certain duty stations in Louisiana, Mississippi, New Jersey, and Vermont to specified locations in these States where services are to be performed. This document also amends the regulations by deleting commuted traveltime periods for traveling from certain duty stations in California and Mississippi to specified locations in these States.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Eggert, Director, National Administrative Planning Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in 7 CFR Part 354, entitled "Overtime Services Relating to Imports and Exports" (referred to below as the regulations), set forth provisions for obtaining, on a reimbursable basis, inspection, laboratory testing, certification, or quarantine services pertaining to the importation and exportation of plants, plant products, animals, animal products, or other commodities, during Sundays, holidays, or at other times outside the regular tour of duty of Plant Protection and Quarantine (PPQ) employees who perform such services. These services are provided upon request to any person, firm, or corporation having ownership, custody, or control of the animals or commodities requiring such services.

The regulations provide that under certain circumstances the charges for reimbursable services of a PPQ employee shall include charges for a commuted traveltime period. Section 354.2 of the regulations contains administrative instructions prescribing commuted traveltime periods. Traveltime periods reflect, as nearly as is practicable, the time required for a PPQ employee to travel from the employee's duty station to the locality where the service is provided and to return to the employee's duty station.

This document amends § 354.2 of the regulations by adding commuted traveltime periods for traveling from certain duty stations in Louisiana, Mississippi, New Jersey, and Vermont to other locations in these States where services are to be performed (the amendments are set forth in the rule portion of this document). This action is necessary to inform the public that PPQ employees are available to travel from such duty stations to perform services at specified locations and to inform the public of the commuted traveltime periods for such travel.

This document also amends § 354.2 of the regulations by deleting commuted traveltime periods for traveling from certain duty stations in California and Mississippi to specified locations in these States (the amendments are set forth in the rule portion of this document). This action is necessary because PPQ employees are no longer available to travel from the specified duty stations to perform such services.

Executive Order 12291 and Regulatory Flexibility Act

The rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major

rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

The amount of articles and commodities requiring inspection and other services of a PPQ employee on a Sunday, holiday, or overtime basis at the affected locations represent an insignificant portion of the total amount of articles and commodities that require such services at locations in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime periods appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this rule are impracticable and contrary to the public interest; and good cause is found for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. [See 7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675,

May 31, 1984; 50 FR 14088, April 10, 1985].

List of Subjects in 7 CFR Part 354

Agricultural commodities, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Under the circumstances described above, 7 CFR Part 354 is amended as follows:

1. The authority citation for Part 354 is revised to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by adding in alphabetical order or deleting the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES (IN HOURS)

Location covered	Served from	Metropolitan area	
		Within	Outside
Delete:
California:			
Tecate	San Diego		2
.
Mississippi:			
Kessler AFB	Brookhaven		4
Vicksburg	Florence		3
.
Add:
Louisiana:			
Burnside	Thibodaux		2½
Donaldsonville	Thibodaux		2
Geismar	Thibodaux		3
St. James	Thibodaux		2½
Uncle Sam	Thibodaux		3
.
Mississippi:			
Port Bienville	Hattiesburg		4
Port Bienville	Pascagoula		3
Vicksburg	Jackson		3
.
New Jersey:			
Salem	Bridgeton (Monsanto)		2
Salem	McGuire AFB		3
.
Vermont:			
Burlington	Montpelier		2
Montpelier	1	
Undesignated ports	Montpelier		3
.

Done at Washington, D.C., this 27th day of September, 1985.

W.F. Helms,

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

[FR Doc. 85-23553 Filed 10-1-85; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Part 1864

Debt Settlement

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is increasing the debt settlement approval authority by FmHA officials for those borrowers who have been granted a Chapter 7 discharge in bankruptcy. This action is necessary because the regulations presently only allow debts of \$25,000 or less to be approved by the State Director, and anything greater must be approved by the Administrator. The intended effect of this action is to reduce the large volume of debt settlements submitted to the Administrator.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas Baden, Senior Loan Officer, Farm Real Estate and Production Division, FmHA, Room 5443, South Building, Washington, DC 20250, Telephone (202) 475-4008.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. FmHA determines that settlement of debts (including principal, interest, and other charges) in cases of Chapter 7 discharge in bankruptcy may be approved by (1) a State Director if the amount to be debt settled after a discharge of the debt in bankruptcy is less than \$150,000, (2) an appropriate Assistant Administrator if the amount to be debt settled after a discharge of the debt in bankruptcy is less than \$250,000 and (3) the Administrator if the amount to be debt settled after discharge of the debt in bankruptcy is \$250,000 or more.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

These programs/activities are listed in the Catalog of Federal Domestic Assistance under numbers:

10.404 Emergency Loans

10.405 Labor Housing Loans and Grants

- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Very Low and Low Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.417 Very Low—Income Housing Repair Loans and Grants
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans

and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and is in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190; an Environmental Impact Statement is not needed.

List of Subjects in 7 CFR Part 1864

Accounting, Loan programs—Agriculture, Rural areas.

Therefore, Part 1864 of Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1864—DEBT SETTLEMENT

1. The authority citation for Part 1864 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 40 U.S.C. 442; 7 CFR 2.23; 7 CFR 2.70.

2. Section 1864.14 is amended by revising paragraph (a) to read as follows:

§ 1864.14 Approval of settlement and submission to National Office.

(a) *Approval of settlement.* Subject to the policies, procedures, and limitations set forth in this Instruction, the compromise, adjustment, cancellation, or chargeoff of debts (including principal, interest, and other charges) may be approved.

(1) By the State Director where the indebtedness involved in the settlement is less than \$25,000 or where a Chapter 7 discharge in bankruptcy has been granted and the indebtedness is less than \$150,000.

(2) By the appropriate Assistant Administrator where a Chapter 7 discharge in bankruptcy has been

granted and the indebtedness is less than \$250,000.

(3) By the Administrator where the indebtedness involved in the settlement is \$25,000 or more or where a Chapter 7 discharge in bankruptcy has been granted and the indebtedness is \$250,000 or more.

* * * * *

Dated: September 16, 1985.
Vance L. Clark,
Administrator, Farmers Home
Administration.

[FR Doc. 85-23552 Filed 10-1-85; 8:45 am]
BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-60-AD; Amdt. 39-5144]

Airworthiness Directives; Lockheed-California Co., Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and subsequent periodic inspections for accumulated water in elevator trailing edge panels on certain Lockheed Model L-1011 airplanes. This AD is required because a significant amount of water in the trailing edge of the elevator can create an unbalance, which can cause a flutter instability to occur within the normal flight envelope. This condition, if not corrected, can result in major structural damage to the airplane.

DATES: Effective November 12, 1985. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Kyle L. Olsen, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach,

California 90808; telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require inspection and modification of the elevator trailing edge panels on certain Lockheed L-1011 series airplanes was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register on July 5, 1985 (50 FR 27601). The comment for the proposal closed August 1, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Only one person submitted comments.

The commenter stated that the Lockheed Service Bulletin 093-55-026 does not require inspections for airplanes with fiberglass trailing edge panels. The FAA acknowledges that the intent of the notice was to apply only to airplanes with Kevlar/Nomex honeycomb trailing edge panels. The final rule has been revised to make this clear.

The commenter also stated that Lockheed Service Bulletin 093-55-026 refers to a Lockheed Alert Service Bulletin, which provides instructions for visual and tap test inspections. The commenter interprets the proposed rule as not incorporating the requirements of the Alert Service Bulletin. The FAA recognizes that this interpretation is correct, and paragraph (a) of the AD has been revised to clearly specify inspections by X-ray, moisture meter, or in-situ balance check.

Enclosed with the commenter's letter was a copy of a telex from an operator, which suggested that service information from another aircraft manufacturer be allowed as an alternate procedure. The FAA acknowledges this suggestion; however, paragraph (d) of the AD does allow alternate means of compliance, when data is submitted to and approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

During the comment period, Lockheed issued, and the FAA approved, Revision 1 to Service Bulletin 093-55-027. This revision provides additional instructions for wrapping the end edges of the trailing edge panels. The rule as proposed allows this additional modification.

It is estimated that 100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 11 manhours per airplane to accomplish the required actions, and that the average

labor cost will be \$40 per manhour. For airplanes that require replacement elevator trailing edge panels, the cost for parts is approximately \$3,000 per airplane and would require approximately 157 manhours, at \$40 per manhour, for installation. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$972,000.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes discussed above.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model L-1011 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L-1011 series airplanes, certificated in any category, incorporating Kevlar/Nomex honeycomb elevator trailing edge panels. Compliance required as indicated, unless previously accomplished.

To prevent the potential of major structural damage to the airplane due to flutter divergence as a result of water retention in the elevator trailing edge panels, accomplish the following:

a. Within 300 hours time-in-service after the effective date of this AD, inspect by X-ray, moisture meter, or in-situ balance check, the elevator trailing edges for water entrapment in accordance with Lockheed Service Bulletin 093-55-028 dated November 20, 1984, or later FAA approved revision:

1. If no water is detected and the trailing edge has less than 20,000 hours time-in-

service, reinspect in accordance with paragraph (a) at intervals not to exceed 3,500 hours time-in-service.

2. If no water is detected and the trailing edge has 20,000 or more hours time-in-service, reinspect in accordance with paragraph (a) at intervals not to exceed 7,000 hours time-in-service.

3. If water is present and the calculated or measured unbalance is within allowable limits, reinspect in accordance with paragraph (a) at intervals not to exceed 1,100 hours time-in-service.

4. If water is present and the total elevator unbalance cannot be brought within allowable limits, replace the trailing edge panel or panels before further flight.

b. If the trailing edge is replaced by a trailing edge part number 1580585-103 or -105, within 3,500 hours time-in-service after the replacement inspect in accordance with paragraph (a) and reinspect in accordance with paragraphs (a)(1), (a)(2), or (a)(3).

c. The repetitive inspections required by paragraphs (a)(1), (a)(2), and (a)(3) may be discontinued after the trailing edge is modified in accordance with Lockheed Service Bulletin 093-55-027, dated November 20, 1984, or later FAA-approved revision.

d. Alternate means of compliance with this AD which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective November 12, 1985.

Issued in Seattle, Washington, on September 25, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-23467 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-57-AD; Amdt. 39-5145]

Airworthiness Directive; Saab-Fairchild SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 31, 1985, the FAA issued telegraphic Airworthiness

Directive T85-11-51, effective upon receipt, to all known U.S. operators of Saab-Fairchild Model SF-340A airplanes, which provides initialization procedures to prevent incorrect attitude presentation on the Collins electronic flight instrument system (EFIS) after takeoff. Incorrect attitude indication would be misleading and could be hazardous to flight. This action publishes telegraphic AD T85-11-51.

DATES: Effective October 21, 1985.

This AD was effective earlier to all recipients of telegraphic AD T85-11-51 dated May 31, 1985. Compliance required before further flight after the effective date of this AD, if not already accomplished.

ADDRESSES: The applicable service information specified in this AD may be obtained upon request to Saab-Fairchild Product Support, S.58188, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold N. Wantiez, Standardization Branch, ANM-113; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Swedish Board of Civil Aviation (BCA), which is the airworthiness authority for Sweden, has, in accordance with existing provisions of a bilateral agreement, notified the FAA of an unsafe condition that may exist on Saab-Fairchild Model SF-340A airplanes. Two incidents have been reported of incorrect attitude presentations on the Collins EFIS after takeoff during SF-340A scheduled operation. There was no failure warning given to the pilot. This situation is misleading and could be hazardous to flight.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, telegraphic AD T85-11-51 was issued May 31, 1985, which requires that a revised initialization procedure for the Collins attitude heading reference system (AHRS) be used on SF-340A airplanes to prevent incorrect attitude presentations.

Since a situation existed, and still exists, that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to public

interest, and good cause exists to make the amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 1034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Saab-Fairchild: Applies to all Model SF-340A airplanes certificated in any category. Compliance is required before further flight after the effective date of this airworthiness directive (AD). To prevent incorrect attitude indications, accomplish the following, unless previously accomplished:

A. Incorporate the following information into the limitations section of the FAA-approved Airplane Flight Manual and provide to flightcrews:

"During the alignment or initialization period, an inertial system is susceptible to bus voltage transients and aircraft movement. The method traditionally used to initialize an inertial system is to apply power to the system and to keep the aircraft stationary until all errors in the system are biased to zero. Aircraft movement due to taxiing will cause inertial errors that are excessive.

The following procedures must be used to correctly initialize inertially-based attitude heading reference systems (AHRS) to establish the correct attitude and heading references with respect to earth references:

1. AHRS initialization to be performed with both engines running, i.e., external power switched to off and both generators online prior to applying power to the L and R avionics buses.

2. Approximately 70 seconds after avionics power is applied, the AHRS initialization is completed by the presentation of attitude on EFIS and the removal of the attitude flags from the displays. During initialization, ensure that the aircraft is not moved and there is no operation of brakes, flaps, nosewheel steering, i.e., the hydraulic pump is not to be operated. Also, there should be no changes made in engine power/prop settings.

3. After the system is initialized, as indicated by the attitude flag being out of view, the aircraft may be taxied and engine run-ups performed. Takeoff may not be made until the system has been operating at least two minutes after initialization is completed, the attitude difference between the attitude displayed on both EFIS electronic attitude direction indicators (EADI's) and the standby attitude indicator is 3° or less (either bank or pitch), and the heading on the compass card is not slewing away from the aircraft heading.

4. If the attitude error exceeds 3° or if the compass heading slews away from the aircraft heading when checked in accordance with step 3., above, stop the aircraft, set brakes, stabilize engine power settings, and remove avionics power from the affected system by pulling the AHRS circuit breakers (AHC Avion and BAT) which will remove the attitude display from the EFIS. Reset circuit breakers and repeat initialization procedure and checks as in steps 2 and 3, above.

Note: An incorrect initialization on the ground cannot be corrected by a reinitialization while airborne."

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note—Compliance with paragraph A. of this directive may be effected by including a copy of this AD in the limitations section of the FAA-approved airplane flight manual and operating manual.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Saab-Fairchild Product Support, S.58188, Linköping, Sweden. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 21, 1985. It was effective earlier to all recipients of telegraphic AD 85-11-51 issued May 31, 1985, which contained this amendment.

Issued in Seattle, Washington, on September 25, 1985.

Wayne J. Barlow,

Deputy Director, Northwest Mountain Region.

[FR Doc. 85-23488 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AAL-5]

Revocation of Control Zones at Aniak, Nenana, Umiat and Fort Yukon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the control zones at Aniak, Nenana, Umiat and Fort Yukon, AK. This action will allow more efficient use of the airspace, and reduce the constraints and impact on the public in the affected airspace. The circumstance which create the need to revoke the control zones is that weather reports at these airports are provided on an hourly basis without special observations taken and disseminated when significant changes in weather occur. This creates an undue restriction on the users when: (1) The last report indicates the weather is below basic visual flight rules (VFR) minimums, (2) the weather is actually above basic VFR minimums, and (3) the next weather report will not be available until on the hour. This proposal will provide airspace for VFR aircraft to depart and arrive at the above airports with 1 mile flight visibility and clear of clouds below 700 feet above the surface.

EFFECTIVE DATE: 0901 GMT, January 16, 1986.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513-0087, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke control zones at Aniak, Nenana, Umiat and Fort Yukon, AK (50 FR 15581). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two public comments were received, one favoring the proposal and one objecting to the proposal. The objection is, IFR aircraft arriving at Fort Yukon would be conducting instrument approach procedures at the same time as VFR aircraft would be departing and arriving the airport. We agree that this is a possibility. This possibility exists today (with a control zone) because special weather reports are not being

taken and the last hour weather report may indicate VFR weather conditions when in fact they are below basic VFR weather minimums. It is essential that all pilots follow the procedures outlined in Advisory Circular Number 90-42D and Airman's Information Manual para-157 (Traffic Advisory Practices at Airports Without Operating Control Towers) in the interest of promoting safety. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 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 will revoke the control zones at Aniak, Nenana, Umiat and Fort Yukon, AK. Weather reports at the above locations are being taken once an hour and do not include special observations when significant changes in weather occur. This can result in reported weather conditions which unduly restrict users. Transition areas are presently published to provide controlled airspace to protect the instrument approaches at the above locations. This amendment will allow VFR aircraft to depart and arrive at the above airports with 1 mile flight visibility and clear of clouds below 700 feet above the surface. It is essential that all pilots follow the procedures outlined in Advisory Circular Number 90-42D and Airman's Information Manual para-157 (Traffic Advisory Practices at Airports Without Operating Control Towers) in the interest of promoting safety.

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 "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 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.171 as follows:

Aniak, AK [Removed]

Within a 5-mile radius of the Aniak Airport (lat. 61°35'N., long. 159°32'W.); within 3 miles each side of the 114°T(090°M) bearing from Aniak NDB, extending from the 5-mile radius zone to 8 miles SE of the NDB, and within 2 miles each side of the Aniak localizer (lat. 61°35'02"N., long. 159°33'01"W.) west course extending from the 5-mile radius zone to 8.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Nenana, AK [Removed]

Within a 5-mile radius of the Nenana Airport (lat. 64°32'56"N., long. 149°04'24"W.); and within 4 miles each side of the 132° bearing from the Julius RBN extending from the 5-mile radius zone to 8.5 miles southeast of the RBN. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Umiat, AK [Removed]

Within a 5-mile radius of the Umiat Airport (lat. 69°22'17"N., long. 152°08'00"W.), within 3 miles each side of the 079° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles east of the NDB; and within 3 miles each side of the 259° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles west of the NDB.

Fort Yukon, AK [Removed]

Within a 5-mile radius of the Fort Yukon Municipal Airport (lat. 66°34'16"N., long. 145°14'59"W.), and within 3 miles south and 4.5 miles north of the Fort Yukon 076° radial extending from the 5-mile radius zone to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0800 to 1700 hours local time daily or during the specific days and times established in

advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Flight Information Publication Alaska.

Issued in Anchorage, Alaska, on September 23, 1985.

Franklin L. Cunningham,
Director, Alaskan Region.

[FR Doc. 85-23470 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 85-AWA-17]

Amendment to Hours of Operations for R-2303A and R-2303B, Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the times of designation for Restricted Areas R-2303A and B, Fort Huachuca, AZ. This amendment is at the request of the user and will provide for more efficient use of the airspace.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3656.

SUPPLEMENTARY INFORMATION:

History

On April 15, 1985, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the designated time of use for R-2303A and B from "Continuous" to "Monday-Saturday, 0700-1600 local time; other times by NOTAM at least 24 hours in advance" (50 FR 14717). This proposal was at the request of the user. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.23 of Part 72 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations amends the designated times of use for R-2303A and B to Monday-Saturday, 0700-1600 local time; other times by NOTAM at least 24 hours in advance.

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 73

Aviation safety, Restricted areas.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

2. Section 73.23 is amended as follows:

R-2303A Fort Huachuca, AZ [Amended]

By removing the word "Continuous," and substituting the words "Monday-Saturday, 0700-1600 local time; other times by NOTAM at least 24 hours in advance."

R-2303B Fort Huachuca, AZ [Amended]

By removing the word "Continuous," and substituting the words "Monday-Saturday, 0700-1600 local time; other times by NOTAM at least 24 hours in advance."

Issued in Washington, D.C., on September 25, 1985.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-23486 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Part 271**

[Docket Nos. RM79-76-240 (Colorado-40) and RM79-76-245 (Colorado-40 Addition) Order No. 431]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: September 27, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which produce extraordinary risks or costs. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1984)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This order adopts the recommendation of the Colorado Oil and Gas Commission that a portion of the Niobrara Formation in Adams, Boulder and Weld Counties, Colorado and another portion of the Niobrara Formation located in Adams and Weld Counties, Colorado, be designated as tight formations under § 271.703(d) of the Commission's Regulations.

EFFECTIVE DATE: This rule is effective October 28, 1985.

FOR FURTHER INFORMATION CONTACT: W. Thomas Rosemond, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426, (202) 357-9118.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

The Commission hereby amends § 271.703(d) of its regulations to include a portion of the Niobrara Formation located in Adams, Boulder, and Weld Counties, Colorado (Colorado-40), and another portion of the Niobrara Formation located in Adams and Weld Counties, Colorado (Colorado-40 Addition), as designated tight formations eligible for incentive pricing

under 18 CFR 271.703. The amendments are based on recommendations of the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission on November 15, 1984 (Colorado-40) and February 25, 1985 (Colorado-40 Addition). The recommended areas are contiguous and located in the western portion of the Denver-Julesburg Basin. No federal acreage is included in the recommended areas. Notices of the proposals were published in the Federal Register on December 13, 1984 (Colorado-40)¹ and April 11, 1985 (Colorado-40 Addition).² No comments were filed in response to the Colorado-40 notice. One comment, supporting the recommendation, was filed in response to the Colorado-40 Addition notice. No public hearing was requested and none was held.

Evidence submitted by Colorado supports the assertions that portions of the Niobrara Formation (Colorado-40) located in Adams, Boulder and Weld Counties, Colorado and portions of the Niobrara Formation (Colorado-40 Addition) located in Adams and Weld Counties, Colorado meet the guidelines contained in § 271.703(c)(2) of the Commission's regulations. Accordingly, the Commission adopts Colorado's recommendations.

This amendment shall become effective October 28, 1985.

List of Subjects in 18 CFR Part 271

Natural Gas, Incentive price, Tight Formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978; 15 U.S.C. 3301-3422; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraphs (d)(191) and (d)(192) to read as follows:

§ 271.703 Tight formations.

• • • • •

¹ 49 FR 48571.

² 50 FR 14249.

(d) Designated tight formations.

(191) *Niobrara Formation in Colorado.* RM79-76-240 (Colorado-40).

(i) *Delineation of formation.* The Niobrara Formation is located in Adams County, Colorado, in Township 1 South, Range 68 West, Sections 1 through 24; in Boulder County, Colorado, in Township 1 South, Range 69 West, Sections 1 through 24; Township 1 North, Range 69 West, Sections 1 through 36; and in Weld County, Colorado, in Township 1 North, Range 68 West, Sections 1 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Niobrara Formation is 7,600 feet. The Niobrara Formation varies in thickness from 250 to 450 feet.

(192) *Niobrara Formation in Colorado.* RM79-76-245 (Colorado-40 Addition).

(i) *Delineation of formation.* The Niobrara Formation is located in Adams County, Colorado, in Township 1 South, Range 67 West, Sections 1 through 36; Township 1 South, Range 68 West, Sections 25 through 36; and in Weld County, Colorado, in Township 1 North, Range 67 West, Section 32 S/2, 6th P.M.

(ii) *Depth.* The average depth to the top of the Niobrara Formation is 7,500 feet. The Niobrara Formation varies in thickness from 250 to 450 feet.

[FR Doc. 85-23555 Filed 10-01-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket Nos. RM79-76-136 (Utah-5) and RM79-76-137 (Utah-6); Order No. 430]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: September 27, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1984)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designations as tight formations. This order adopts the amended

recommendation of the State of Utah's Board of Oil, Gas and Mining that portions of the Dakota Formation located in Grand and Uintah Counties, Utah be designated as a tight formation under § 271.703 of the Commission's regulations, and that none of the Morrison Formation be designated as a tight formation.

EFFECTIVE DATE: This rule is effective October 28, 1985.

FOR FURTHER INFORMATION CONTACT: W. Thomas Rosemond, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., (202) 357-9118.

SUPPLEMENTARY INFORMATION:

The Commission amends § 271.703(d) of its regulations to include certain acreage in the Dakota Formation located in Grand and Uintah Counties, Utah as a designated tight formation eligible for incentive pricing under 18 CFR 271.703. The amendment is based on the revised recommendation of the State of Utah's Board of Oil, Gas and Mining submitted to the Commission on December 24, 1984.¹ Notice of the revised proposal was published in the *Federal Register* on June 18, 1985 (50 FR 25264). One comment, in support of the revised recommendation, was filed in response to the notice. No public hearing was requested or held.

Evidence submitted by the Utah Board supports the assertion that certain acreage in the Dakota Formation located in Grand and Uintah Counties, Utah meets the guidelines contained in § 271.703(c)(2)(i). Accordingly, the Commission adopts the Utah Board's recommendation.

This amendment shall become effective October 28, 1985.

List of Subjects in 18 CFR Part 271

Natural Gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

¹ Originally, the Utah Board recommended that the Dakota Formation (Utah-5) and the Morrison Formation (Utah-6), both located in Grand and Uintah Counties, Utah, each be designated as a tight formation. As a result of a public hearing in Washington, D.C., and in response to staff letters, the Utah Board held additional public hearings in Utah to consider additional comments and data in support of and against the proposed designation of the Morrison and Dakota Formations as tight formations. The Utah Board subsequently issued an amended order holding that the entire Morrison Formation and portions of the Dakota Formation did not satisfy criteria for tight formation designation set forth in 18 CFR 271.703(c)(2)(i). The revised recommendation of the Utah Board accepted the remaining portion of the Dakota Formation designated herein.

By the Commission.

Kenneth F. Plumb,
Secretary.

Section 271.703 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(193) to read as follows:

§ 271.703 Tight Formations.*(d) Designated tight formations.*

(193) *Dakota Formation in Utah.* RM79-76-136 (Utah-5).

(i) *Delineation of formation.* The Dakota Formation is located in Grand and Uintah Counties, Utah, in the area of Township 12 South, Ranges 21 through 25 East; Township 13 South, Ranges 20 through 26 East; Township 14 South, Ranges 20 through 26 East; Township 15 South, Ranges 20, W/2 21, N/2 23, and 24 through 26 East; and Township 15½ South, Range 24, Sections 33 through 36, and Ranges 25 and 26 East.

(ii) *Depth.* The Dakota Formation's vertical limits are defined by the Dakota Silt Formation above and the Morrison Formation below. The average thickness throughout the proposed area is approximately 200 feet and the average depth to the top of the Dakota Formation is 8,925 feet.

[FR Doc. 85-23557 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-237 (Texas-40 Addition); Order No. 432]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: September 27, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a rule designating

natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1984)). This rule established procedures for jurisdictional agencies to submit recommendations of areas for designation as tight formations. This order adopts the recommendation of the Railroad Commission of the State of Texas that the Strawn Formation in the Massie (Strawn) Field located in portions of Crockett and Val Verde Counties, Texas, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 28, 1985.

FOR FURTHER INFORMATION CONTACT: Edward G. Gingold, (202) 357-9114 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Based on a recommendation made by the Railroad Commission of the State of Texas (Texas), the Commission amends its regulations¹ to include the Strawn Formation in the Massie (Strawn) Field located in portions of Crockett and Val Verde Counties, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on December 10, 1984.²

Evidence submitted by Texas supports the assertion that the Strawn Formation in the Massie (Strawn) Field located in portions of Crockett and Val Verde Counties, Texas meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective October 28, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(204) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations.

(204) Strawn Formation in Texas. RM79-76-237 (Texas-40) Massie (Strawn) Field, Crockett and Val Verde Counties.

(i) Delineation of formation. The designated area is located approximately 25 miles south of Ozona, Texas, along the common Crockett and Val Verde County lines. The designated area is specifically located in the eastern half of Section 13; the entire portion of Sections 14, 15, 16, 25, 26, 27, 28, 52, 53, 54, 55, 56, 65, 66, 67, 68, 69, 92, 93, 94, 95, 96, 105, 106, 107, 108 and 109 of Block O, GH & SA RR Survey; Section 95 of Block A, TC RR Survey; and Section 182 of Block O, M.A. Sharp Survey.

(ii) Depth. The average depth to the top of the designated area is 11,165 feet and the thickness varies from approximately 200 feet on the top of the Massie (Strawn) Field anticline to over 550 feet off structure.

[FR Doc. 85-23556 Filed 10-1-85; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-85-1264; FR-2153]

Mutual Mortgage Insurance and Rehabilitation Loans; Mortgagor's Minimum Investment, Technical Amendment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Final rule; technical amendment.

SUMMARY: This rule amends Title 24 of the Code of Federal Regulations to reinstate an exclusion clause into § 203.19, Mortgagor's minimum investment, that was inadvertently omitted as a result of a final rule published in the Federal Register on September 27, 1983 (48 FR 44066). The

exclusion clause is required by a statutory amendment to section 203 of the National Housing Act.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Chappelle, Director, Office of Single Family Housing Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 23, 1983 (48 FR 28794), the Department published in the Federal Register a final rule entitled "One-Time Mortgage Insurance Premium". That rule established a new system for collecting mortgage insurance premiums for certain single family mortgages that HUD insures under section 203 of the National Housing Act. The purpose of the new system was to provide HUD with the opportunity for improved cash management, without creating additional burdens on borrowers, and to relieve lenders of the burden of collecting and remitting to HUD monthly installment mortgage insurance premiums.

On September 27, 1983 (48 FR 44066), the Department published an additional final rule in the Federal Register entitled "Mutual Mortgage Insurance and Rehabilitation Loans; Disaster Victims." The purpose of that rule was to establish new maximum dollar mortgage limits for single family dwellings which were destroyed or substantially damaged as the result of a major disaster.

Both of the above rules revised 24 CFR 203.19(a)(1). The final rule published September 27, 1983 (48 FR 44066), however, inadvertently omitted an exclusion clause for § 203.19(a)(1) that had been added to the section in the final rule published on June 23, 1983 (48 FR 28794).

Since this rule reinstates a phrase that was inadvertently omitted, it is in the nature of a correction and is being published as a final rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981 (Executive Order 12291). This rule does not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, nor does it significantly adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to

¹ 18 CFR 271.703(d) (1984).

² 49 FR 48942 (December 17, 1984). Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

compete with foreign-based enterprises in domestic or export markets. Analysis of the rule indicates that it would not have an annual effect on the economy of \$100 million or more.

In accordance with 24 CFR 50.20(k), this final rule is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 203 of the National Housing Act.

This rule was not listed in the Department's Semiannual Regulatory Agenda published in the Federal Register on April 29, 1985 (50 FR 17286).

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

Accordingly, Part 203 of Title 24 of the Code of Federal Regulations is amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act (12 U.S.C. 1709, 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 203.19(a)(1) is revised to read as follows:

§ 203.19 Mortgagor's minimum investment.

(a) * * *

(1) In all cases (except those involving a veteran meeting the requirements of § 203.18(b) or a disaster victim meeting the requirements of § 203.18(e)), the minimum investment shall be at least 3 percent of the Commissioner's estimate of the cost of acquisition (excluding the amount of any one-time mortgage insurance premium payable in accordance with § 203.280) or such other larger amount as the Commissioner may determine.

Dated: September 26, 1985.

Janet Hale,
Acting General Deputy Assistant Secretary
for Housing-Deputy Federal Housing
Commissioner.

[FR Doc. 85-23481 Filed 10-1-85; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 251

[Docket No. R-85-1259; FR-2143]

Technical Rule to Clarify Labor Standards Responsibilities in Connection With Coinsurance of Multifamily Housing Projects

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule clarifies Part 251 by explicitly indicating that the Federal Housing Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements and may delegate to a coinsuring lender only routine administration and enforcement functions, subject to monitoring by the Commissioner.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Office of Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 9, 1984, HUD published its final Part 251 rule (49 FR 32016). In response to a comment from the U.S. Department of Labor, the final rule revised § 251.209(a) of the proposed rule to avoid any implication that the lender, rather than HUD, had responsibility for carrying out various functions with regard to the administration and enforcement of the Davis-Bacon labor standards. Section 251.209(a) of the final rule made clear that "the Commissioner shall assure compliance with those [labor] standards and requirements and the lender must obtain, evaluate, and submit any information or certifications required by the Commissioner to assist the Commissioner in carrying out this function."

In addition, the preamble to the final rule stated, under the **SUPPLEMENTARY INFORMATION** heading, that the final responsibility for carrying out labor standards functions was the responsibility of HUD. It further indicated that "[w]hile retaining this responsibility, the Department does intend, through administrative requirements, to delegate to the lender certain information collection or other

routine functions, such as wage interviews or payroll reviews, where this is feasible and consistent with HUD's retention of final responsibility." However, "[a]ny such delegations will be carefully monitored by the Department through investigations of noncompliance and post audit reviews."

These limitations on the nature of the functions that the Commissioner would delegate to coinsuring lenders, and the Department's intent to monitor the lenders' performance of these particular functions, were not, however, specified in the rule itself. The Department has determined that the Commissioner's retention of responsibility for these functions, the limited nature of the functions to be delegated, and the intention to monitor the lenders' performance of these functions should be explicitly set out in the rule. Accordingly, this rule adds a new paragraph (e) to § 251.301 to provide that the Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements set out in Section 251.209 and will perform all functions under that section, except that he may delegate to the lender information collection (e.g., payroll review and routine interviews) or other routine administration and enforcement functions, subject to monitoring by the Commissioner.

This rule also corrects § 251.301(a) so that it refers to functions specified in paragraph (d) rather than paragraph (c).

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was not listed in the Department's Semiannual Regulatory Agenda published on April 29, 1985 (FR 50 17286) under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.135 and 14.137.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a

substantial number of small entities. The rule is technical in nature. It should have little or no impact on either small and large mortgagors.

There are no new or increased information collection requirements contained in this rule requiring approval by the Office of Management and Budget under the provisions of the Paperwork Act of 1980 (44 U.S.C. 3501-3520).

List of Subjects in 24 CFR Part 251

Mortgage insurance, Coinsurance of multifamily mortgages.

The Department has determined that public comment on this rule is unnecessary because the rule is merely a clarification of the current rule and does not change the Department's responsibility for labor standards or the scope of labor standards functions to be delegated.

PART 251—[AMENDED]

Accordingly, 24 CFR Part 251 is amended to read as follows:

1. The authority citation for 24 CFR Part 251 is revised to read as set forth below and any authority citation following any section in Part 251 is removed:

Authority: Sec. 212, National Housing Act (12 U.S.C. 1715(c)) and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. 24 CFR 251.301 is amended by revising paragraph (a) and by adding a new paragraph (e) to read as follows:

§ 251.301 Processing and development responsibilities.

(a) The lender is responsible for the performance of all functions under this part, including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b), (d), and (e) of this section.

(e) The Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements set out in § 251.209. The Commissioner will perform all functions under § 251.209 except that he may delegate to the lender information collection (e.g., payroll review and routine interviews) or other routine administration and enforcement functions, subject to monitoring by the Commissioner.

Dated: September 18, 1985.

Janet Hale,
Acting General Deputy Assistant Secretary
for Housing-Deputy Federal Housing
Commissioner.

[FR Doc. 85-23480 Filed 10-1-85; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 990

[Docket No. R-85-1126; FR-1775]

Annual Contributions for Operating Subsidy-Performance Funding System; Determination of Operating Subsidy; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Correction and extension of comment period.

SUMMARY: On June 24, 1985 the Department published an interim rule (see 50 FR 25951) that revised the regulations governing the determination of operating subsidy. This interim rule established new conditions governing when a Public Housing Agency (PHA) may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System. The rule affects Requested Budget years beginning on or after July 1, 1986. It did not however, provide guidance to PHAs for Requested Budget Years beginning between the effective date of the rule (August 2, 1985) and June 30, 1986. This correction (1) adds a transition provision that makes it clear that, for these Requested Budget Years, the revisions effected by this interim rule do not apply to the determination of operating subsidy, and (2) extends the comment period until November 1, 1985.

DATES: Effective date: August 2, 1985.

Comment due date: November 1, 1985.

SUPPLEMENTARY INFORMATION:

Accordingly, the following corrections are being made in the FR Doc. 85-15074, published in the Federal Register on June 24, 1985 at page 25951:

1. On page 25951, at the bottom of column three, the Dates section is corrected to read "DATES: Effective date: August 2, 1985.

"Comment due date: November 1, 1985."

2. On page 25959, immediately following § 990.118(g)(3), a new § 990.119 is added to read as follows:

§ 990.119 Transition provision.

In determining operating subsidy for Requested Budget Years beginning October 1, 1985, January 1, 1986, and April 1, 1986, the provisions of §§ 990.102(x), 990.117, and 990.118 do not apply, and the provisions of §§ 990.101(c)(4), 990.102(q), 990.108(b), and 990.109 (a) and (b)(3) apply as they were in effect on August 1, 1985 (see 24 CFR Part 990, rev. April 1, 1985).

Dated: September 25, 1985.

Warren T. Lindquist,
Assistant Secretary for Public and Indian
Housing.

[FR Doc. 85-23482 Filed 10-1-85; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1108-85]

Organization of the Department of Justice

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule will amend 28 CFR 0.111 by adding a new paragraph (q) to reflect a delegation of authority to the Director of the United States Marshals Service. On October 1, 1979, the Director was delegated the authority to conduct and investigate fugitive matters, domestic and foreign, involving escaped federal prisoners, probation, parole, mandatory release, and bond default violators.

EFFECTIVE DATE: September 24, 1985.

FOR FURTHER INFORMATION CONTACT: Howard Safir, Associate Director for Operations, United States Marshals Service, McLean, Virginia; telephone no. (703) 285-1004, which is not a toll free number.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated certain authority over fugitive investigations to the Director of the United States Marshals Service. This rule will amend 28 CFR 0.111 to add a new paragraph reflecting this delegation in order to alert the public to the present organizational structure of the Department.

This regulation is not a major rule within the meaning of Executive Order

12291, 3 CFR Part 127 (1982 Comp.) because it imposes no new requirements. It does not have an impact on small businesses and, therefore, is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612. Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary because this rule relates to agency organization and management.

List of Subjects in 28 CFR Part 0

Organization and functions (Government agencies), Crime, Law enforcement officers.

PART 0—[AMENDED]

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 569, and 5 U.S.C. 301, Subpart T of Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart T continues to read as follows:

Authority: 28 U.S.C. 509, 510, 569; 5 U.S.C. 301.

2. In § 0.111, a new paragraph (q) is added to read as follows:

§ 0.111 [Amended]

(q) Exercising the power and authority vested in the Attorney General under 28 U.S.C. 510 to conduct and investigate fugitive matters, domestic and foreign, involving escaped federal prisoners, probation, parole, mandatory release, and bond default violators.

Dated: September 24, 1985.

Edwin Meese III,

Attorney General.

[FR Doc. 85-23540 Filed 10-1-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Privacy Act of 1974; Exemptions

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Final rule.

SUMMARY: This final rule establishes a general exemption from the Privacy Act of 1974 (Pub. L. 93-579 for system F125 AF A, Correction and Rehabilitation Records, for that portion located at the 3320th Correction and Rehabilitation Squadron, and system F125 ATC A, Management Information and Research System (MIRS). This exemption is

needed since these records pertain to individuals who are in confinement or rehabilitation at an Air Force or Federal correctional facility as a result of conviction by courts martial for violation of federal law. These exemptions will only be applicable during the period the individual is in confinement or rehabilitation. These exemptions are authorized by 5 U.S.C. 552a(j)(2).

DATE: This final rule is effective September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C., telephone: 202/694-3431.

SUPPLEMENTARY INFORMATION: On July 25, 1985, at 50 FR 30283, the Department of the Air Force proposed an exemption rule for two systems of records. The system notices were published beginning at 50 FR 25745 on June 21, 1985. As no comments were received on the proposed rule, it is adopted as published.

List of Subjects in 32 CFR Part 806b

Privacy.

Accordingly, Title 32 CFR 806b is amended as follows: Paragraphs (a)(1) through (a)(6) of § 806b.10 are revised to read as follows:

§ 806b.10 General and specific exemptions claimed.

(a) *General exemptions.* The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

- (1) Counterintelligence Operations and Collection Records, F124 AF A.
- (2) Criminal Records, F124 AF C.
- (3) Incident Investigation Files, F125 AF SP E.
- (4) Investigative Support Records, F124 AF D.
- (5) Correction and Rehabilitation Records, F125 AF A (that portion maintained by the 3320th Correction and Rehabilitation Squadron, but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).
- (6) Management Information and Research System (MIRS), F125 ATC A (but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).

Patricia H. Means,

OSD Federal Register Liaison Officer,
Department of Defense.

September 27, 1985.

[FR Doc. 85-23551 Filed 10-1-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2567]

43 CFR Part 3480

Coal Exploration and Mining Operations Rules; Interim Final Rulemaking on Logical Mining Units

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: Section 3487.1(a) sets the general requirements concerning approval of logical mining units for Federal coal. This interim final rulemaking clarifies the discretionary authority of the Secretary of the Interior in establishing the effective date of approval of a logical mining unit. The final rulemaking effecting this change will be published shortly after the close of the 30-day comment period provided herein. All comments received during the comment period will be carefully considered and addressed in the final rulemaking, with any changes made as a result of the comments on this interim final rulemaking being made part of the final rulemaking.

DATES: Effective date: November 1, 1985.

Comments on the interim final rulemaking should be submitted by November 1, 1985. Comments received or postmarked after this date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 180 C Street NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Paul W. Politzer, (202) 343-7722

or

Allen B. Agnew, (202) 343-7722.

SUPPLEMENTARY INFORMATION: Section 5 of the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083-1092), added paragraph 2(d) to the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 202a). This amendment states that the Secretary of the Interior, upon determining that maximum economic recovery of Federal coal will be achieved, may approve the consolidation of Federal coal leases into

a logical mining unit. A logical mining unit is an area of land in which the coal can be developed in an efficient, economic and orderly manner as a unit, with due regard to the conservation of the coal and other resources. Federal coal leases issued prior to the enactment of the Federal Coal Leasing Amendments Act may only be included in a logical mining unit with the approval of all lessees whose Federal coal leases are being included in the approved logical mining unit. Further, if requested by a person having a direct interest that is or may be adversely affected by the formation of the logical mining unit, a public hearing must be held prior to the approval of the logical mining unit. A logical mining unit may contain one or more Federal coal leases, and may include non-Federal coal; however, all lands in a logical mining unit must be under the effective control of a single operator, be able to be developed and operated as a single operation and be contiguous. No logical mining unit may be approved if the total acreage would exceed 25,000 acres. In addition to these statutory requirements, § 3482.1(b) and (c) require the resource recovery and protection plan for a logical mining unit to show that the entire logical mining unit's recoverable coal reserves will be mined out within 40 years.

A logical mining unit cannot be approved prior to the completion of the public participation procedures set forth in § 3481.2. However, § 3487.1(a) does not state with certainty the date the logical mining unit is effective. The need for establishment of a date when a logical mining unit becomes effective was suggested in the public comments received on the draft *LMU Application and Processing Guidelines*, which was published in the *Federal Register* on April 11, 1985 (50 FR 14303).

Section 2(d) of the Mineral Leasing Act does not prescribe an effective date for a logical mining unit. The Department of the Interior has determined that a logical mining unit may only be effective after receipt by the authorized officer of an application for approval of a logical mining unit. Also, the effective date should not occur after the date the Bureau of Land Management approves the application. Therefore, the Department of the Interior is issuing an interim final rulemaking that resolves this problem by allowing the authorized officer to establish the effective date of a logical mining unit which is approved in accordance with the provisions of Subpart 3487 at any time between the date of receipt of the application and the approval date, after

consultation with the applicant. If the authorized officer proposes to make the logical mining unit effective on a date earlier than the date of approval, the proposed effective date will be published in the notice of proposed decision and be subject to public comment.

The primary author of this interim final rulemaking is Allen B. Agnew, Division of Solid Mineral Operations, Bureau of Land Management, assisted by other Bureau field and Washington office personnel and personnel of the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. This interim final rulemaking falls under the Department of the Interior's categorical exclusion because "the impacts are obviously limited to administrative . . . effects and the environmental impacts are minimal" (46 FR 7485, 7486). (See 516 DM 6, Appendix 2, section 2.4(B)(1)(a)).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it 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.).

In the determination of effects dated August 23, 1985, it was determined that the number of cases to which this interim final rulemaking might apply per year, and the likely economic impact per mine, are certain not to exceed the economic threshold of Executive Order 12291. With respect to impacts on small businesses, the interim final rulemaking could only have the beneficial effect of avoiding unnecessary and inefficient deviations from proper mining practices an operator might otherwise undertake in order to comply, lease by lease, with lease production requirements. Thus, there will be a mining cost savings to any operator, big or small, to whom the interim final rulemaking may apply.

The Department of the Interior finds that an opportunity for public comment before this rulemaking becomes effective is unnecessary. The existing regulations do not clearly prescribe an effective date for logical mining units. This interim final rulemaking merely notifies the public how the Department interprets the existing regulations and at the same time clarifies the language as it relates to logical mining units. Moreover, the Department is just completing the

development of logical mining unit guidelines which involved extensive public comment. The public also has an opportunity to comment on every proposed logical mining unit and to demand a public hearing. The effective date of any proposed logical mining unit will be part of the public participation process. No pending application for logical mining units may be approved until the final guidelines are published. The effective date of these pending logical mining units will be the date of approval unless the notice of proposed decision indicates that an earlier effective date is being considered. Thus, no action under the interim final rulemaking to establish an earlier effective date may be taken without an opportunity for public comment on the proposed decision. Therefore, the Department finds no reason to delay approval further after publication of the final guidelines. The Department is mindful, however, of the benefits of public comment. For this reason, a comment period is provided for this interim final rulemaking. These comments will be given careful consideration, along with any comments on the proposed effective date for a specific logical mining unit and a final rulemaking on the effective date for logical mining units will be published.

There are no additional information collection requirements contained in this interim final rulemaking requiring the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 3480

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mineral royalties, Mines, Public lands—mineral resources, Reporting requirements.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a-396g), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a-398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), Revised

Statute 441 (43 U.S.C. 1457), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and the Freedom of Information Act (5 U.S.C. 552), Part 3480, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles.

Deputy Assistant Secretary of the Interior,
September 4, 1985.

PART 3480—[AMENDED]

1. The authority citation for Part 3480 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Surface Mining Control and

Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.); the Act of March 3, 1909, as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a-396g); the Act of February 28, 1891, as amended (25 U.S.C. 397); the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a-398e); the Act of June 30, 1919, as amended (25 U.S.C. 399); R.S. 441 (43 U.S.C. 1457); the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) and the Freedom of Information Act (5 U.S.C. 552).

2. Section 3487.1(a) is revised to read:

§ 3487.1 Logical mining units.

(a) An LMU shall become effective only upon approval of the authorized

officer. The effective date for an LMU may be established by the authorized officer between the date that the authorized officer receives an application for LMU approval and the date the authorized officer approves the LMU. The effective date of the LMU approval shall be determined by the authorized officer in consultation with the LMU applicant. An LMU may be enlarged by the addition of other Federal coal leases or with interests in non-Federal coal deposits, or both, in accordance with paragraph (g) of this section. An LMU may be diminished by creation of other separate Federal leases or LMU's in accordance with paragraph (g) of this section.

* * * * *

[FR Doc. 85-23513 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-64-M

Proposed Rules

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Kiwifruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing a proposal to revise the United States Standards for Grades of Kiwifruit. This proposal is being withdrawn because the kiwifruit harvest begins about October 1 and it has been determined by the Department that the proposed rule needs to be published as an interim final rule.

DATE: This withdrawal is effective October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Francis J. O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 475-3125.

SUPPLEMENTARY INFORMATION: The current standards became effective September 1982. The Kiwifruit Growers of California requested that the standards be amended to change the shape requirement in the U.S. Fancy grade and the application of tolerances, to redefine fairly uniform in size and to add a section for sample size.

On September 13, 1985, AMS published (50 FR 37379-37380) a proposal to revise the standards, with a period for comment ending October 15, 1985. However, industry members have now asked for the proposed standards to become effective immediately, especially since one of the major changes makes the standards less restrictive. The kiwifruit harvest begins early in October and making such a change in mid-harvest could cause chaos in the marketplace. Furthermore,

industry members are prepared to market kiwifruit in accord with the proposed change.

In consideration of the foregoing, the proposal published in the Federal Register (FR 37379-37380) on September 13, 1985, is hereby withdrawn.

The proposed rule will be published in the Federal Register as an interim final rule allowing 30 days for comment before finalization.

List of Subjects in 7 CFR Part 51

Agricultural Commodities.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended (7 U.S.C. 1622, 1624).

Done in Washington, DC on: September 27, 1985.

William T. Manley,
Deputy Administrator, Marketing Programs.
[FR Doc. 85-23546 Filed 10-1-85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington Proposed Establishment of Inshell Trade Demand for the 1985-86 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking would invite comments on establishing an inshell trade demand for domestic filberts for the 1985-86 marketing year. This inshell trade demand would be used in computing volume regulation percentages necessary to promote orderly marketing for filberts during that year. This proposal was unanimously recommended by the Filbert/Hazelnut Marketing Board. The Board works with the USDA in administering the filbert/hazelnut marketing order program.

DATE: Comments must be received by October 17, 1985.

ADDRESSES: Send two copies of comments to the Office of the Docket Clerk, Room 2069, South Building, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This proposed rulemaking is pursuant to the marketing agreement and Order NO. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Section 982.40(b) of the order provides that prior to August of a marketing year, the Board shall recommend establishment of an inshell trade demand for that year to the Secretary. If the Secretary finds on the basis of the Board's recommendation or other information that volume regulation for merchantable filberts for that marketing year would tend to effectuate the declared policy of the act, the Secretary is required to establish that inshell trade demand.

For the 1985-86 marketing year, the Board recommended an inshell trade demand of 5,000 tons pursuant to § 982.40(b). That trade demand is based on an average of domestic inshell shipments during the 1982-83, 1983-84 and 1984-85 marketing year of 4,546 tons. The Board increased that quantity by 10 percent for market expansion. Later, the Board plans to modify its marketing policy to make a carryout available for early shipments next season.

Trade estimates of the 1985 filbert crop in Oregon and Washington indicate that the crop may approximate 18,000 tons, far in excess of the Board's trade demand recommendation of 5,000 tons. Thus, volume regulation for the 1985-86 marketing year will be necessary and an inshell trade demand must be established for that season.

The inshell trade demand for the 1985-86 marketing year will be used in the computation of a preliminary free percentage by Board management to release 70 percent of that inshell trade demand. After the 1985 field price has been established between growers and handlers, a free percentage to release 80 percent of that inshell trade demand would be computed. On or before November 15, the Board will meet to recommend to the Secretary the final free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the 1985-86 inshell trade demand.

The free percentage portion of the 1985 production would be available for use in all outlets, but primarily in the domestic inshell market. Inshell filberts withheld from handling (i.e., restricted filberts) may be shelled for domestic or foreign shipment, exported, or disposed of in outlets which are noncompetitive with normal outlets for inshell filberts.

List of Subjects in 7 CFR Part 982

Marketing Agreement and Order, Filberts, Hazelnuts, Oregon and Washington.

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 801-874.

2. It is proposed that § 982.234 be deleted and a new § 982.235 be added to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.235 Trade demand and free and restricted percentages—1985-86 marketing year.

(a) The trade demand for merchantable inshell filberts/hazelnuts for the 1985-86 marketing year shall be 5,000 tons.

(b) [Reserved]

Dated: September 27, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85-23547 Filed 10-1-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-31-AD]

Airworthiness Directives; SOCATA Model TB20 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to SOCATA Model TB20 airplanes which would require mandatory replacement and modification of the attachments of the elevator tab control to the elevator tab levers. SOCATA has reported that users of Model TB20 airplanes have noted abnormal play in the tab control. Play in the tab attachment can contribute to looseness of the tab control and lead to a control breakdown. The modification required by the proposed AD will assure integrity of the trim control system.

DATES: Comments must be received on or before February 7, 1986.

Compliance: As specified in the body of the AD.

ADDRESSES: SOCATA Service Bulletin No. 24, dated January, 1985, applicable to this AD may be obtained from SOCATA Groupe Aerospatiale, B. P. 38, 65001 Tarbes, France; Telephone (62) 93.97.30 or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-31-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. M. Cook, Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30 or Mr. John P. Dow, Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall

regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-CE-31-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

SOCATA has reported that some users of its Model TB20 airplanes have noted play in the radial direction in the attachment of the elevator tab control to the elevator tab levers. SOCATA had determined that any play in the radial direction of this attachment is unsafe and can lead to a control breakdown. As a result, SOCATA issued Service Bulletin No. 24, dated January, 1985, which requires modification of the attachments of the elevator tab control to the elevator tab levers to assure integrity of the control system. The Direction Generale de L'Aviation Civile (DGAC) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in France has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Service Bulletin No. 24, dated January, 1985, and the mandatory classification of this Service Bulletin by the DGAC. Based on the foregoing, the FAA believes that the condition addressed by Service Bulletin No. 24, dated January, 1985, is an unsafe

condition that may exist on other products of this type design certificated for operation in the United States.

Consequently, the proposed AD would require modification of the attachments of the elevator tab control to the elevator tab levers on certain SOCATA Model TB20 airplanes.

The FAA has determined there are currently approximately 14 U.S. Registered airplanes affected by the proposed AD. The cost of compliance with the proposed AD is estimated to be \$35 per airplane. The total cost is estimated to be \$490 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes. Therefore, I certify that this action: (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

SOCATA: Applies to Model TB20 (Serial Numbers up to and including No. 479) airplanes.

Compliance: Required within 100 hours time-in-service after the effective date of this AD unless already accomplished. To assure the integrity of the time control system, accomplish the following:

(a) Replace the attachment of the elevator tab control to the elevator tab levers in

accordance with *Operation II* of the *Description* paragraph of SOCATA Service Bulletin No. 24, dated January 1985, as follows:

- (1) Remove and discard the bolt, washers, spacer, nut and pin attaching the elevator trim tab rod eye-end-fitting to the trim tab levers. (Ref. Detail A of the figure in SOCATA Service Bulletin No. 24.)
 - (2) Measure the rod length in order to reposition the eye-end-fitting.
 - (3) Remove the eye-end-fitting.
 - (4) Bore the eye-end-fitting at dia. 10 mm (.3937 inches +.0009, -.0000)
 - (5) Bore the two tab levers at dia. 6 mm (.2363 inches +.0007, -.0000)
 - (6) Grease the new bolt of dia. 6 mm (nominal 0.24 in.)
 - (7) Install the eye-end-fitting at the rod length measured using a new lock place (Z00.5544.1.10.000).
 - (8) Install the dia. 6 mm bolt, the spacer and washers according to Detail A of the figure shown in SOCATA Service Bulletin No. 24.
 - (9) Tighten the castellated nut (apply a tightening torque of 0.42 m.daN—37 inch.Pound), if necessary loosen to the lower notch.
 - (10) Install pin and grease.
 - (11) Bore the tab levers according to Detail B of the figure shown in SOCATA Service Bulletin No. 24 to 5 mm (.1969 inches +.0003, -.0000) diameter.
 - (12) Grease the bolt.
 - (13) Install the spacer, the dia. 5 mm (nominal 0.20 in.) bolt, the washer and nut according to Detail B of the figure in SOCATA Service Bulletin No. 24.
 - (14) Tighten the nut (apply a tightening torque of 0.25 m.daN—23 inch.Pound).
 - (15) Check the tab deflection angles (SOCATA TB 20 Maintenance Manual section V.5).
- (b) Aircraft may be flown in accordance with Federal Aviation Regulation § 21.197 to a location where this AD can be accomplished.

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

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to SOCATA Groupe Aérospatiale, B.P. 38, 65001 Tarbes, France, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 24, 1985.

Edwin S. Harris,
Director, Central Region.

[FR Doc. 85-23468 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ASW-21]

Airworthiness Directives; California Department of Forestry; Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Lenair Corporation; Pilot Personnel International, Inc.; Smith Helicopters; and Wilco Aviation; Model UH-1 and TH-1 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness Directive (AD) requiring an inspection to locate possible corroded main rotor tension-torsion straps used on Model UH-1a, UH-1B, UH-1E, UH-1F, UH-1L and TH-1L series helicopters (modified by California Department of Forestry; Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopter, Inc.; Lenair Corporation; Pilot Personnel International, Inc.; Smith Helicopters; and Wilco Aviation). The proposed AD is needed to preclude possible failure of a tension-torsion strap that would result in loss of the helicopter.

DATE: Comments must be received on or before November 22, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicates to: Office of the Regional Counsel, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, or delivered in duplicate to: Office of the Regional Counsel, FAA, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106. Comments delivered must be marked: Docket No. 85-ASW-21. Comments may be inspected in Room 158, Building 3B, Office of the Regional Counsel, Southwest Region, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tom Henry, Helicopter Certification Branch, ASW-170, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 877-2591.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be

considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 85-ASW-21." The postcard will be date/time stamped and returned to the commenter.

The FAA was informed by the U.S. Army Systems Command message 212220Z, June 1985, that during overhaul of a Bell Helicopter Textron, Inc. UH-1H military helicopter, corrosion was discovered on the main rotor tension-torsion straps. Investigation revealed that the discrepant straps were from a quantity manufactured using Caytur 21 as a urethane curing agent. Caytur 21 contains chlorides which are retained in the urethane cover after cure resulting in corrosion.

It was further discovered that Caytur 21, had been used as a curing agent on tension-torsion straps having serial numbers 41623 through 54362 and manufactured between 1973 and 1975. This corrosive agent attacks the steel material of the strap causing a reduction in strength and possible failure of the strap leading to loss of the helicopter.

Since this condition could also exist on surplus military Bell Helicopter UH-1 and TH-1 series helicopters of the same type design, the proposed AD would require inspection of the component retirement records for tension-torsion straps having serial numbers 41623 through 54362, and removal from service if found.

The FAA has determined that this proposed regulation only involves approximately 10 percent of 160 helicopters, and it is estimated that the one-time cost of compliance is less than \$23,000. Therefore, I certify that this action (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) if

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

2. By adding the following new AD:

California Department of Forestry, Garlick Helicopters, Hawkins and Powers Aviation, Inc., International Helicopters, Inc., Lenair Corporation, Pilot Personnel International, Inc., Smith Helicopters, Wilco Aviation: Applies to Model, UH-1A, UH-1B, UH-1E, UH-1F, UH-1L, and TH-1L helicopters modified by California Department of Forestry, Garlick Helicopters, Hawkins and Powers Aviation, Inc., International Helicopters, Inc., Lenair Corporation, Pilot Personnel International, Inc., Smith Helicopters, Wilco Aviation certified in all categories that have tension-torsion straps with Bell Helicopter Textron, Inc., P/N 204-012-112-5 and, on the same part, Bendix Corporation P/N 2601399. To prevent failure of the rotor head, accomplish the following:

(a) Inspect the component retirement record for Bell Helicopter Textron, Inc., P/N 204-012-112-5 and Bendix Corporation P/N 2601399 tension-torsion straps. If straps with serial numbers 41623 through 54362 are found, the strap must be removed and replaced within the next 50 hours' time in service after the effective date of this AD.

(b) Any equivalent method of compliance with this AD must be approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Issued in Fort Worth, Texas, on September 20, 1985.

Richard L. Failor,

Acting Director, Southwest Region.

[FR Doc. 85-23489 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ACE-09]

Proposed Alteration of Control Zone; Grandview, MO (Richards-Gebaur AB)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to amend the Richards-Gebaur Air Force Base (AFB), Grandview, Missouri, Control Zone description to incorporate controlled airspace within the Control Zone that previously surrounded the abandoned State Line Airport, Kansas City, Missouri. This proposal would make the Grandview, Missouri, Control Zone a generally circular area of controlled airspace surrounding the AFB compatible with the normal legal description for control zones.

DATE: Comments must be received on or before November 8, 1985.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for the comments will be considered before action is taken on the proposed amendment. The proposal contained in

this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (FARS—14 CFR Part 71) by altering the description of the Richards-Gebaur AFB, Grandview, Missouri, Control Zone. The purpose of this proposed amendment is to incorporate a portion of airspace within the Control Zone that previously surrounded the abandoned State Line Airport, Kansas City, Missouri. This proposal would result in the Grandview, Missouri, Control Zone becoming generally circular as contemplated by Subpart F of Part 71 of the FARS.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to

amend Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.171 as follows:

Grandview, Missouri

Within a 5-mile radius of Richards-Gebaur AFB (lat. 38°50'37" N., long. 94°33'37" W.); within 2½ miles each side of the Richards-Gebaur AFB ILS localizer south course, extending from the 5-mile radius zone to 1 mile south of the OM; and within 2½ miles each side of the Richards-Gebaur AFB TACAN 195° radial, extending from the 5-mile radius zone to 5½ miles south of the TACAN. This control zone shall be effective during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Kansas City, Missouri, on September 24, 1985.

Edwin S. Harris,
Director, Central Region.

[FR Doc. 85-23487 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 186

[Docket No. 78N-0032]

Tall Oil; Tentative Affirmation of GRAS Status as Indirect Human Food Ingredient

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming that tall oil is generally recognized as safe (GRAS) as an indirect human food ingredient for use in cotton and cotton fabric used in dry food packaging. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency. FDA is publishing this document as a tentative final rule, however, because the agency is modifying § 186.1557 (21 CFR 186.1557) and is not including specifications for tall oil in that regulation.

DATE: Comments by December 2, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Center for Food Safety and Applied Nutrition (HFF-335) Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 2, 1978 (43 FR 24067), FDA published a proposal to affirm that tall oil is GRAS for use in cotton and cotton fabrics used in dry food packaging. FDA published the proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on tall oil and the report of the Select Committee on GRAS Substances (the Select Committee) on tall oil are available for public review in the Dockets Management Branch (address above). Copies of these documents have also been made available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of tall oil, FDA public notice that it was unaware of any prior-sanctioned uses for this substance other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 8, 1958, were given notice to submit proof of those sanctions, so that the safety of prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of tall oil approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 186 (21 CFR Part 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of prior-sanctioned uses for tall oil were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of tall oil under conditions different from those set forth in this regulation has been waived.

No comments were received in response to the proposal on tall oil. However, in a regulation published in

the Federal Register of October 19, 1983 (48 FR 48456), FDA announced that it would only include purity specifications for substances affirmed as GRAS in Part 186 for indirect use if such purity specifications were necessary based on safety considerations. In the case of tall oil, the agency has concluded that purity specifications are not required to ensure safety because of the extremely small exposure to tall oil from its use in dry food packaging. Therefore, the agency has modified proposed § 186.1557 by removing the specifications that were listed in that regulation. Nonetheless, under § 186.1(a) (21 CFR 186.1(a)), the ingredient must be of a purity suitable for its intended use in accordance with provisions of 21 CFR 186.1 and 170.30(h)(1).

In addition, FDA is modifying the paragraph of the regulation (presently § 186.1557(b); § 186.1557(c) in the proposal FDA published in 1978) that relates to the conditions of use of tall oil to conform to the amendment of § 186.1(b)(1) that FDA adopted in 1983 (48 FR 48457; October 19, 1983).

The agency has concluded that its actions not to include specifications in the regulation affirming the GRAS status of tall oil and to modify the paragraph on the conditions of use of this ingredient do not represent a major change from the proposed regulation. However, to afford interested persons the opportunity to comment on these actions, FDA is issuing this tentative final rule under § 10.40(f)(6) (21 CFR 10.40(f)(6)).

The agency has determined under 21 CFR 25.24(b)(7) (50 FR 16636; April 26, 1985) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any

new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

Interested persons may, on or before December 2, 1985, submit to the Dockets Management Branch (address above) written comments regarding this tentative final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 186

Food ingredients; Generally recognized as safe (GRAS) food ingredients; Indirect food ingredients.

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 Food Safety and Applied Nutrition, Parts 182 and 186 are tentatively amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10 and 5.61.

§ 182.70 [Amended]

2. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "tall oil" from the list of substances.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citation for 21 CFR Part 186 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10 and 5.61.

4. In Part 186 by adding new § 186.1557, to read as follows:

§ 186.1557 Tall oil.

(a) Tall oil (CAS Reg. No. 8002-26-4) is essentially the sap of the pine tree. It is obtained commercially from the waste liquors of pinewood pulp mills and consists mainly of tall oil resin acids and tall oil fatty acids.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based on the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a constituent of cotton and cotton fabrics used for dry food packaging.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

(c) Prior sanctions for this ingredient different from the uses established in this section, or from those listed in Part 181 of this chapter, do not exist or have been waived.

Dated: August 20, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-23472 Filed 10-1-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-238-81]

Investment Tax Credit for Certain Rehabilitation Expenditures; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of date of public hearing on proposed regulations.

SUMMARY: This document provides notice of a change of date of a public hearing on proposed regulations relating to an investment tax credit for rehabilitation expenditures incurred in connection with the rehabilitation of a qualified rehabilitated building.

DATES: The public hearing will be held on Friday, November 15, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, November 1, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-238-81), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: By a notice appearing in the *Federal Register* for Wednesday, September 11, 1985 (50 FR 37004), it was announced that a public hearing on proposed regulations relating to an investment tax credit for rehabilitation expenditures incurred in connection with the rehabilitation of a qualified rehabilitated building was scheduled to be held on Friday, October 11, 1985, beginning at 10:00 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments were to be delivered or mailed to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-238-81), Washington, D.C. 20224, by Friday, September 27, 1985. The proposed regulations pertaining to an investment tax credit for rehabilitation expenditures incurred in connection with the rehabilitation of a qualified rehabilitated building appeared in the *Federal Register* for Friday, June 28, 1985 (50 FR 28794).

This document hereby changes the date for the public hearing. Accordingly, the public hearing is rescheduled to be held on Friday, November 15, 1985.

Outlines of oral comments must be delivered or mailed by Friday, November 1, 1985.

In all other respects the details with respect to the hearing remain the same.

By direction of the Commissioner of Internal Revenue:

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-23566 Filed 10-1-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 50828-5128]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement the mandatory reporting requirements as prescribed in the proposed amendment to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP). This rule provides for measures designed to make more effective the collection of catch and landing information for reef fish. The intended effect is to provide for timely reporting of reef fish data.

DATE: Comments on the proposed rule must be received on or before November 1, 1985.

ADDRESSES: Comments on the proposed rule and requests for copies of the amendment to the FMP and the regulatory impact review/initial regulatory flexibility analysis should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702. Mark the outside of the envelope "Comments on Reef Fish Plan Amendment." Comments on the collection-of-information requirement should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for NOAA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP, which was approved June 3, 1983, under authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), contains a provision for mandatory reporting of catch and landings information necessary for the management of the reef fish fishery. Final regulations implementing the FMP were published in the *Federal Register* on October 9, 1984 (49 FR 39553). However, because the data collection system had not been developed when the regulations were implemented, § 641.5 was reserved.

The proposed statistical reporting system, designed by NMFS and approved by the Council, makes mandatory for commercial fishermen and dealers the current voluntary

reporting program utilized in the fishery since 1956, and creates a new mandatory program for all persons fishing fish traps. All commercial dealers and processors selected to report will continue to report poundage and value of reef fish handled each month. Interviews with commercial vessel operators will be conducted for approximately ten percent of the fishing trips to obtain data on gear used, catch, and time fished. All persons fishing fish traps will be required to report catch in pounds and number by species, number of traps fished, fishing depth and location, and other types of gear fished.

Interviews may be conducted with selected recreational fishermen catching reef fish when more exact information (such as on method of fishing, catch by species, area fished, and expenditures incurred) than is presently collected under the voluntary NMFS Marine Recreational Fishery Statistics Survey is required. This system will be developed for implementation when specific data requirements are identified. The Center will begin determining the exact data needed and the best system to gather the data after the regulations become effective. An example of the questions that may be included in an interview with selected recreational fishermen at § 641.5(d) are:

- (1) Method of fishing by gear and type of vessel (private, charter, guide, etc.) or type of shore structure (pier, jetty, beach, etc.);
- (2) Catch in numbers by weight or length by species;
- (3) Number of persons in party and hours fished;
- (4) Place of residence (county and State);
- (5) Frequency of fishing trips during last month;
- (6) Estimated expenditures incurred in fishing trip;
- (7) Area fished, if trip was by vessel; and
- (8) Species targeted and trip satisfaction.

Sections relating to collection of information will not be effective until approved by the Office of Management and Budget.

Operators of chartered vessels (including headboats) carrying paying passengers fishing for reef fish, if selected to report, will be required to provide data at monthly intervals on number of trips, catch per trip by species, and number of fishermen per trip. Once during each calendar year, commercial and chartered vessel operators will be interviewed to obtain information on crew size, home ports, length and tonnage of vessel, and area

fished. NMFS port agents during surveys of dealers and fishermen may examine and measure a portion of their catch to collect additional data required for management.

The current voluntary reporting of reef fish statistical information by commercial dealers, processors, and vessel owners is inadequate for management of the reef fish fishery for the following reasons. First, these voluntary data are not adequate for management on a species basis, in that these data are collected for aggregated groups of similar species. Second, the FMP reporting provision calls for collection under mandatory systems and equity considerations require that mandatory systems apply to all user groups. Stock assessment procedures for the various species require collection of additional data and more precise data than are available through existing systems. Certain species in the fishery are being overfished and additional and more precise data are required to assess the degree of overfishing and to formulate measures to restore these stocks. Additionally, certain user groups are not adequately covered under existing systems. Charter vessels, for example, are poorly sampled, yet in 1980 they landed more than 35 percent of the recreationally caught snapper and grouper. Definitive catch data on fish traps and longline fisheries are minimal and data are needed to assess these fisheries. More exact information is required from selected individuals for the same reasons.

Effective management of the reef fish fishery requires comprehensive and uniform data collection. Stock assessments, maximum sustainable yield calculations, and optimum yield determinations must be based on information gathered from State waters as well as from the fishery conservation zone (FCZ). Some States have infrequently collected data from recreational anglers or from chartered vessels; however, these data are not collected on a regular basis or in a uniform manner by all of the States. Only the State of Florida is collecting catch information from commercial fishermen and these data do not include all the data elements considered necessary for management by the Council. All of the States collect some information on total landings from dealers and processors, but these data elements differ from State to State and generally are not complete enough to allow for proper management of each species throughout its range. Without this information the Council's ability to manage the reef fish resource throughout

the Gulf of Mexico would be unacceptably limited.

Information collected under the mandatory system will be used for management of the fishery and will be released only in aggregate or summary form which does not disclose the identity of the submitter. The Regional Director has reviewed the proposed regulations and has determined that this information is necessary for management of the reef fish fishery.

Classification

The Assistant Administrator for Fisheries, NOAA, has previously determined that the FMP, the final portion of which is to be implemented by this proposed rule, is consistent with the national standards and other provisions of the Magnuson Act and other applicable law (see 49 FR 39553, October 9, 1984).

Likewise, it was previously determined, on the basis of a regulatory impact review (RIR), that the rules (excluding this one) to implement the FMP are not major under Executive Order 12291. The RIR and initial regulatory flexibility analysis were summarized in the preamble to the final rules for the FMP (see 49 FR 39548). A draft supplemental regulatory impact review (SRIR) was prepared for this proposed rule and the Assistant Administrator has determined this rule is not major under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the rule primarily adds a mandatory requirement to already existing data collection systems and very limited additional economic impacts will be experienced. The impacts, which will be in the form of burden hours in responding to reporting questions or forms from NMFS statistical agents, are summarized in the supplemental initial regulatory flexibility analysis which has been made part of the SRIR.

This rule contains several collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The voluntary collection of this information has been approved by the Office of Management and Budget (OMB) under control numbers 0648-0013 and 0648-0016. A request to collect this information except from recreational fishermen, under this mandatory requirement has been submitted to the OMB for review under Section 3504(h) of the PRA. Comments should be directed

to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for NOAA. When mandatory reporting by selected recreational fishermen is required, an additional request will be submitted to OMB.

This action is part of the Federal action for which an environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 24, 1983 (48 FR 38511).

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 27, 1985.

Carmen J. Blondin,

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

For reasons set forth in the preamble, 50 CFR Part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 641 continues to read as follows:

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

2. In Part 641, the Table of Contents is amended by revising the heading for § 641.5 from "Recordkeeping and reporting requirements [Reserved]" to read "Reporting requirements".

3. Section 641.2 is amended by adding the definition of "Center Director" and "Statistical area" in alphabetical order to read as follows:

§ 641.2 Definitions.

* * * * *

Center Director means the Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305-361-5761, or a designee.

* * * * *

Statistical area means one or more of the 21 statistical grids depicted in Figure 3.

* * * * *

4. A new § 641.5 is added to read as follows:

§ 641.5 Reporting requirements.

(a) *Persons fishing fish traps.* The owner or operator of a fishing vessel or any other person permitted under § 641.4 who fishes for or lands reef fish

in the Gulf of Mexico FCZ or in adjoining State waters, and has utilized fish traps to harvest such reef fish, must provide the following information regarding all fishing trips to the Center Director or his designee:

(1) Permit number as provided for in § 641.4;

(2) Pounds of catch of reef fish by species;

(3) Number of fish of each species;

(4) Date of trip, depth fished, and fishing location by statistical area;

(5) Number of trap hauls resulting in the catch;

(6) Duration (days and hours) traps were fished before each haul;

(7) Mesh size of traps;

(8) Other gear fished on trip; and

(9) Total catch in pounds by other gear.

(b) *Commercial vessel owners and operators.* Any person who owns or operates a fishing vessel that fishes for or lands any reef fish or parts thereof taken in the Gulf of Mexico FCZ or in adjoining State waters by any gear (other than fish traps) for sale, trade, or barter; and who is selected to report must provide the following information regarding any fishing trip to the Center Director or his designee, on forms provided:

(1) Name or official number of vessel;

(2) Date(s) of trip and fishing location(s) by statistical area(s);

(3) Pounds and number of catch of any reef fish by species;

(4) Type and quantity of gear fished;

(5) Duration (days and hours) of vessel fishing effort; and

(6) Duration (hours) gear was fished before each haul.

(c) *Dealers and processors.* Any person who receives reef fish or parts thereof by way of purchase, barter, trade, or sale from a fishing vessel or person that fishes for, or lands said fish, or parts thereof in the Gulf of Mexico FCZ or in adjoining State waters; and who is selected to report, must provide the following information to the Center Director or his designee at monthly intervals, or more frequently if requested, on forms provided:

(1) Name and address;

(2) Total poundage of each species

received during that month, or other requested interval;

(3) Average monthly price paid for each species by market size; and

(4) Proportion of total poundage landed by each gear type.

(d) *Recreational fishermen interviews.* [Reserved]

(e) *Charter vessel and headboat owners and operators.* Any person who owns or operates a vessel that carries passengers who have paid to fish for or land reef fish in the Gulf of Mexico FCZ or in adjoining State waters; and who is selected to report must maintain a fishing record for each trip, or a portion of such trips as specified, on forms provided by the Center Director. These forms must be submitted to the Center Director at monthly intervals and must contain the following information:

(1) Name or official number of vessel;

(2) Date(s) and location of each trip and duration of fishing (hours);

(3) Number of fishermen on each trip;

(4) Number of fish and approximate weight by species; and

(5) Principal species targeted.

(f) *Commercial vessel, charter vessel and headboat inventory.* Any persons described under paragraphs (b) and (e) of this part, and who are selected to report must provide the following information when interviewed annually by the Center Director or his designee:

(1) Vessel name; documentation or State registration number;

(2) Length and tonnage;

(3) Current home port;

(4) Fishing areas by statistical area;

(5) Ports where fish were landed during the last year;

(6) Type and quantity of gear; and

(7) Number of full- and part-time fishermen or crew members.

(g) Any owner or operator of commercial or charter vessels, and dealers or processors may be required upon request to make such fish or parts thereof available for inspection by the Center Director or his designee for the collection of additional information or for inspection by any authorized enforcement officer.

5. Section 641.7 is amended by revising the introductory text and designating it as paragraph (a), by redesignating present paragraphs (a)-(r) as (1)-(18) and adding a new paragraph (19), and adding a new paragraph (b) to read as follows:

§ 641.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(19) Falsify or fail to report or provide information required to be submitted or reported or fail to make fish available for inspection, as required by § 641.5.

(b) It is unlawful to violate any other provisions of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

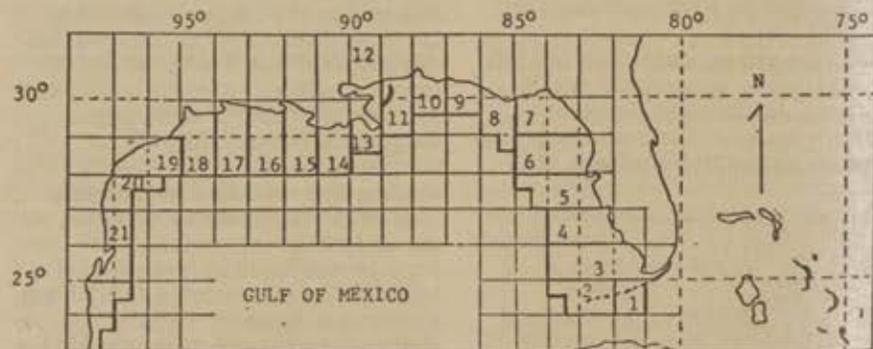


Figure 3.—Statistical Grids for Reporting Harvest of Reef Fish.

[FR Doc. 85-23479 Filed 10-1-85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 27, 1985.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250, (202) 447-2188.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

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

Extension

- Agricultural Marketing Service
- Marketing Order No. 918 California Nectarines

Recordkeeping: On occasion; Monthly; Semi-annually
Farms; Businesses or other for-profit; Small business or organizations; 834 responses; 723 hours; not applicable under 3504(h)

William J. Doyle, (202) 447-5975

- Food and Nutrition Service

Food Coupon Deposit Document
FNS 521

Recordkeeping: On occasion
Businesses or other for-profit; Federal agencies or employees; 600,000 responses; 5,834 hours; not applicable under 3504(h)

Victor Riche, (703) 756-3800

- Statistical Reporting Service

Sugar Market Statistics
Quarterly

Businesses or other for-profit; 308 responses; 327 hours; not applicable under 3504(h)

Lee Sandberg, (202) 447-6820.

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85-23542 Filed 10-1-85; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No 312]

Approval for Removal of Time Limit on Zone Site, Foreign-Trade Zone No. 64, Jacksonville, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Jacksonville Port Authority, Grantee of Foreign-Trade Zone No. 64, has applied to the Board for removal of a time limit on its Ellis Road zone site in Jacksonville, which was approved by the Board on September 23, 1983, for a period of 2 years, the period of time requested by the Grantee (Board Order 198, 47 FR 43102);

Whereas, the application was accepted for filing on May 31, 1985, and

notice inviting public comment was given in the Federal Register on June 11, 1985 (Docket 17-85, 47 FR 24551);

Whereas, the Foreign-Trade Zones Staff has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the time limit on the Ellis Road zone site of Foreign-Trade Zone 64 is removed. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 20th day of September 1985.

William T. Archey,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-23507 Filed 10-1-85; 8:45 am]

BILLING CODE 3510-05-M

International Trade Administration

[C-122-505]

Postponement of Preliminary Countervailing Duty Determination; Oil Country Tubular Goods from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioners, Lone Star Steel Company and CF & I Steel Corporation, the Department of Commerce is postponing its preliminary determination in the countervailing duty investigation of oil country tubular goods (OCTG) from Canada. The preliminary determination

will be made on or before December 19, 1985.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Morrison or Barbara Tillman, Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1248 or 377-2438.

SUPPLEMENTARY INFORMATION: On August 12, 1985, the Department initiated a countervailing duty investigation on OCTG Canada. In our notice of initiation, we stated that we would issue our preliminary determination on or before October 15, 1985 (50 FR 33383 August 19, 1985).

On September 23, 1985, the petitioners filed a request that the preliminary determination in this investigation be postponed. Section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act) provides that the preliminary determination in a countervailing duty investigation may be postponed, where the petitioner has made a timely request for such a postponement. Pursuant to this provision and the request by petitioners in this investigation, the Department is postponing its preliminary determination to no later than December 19, 1985.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: September 26, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-23525 Filed 10-1-85; 8:45 am]

BILLING CODE 3510-DS-M

Indiana University, Purdue University at Indianapolis; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 83-134R. Applicant: Indiana University, Purdue University at Indianapolis. Instrument: High Energy Medical Electron Accelerator. Original notice of this resubmitted application was published in the *Federal Register* of February 28, 1983.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides dose rates up to 1000 rads per minute and 10 different electron beam energies. The National Institutes of Health advises in its memorandum dated June 20, 1985 that the capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-23526 Filed 10-1-85; 8:45 am]

BILLING CODE 3510-DS-M

CONSUMER PRODUCT SAFETY COMMISSION

Public Hearing Concerning Hazards Associated with All Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Consumer Product Safety Commission will hold a public hearing in Los Angeles, California on October 17, 1985, to obtain safety-related information on All Terrain Vehicles (ATVs). This will be the fifth public hearing on the hazards associated with ATVs the Commission has held across the United States. Hearings were also held in Jackson, Mississippi; Dallas, Texas; Concord, New Hampshire and Milwaukee, Wisconsin during the past several months.

The Commission is aware of at least 233 deaths associated with ATVs occurring between January, 1982 and July 3, 1985. Estimates on the number of hospital emergency room treated injuries associated with ATVs in 1984 were 66,956. This is almost two and one half times the number of injuries in 1983 and more than seven times the number in 1982. The Commission also estimates that 52,000 ATV related injuries were treated in hospital emergency rooms in the first six months of 1985. This is approximately 70 percent higher than the estimated injuries treated during the same time period in 1984.

The Commission is primarily concerned about accidents which result from: (1) Loss of control of the ATV; (2) the ATV overturning by flipping over

backward, tipping over forward, or rolling over sideways; and (3) the rider being thrown from the vehicle.

The Commission requests members of the public to participate in this hearing. The Commission is particularly interested in participation from owners and users of ATVs; persons who have been involved in accidents or who have been injured while riding an ATV; state and local government officials or organizations involved with ATV safety and training or state legislation or local ordinances; persons or organization involved in the testing and evaluation of ATVs; and manufacturers, distributors, importers and retailers of ATVs. The hearing will specifically focus on the hazards associated with ATVs and ways the industry, the Commission, state and local governments or voluntary standards organizations can address these hazards.

DATE AND ADDRESS: The hearing will be held on Thursday, October 17, 1985, beginning at 8:00 a.m. at the Los Angeles Convention and Exhibition Center, Room 212-A, 1201 South Figueroa, Los Angeles, California. Presentations must be limited to approximately 5 minutes. To accommodate the large number of witnesses that are expected to request to testify at this hearing and to elicit relevant testimony, the Commission emphasizes that it reserves the right to impose further time limitations on all presentations, to require testimony be submitted in writing, and to impose further restrictions to avoid duplication of presentations. Requests from persons who wish to make presentations must be received by the Office of the Secretary no later than October 11, 1985. Persons who wish to testify must submit a written copy or summary of their testimony to the Office of the Secretary not later than October 15, 1985. Presentations at the hearing should be limited to approximately 5 minutes.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request an opportunity to make a presentation at the hearing, contact Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; or call Mr. Butts on the Commission's toll free hotline number at 800-638-2772 or the Commission's commercial number at 301-492-6800.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission is holding a series of five public hearings across the United States to assist it in obtaining safety-related information on ATVs and in

deciding what, if any, regulatory or voluntary action is warranted. The Consumer Product Safety Commission is concerned about whether the performance characteristics of ATVs, including dynamic stability and handling, are adequately safe. To address this concern, the Commission has issued an advance notice of proposed rulemaking (ANPR), which formally commences a rulemaking proceeding. 50 FR 23139 (May 31, 1985). In the ANPR, the Commission discusses methods by which any unreasonable risks of injury which might be associated with ATVs could be adequately reduced or eliminated. These methods include the promulgation of a performance standard, a labeling or warning standard, a ban of ATVs, the development of a voluntary standard, an administrative recall proceeding under section 15 of the CPSA, an imminent hazard action under section 12 of the CPSA of the dissemination of safety related information.

An ATV is a motorized machine intended to be ridden by one person and designed for off-road use. The majority of ATVs have three wheels in a tricycle configuration, although there has been a large increase in the available number of ATVs with four wheels. (The Commission's inquiry at this time is focused only on three and four wheel ATVs.) ATVs typically has gasoline-powered engines of between 50 and 250 cubic centimeters displacement. Currently, ATVs use large, soft, low pressure tires. Most ATVs have no rear axle differential and limited suspension systems.

Sales of all terrain vehicles have increased substantially since the mid-1970s. From 1980 to 1983 sales more than tripled with an average rate of growth over this period of 55% per year. While the number of sales increased sharply in 1984, the percentage rate of growth slowed somewhat to 24%.

The Commission staff estimates that by the end of 1985, 2,480,000 to 2,540,000 ATVs, will be available for use, based on an average product life expectancy of 7 to 8 years and on a normally distributed rate of product survival.

The Commission's National Electronic Injury Surveillance System (NEISS) estimates that the number of hospital emergency room treated injuries associated with ATVs in 1984 was 66,956. This is almost two and one half times the number of injuries in the previous year and more than seven times the number in 1982. The Commission estimates that the number of ATV related injuries treated in hospital emergency rooms during the first six months of 1985 was 52,000. This

approximately 70 percent higher than the estimated injuries treated during the same time period in 1984.

At least 233 ATV associated fatalities are known to the Commission to have occurred from January, 1982 to July 3, 1985. Reports of deaths for 1983, 1984, and 1985 are still being received. The Commission staff review of these 233 reported deaths revealed that 116 were under 16 years of age and 54 were under 12 years of age. Almost three-fourths of the ATV-related injured were between the ages of 5 and 24 years.

The Commission staff believes that the basic configuration of ATVs, and their unique performance characteristics including dynamic stability and handling, appear to play a major role in accidents involving ATVs. Many serious injuries and deaths reported in in-depth investigations conducted by the Commission staff resulted from loss of control of the ATV following an abrupt change in the equilibrium of the vehicle. A number of different factors, such as a change in terrain, or a sudden change in direction can contribute to the change in equilibrium. The subsequent loss of control follows a pattern in which the machine overturns or the rider is thrown off. In many of these accidents, other factors such as drinking, riding with passengers or operating the vehicle illegally on paved roads, may obscure the pattern of loss of control as the critical element in the incident.

B. Request for Public Participation At Hearing

The Commission requests the public to provide it with information on ATVs and on what action, if any, it should take to adequately reduce or eliminate hazards associated with ATVs. The Commission is particularly interested in the views of persons who own or use ATVs in recreational and occupational applications and who have specific observations about ATV handling characteristics; persons who belong to ATV clubs and/or racing associations; persons who have been involved in accidents or who have been injured while riding an ATV; state and local government officials such as police officers, health and safety officials and legislators who are involved with ATV safety, training or legislation concerning ATVs; persons or organizations involved in the testing and evaluation of ATVs; and manufacturers, distributors, importers and retailers of ATVs.

The hearing will focus on the following areas:

(1) Information which identifies the degree, if any, to which the general design of ATVs as well as specific design and operational features of

individual models of ATVs influence the performance characteristics of ATVs and contribute to the risk of injury;

(2) Information identifying any changes in general or specific design characteristics of ATVs, including the costs of these changes, that would reduce or eliminate the risks of injury;

(3) Information concerning the handling characteristics of ATVs and the ability of users at various ages and levels of experience to maintain control of ATVs under various conditions of terrain and speed;

(4) Information relating to techniques of evaluating and testing the performance of ATVs;

(5) Information on current activities to educate or train users of ATVs, including children, in the proper method of operation and ways these efforts could be improved;

(6) Information on any accidents involving ATVs, including information on specific injuries sustained in ATV accidents and the nature, degree, duration, treatment and outcome of such injuries. Copies of physicians' and hospital records are sought;

(7) Information identifying any voluntary standard applicable or adaptable to ATVs which could reduce or eliminate the risk of injury;

(8) Information concerning any state or local licensing requirement, restriction or legislation involving ATVs;

(9) Information concerning the development of the three and four wheel ATVs including information relating to design features which take into account the hazards of overturning, and loss of control and

(10) Information on the sale, marketing and distribution of ATVs, particularly for use by children.

Persons unable to attend the hearing may submit their comments in writing, for the record. Written comments for the record must be received in the Office of the Secretary no later than October 17, 1985.

Dated: September 27, 1985.

Sadye E. Dunn,

Secretary, Office of the Secretary.

[FR Doc. 85-23592 Filed 10-1-85; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Advisory Group on Electron Devices, Working Groups C (Mainly Opto Electronics); Meeting

SUMMARY: Working Group C (Mainly Opto Electronics) of the DoD Advisory

Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0830 a.m., Monday, 21 October 1985.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Patricia H. Means,

*OSD Federal Register Liaison Officer,
Department of Defense.*

September 26, 1985.

[FR Doc. 85-23461 Filed 10-1-85; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group D (Production) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 9:00 a.m., Wednesday, 23 October 1985.

ADDRESS: The meeting will be held at Moffett Field, U.S. Naval Air Station, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Thomas Henion, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research

Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Working Group D area includes all production aspects of critical electronic components for the defense electronic supply base; the transition of components from research and development into production, e.g., manufacturing technology; policy and acquisition steps necessary to insure that there is sufficient domestic supply base for critical electronic components; and steps necessary to insure the continuing availability of skilled people to support the critical electronic component supply base. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Patricia H. Means,

*OSD Federal Register Liaison Officer,
Department of Defense.*

September 27, 1985.

[FR Doc. 85-23550 Filed 10-1-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Multi-National FOIA; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Multi-National FOIA will meet in closed session on 23-24 October 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review, in detail, classified material associated with conventional military capabilities in NATO with a view towards future U.S. and NATO requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)

(1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

September 26, 1985.

[FR Doc. 85-23462 Filed 10-1-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 26, 1985.

The meeting of the USAF Scientific Advisory Board Foreign Technology Division (FTD) Advisory Group to review and advise on application of artificial intelligence techniques to technical intelligence analysis and high volume data processing, published in the *Federal Register* on August 19, 1985 (50 FR 33395), has been changed to December 17 and 18, 1985 (previously scheduled for October 10 and 11, 1985). All other information remains the same.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-23532 Filed 10-1-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee will meet on October 15 and 16, 1985 at the Naval Air Station, Marmar, California; the Naval Air Station, North Island, San Diego, California; and aboard the aircraft carrier USS RANGER. The meeting will commence at 7:30 a.m. and terminate at 5:00 p.m. on October 15, and commence at 7:00 a.m. and terminate at 5:00 p.m. on October 16. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide update briefings for the Committee members on naval aviation. The agenda for the meeting will consist of briefings on the naval aviation mission, the operations of the Navy Fighter Weapons School, TACTS, and shipboard safety, as well as tours and demonstrations related to aircraft, simulators and flight operations. These briefings will contain classified

information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz U. S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: October 1, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U. S. Naval Reserve
Federal Register Liaison Office.

[FR Doc. 85-23704 Filed 10-1-85; 10:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

List of Nationally Recognized Accrediting Agencies and Associations

AGENCY: Department of Education.

ACTION: Notice—List of nationally recognized accrediting agencies and associations.

SUMMARY: The Secretary of Education lists the nationally recognized accrediting agencies and associations that the Secretary determines to be reliable authorities as to the quality of training offered by the educational institutions or programs they accredit. The Secretary publishes this list for the purpose of determining institutional eligibility under the Higher Education Act and other Federal legislation. The list includes the general scope of recognition granted to each accrediting body.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Branch, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, 400 Maryland Avenue SW., (Room 3522, ROB-3), U.S. Department of Education, Washington, DC 20202.

SUPPLEMENTARY INFORMATION: The Higher Education Act and other legislation, including the Veterans' Readjustment Assistance Act and the Public Health Service Act, require the

Secretary to publish a list of nationally recognized accrediting agencies that the Secretary has determined to be reliable authorities concerning educational quality. The most recent previous list was published in the *Federal Register* on January 10, 1984, 49 FR 1275-1277. Revisions to that list were published in the *Federal Register* on April 30, 1984, 49 FR 18351-18352.

The Secretary made a number of other changes since publication of the revisions. Rather than publish a new list of revisions, the Secretary feels it appropriate, and less confusing to the public, to issue a comprehensive list of nationally recognized accrediting agencies and associations. This list supersedes all previously published lists and reports of revisions.

Nationally Recognized Accrediting Agencies and Associations

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges

Commission on Independent Schools
Commission on Institution of Higher Education

Commission on Public Schools
Commission on Vocational, Technical, Career Institutions

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges
Accrediting Commission for Schools, Western Association of Schools and Colleges

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges
Commission on Colleges, Northwest Association of Schools and Colleges
Commission on Colleges, Southern Association of Colleges and Schools
Commission on Higher Education, Middle States Association of Colleges and Schools

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools

Commission on Occupational Education Institutions, Southern Association of Colleges and Schools

Commission on Schools, North Central Association of Colleges and Schools

National Institutional and Specialized Accrediting Agencies and Associations

Allied Health Education Accrediting Bureau of Health Education Schools (private, postsecondary institutions offering allied health education)

[Agencies recognized for accreditation of allied health programs are listed below the specific fields.]

Architecture

National Architectural Accrediting Board, Inc. (first professional degree programs)

Art

National Association of Schools of Art and Design, Commission on Accreditation and Membership. (degree-granting schools, departments, and non-degree granting schools, that are predominantly organized to offer education in art, design, or art/design related disciplines)

Bible College Education

American Association of Bible Colleges, Commission on Accrediting (Bible colleges and institutes offering undergraduate programs)

Blind and Visually Handicapped Education

National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (specialized schools for the blind and visually handicapped, including noncollegiate organizations providing postsecondary vocational education programs that prepare the blind and visually handicapped for employment)

Blood Bank Technology

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the blood bank technologist)

Business

American Assembly of Collegiate Schools of Business, Accreditation Council (baccalaureate and graduate degree programs in business administration and management, and baccalaureate and master's degree programs in accountancy)

Association of Independent Colleges and Schools, Accrediting Commission (private, postsecondary schools, junior colleges and senior colleges which are predominantly organized to educate students for business careers)

Chiropractic

Council on Chiropractic Education, Commission on Accreditation (programs leading to the D.C. degree)

Clinical Pastoral Education

Association for Clinical Pastoral

- Education, Inc., Accreditation Committee (basic, advanced, and supervisory clinical pastoral educational programs)
- Continuing Education**
Council for Noncollegiate Continuing Education, Accrediting Commission (noncollegiate continuing education institutions and programs)
- Cosmetology**
National Accrediting Commission of Cosmetology Arts and Sciences (postsecondary schools and departments of cosmetology arts and sciences)
- Cytotechnology**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Cytotechnology Programs Review Committee, American Society of Cytology (programs for the cytotechnologist)
- Dance**
National Association of Schools of Dance, Commission on Accreditation (institutions and units within institutions offering degree-granting and/or non-degree granting programs in dance and dance-related disciplines)
- Dental and Dental Auxiliary Education**
American Dental Association, Commission on Dental Accreditation (programs leading to the DDS or DMD degree, advanced general dentistry and dental specialty programs, general practice residency programs, and programs in dental hygiene, dental assisting and dental laboratory technology)
- Diagnostic Medical Sonography**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education in Diagnostic Medical Sonography, which is sponsored by the American College of Radiology, American Institute of Ultrasound in Medicine, American Society of Echocardiography, American Society of Radiologic Technologist, Society of Diagnostic Medical Sonographers, and the Society of Nuclear Medicine (programs for the diagnostic medical sonographer)
- Dietetics**
American Dietetic Association, Commission on Accreditation (coordinated undergraduate programs in dietetics, and post-baccalaureate dietetic internship programs)
- Electroencephalographic Technology**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education in Electroencephalographic Technology, which is sponsored by the American Electroencephalographic Society, American Medical Electroencephalographic Association, and the American Society of Electroencephalographic Technologists (programs for the electroencephalographic technologist)
- Emergency Medical Services**
American Medication Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for the EMT-Paramedic, which is sponsored by the American College of Physicians, American College of Surgeons, American Society of Anesthesiologists, National Association of Emergency Medical Technicians, and the National Registry of Emergency Medical Technicians (programs for the emergency medical technician-paramedic)
- Engineering**
Accreditation Board for Engineering and Technology, Inc. (first professional degree programs in engineering, and associate and baccalaureate degree programs in engineering technology)
- Forestry**
Society of American Foresters (programs leading to a bachelor's or higher first professional degree)
- Funeral Service Education**
American Board of Funeral Service Education, Committee on Accreditation (independent schools and collegiate departments)
- Health Services Administration**
Accrediting Commission on Education for Health Services Administration (graduate programs in health services administration)
- Histologic Technology**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (programs for the histologic technician)
- Home Study Education**
National Home Study Council, Accrediting Commission (home study schools, including those granting associate, baccalaureate, and master's degrees)
- Interior Design**
Foundation for Interior Design Education Research, Committee on Accreditation (graduate, baccalaureate, certificate-granting professional, two-year pre-professional, and two-year para-professional programs in interior design)
- Journalism and Mass Communications**
Accrediting Council on Education in Journalism and Mass Communications (professional baccalaureate and master's degree programs and units within institutions)
- Landscape Architecture**
American Society of Landscape Architects, Landscape Architectural Accreditation Board (undergraduate and graduate degree programs)
- Law**
American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools)
- Librarianship**
American Library Association, Committee on Accreditation (graduate programs leading to the first professional degree)
- Marriage and Family Therapy**
American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (graduate degree programs and clinical training programs)
- Medical Assistant Education**
Accrediting Bureau of Health Education Schools (private medical assistant educational institutions and programs)
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Association of Medical Assistants Endowment (one- and two-year medical assistant programs)
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with Joint Review Committee for the Ophthalmic Medical Assistant, which is sponsored by the American Association of Certified Allied Health Personnel in Ophthalmology and the Joint Commission on Allied Health Personnel in Ophthalmology (programs of six months or longer for the ophthalmic medical assistant)

Medical Laboratory Technician**Education**

Accrediting Bureau of Health Education Schools (schools and programs for the medical laboratory technician)

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (associate degree and certificate programs for the medical laboratory technician)

Medical Record Education

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Council on Education, American Medical Record Association (programs for the medical record administrator and medical record technician)

Medical Technology

American Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (professional programs)

Medicine

Liaison Committee on Medical Education of the Council on Medical Education, American Medical Association, and the Executive Council, Association of American Medical Colleges (programs leading to the M.D. degree)

Microbiology

American Academy of Microbiology, Committee on Postdoctoral Educational Programs (postdoctoral programs in medical and public health laboratory microbiology)

Music

National Association of Schools of Music, Commission on Graduate Studies, Commission on Non-Degree-Granting Institutions, Commission on Undergraduate Studies, Community/Junior College Commission (institutions and units within institutions offering degree-granting programs in music and music-related disciplines, including community/junior colleges and independent degree-granting institutions)

Nuclear Medicine Technology

American Medical Association, Committee on Allied Health

Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs in Nuclear Medicine Technology which is sponsored by the American College of Radiology, American Society for Medical Technology, American Society of Clinical Pathologists, American Society of Radiologic Technologists and the Society of Nuclear Medicine (programs for the nuclear medicine technologist)

Nursing

American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (professional schools/programs of nurse anesthesia)

American College of Nurse-Midwives, Division of Accreditation (basic certificate and basic master's degree nurse-midwifery educational programs)

National Association of Practical Nurse Education and Service, Inc., Accrediting Review Board (practical nurse programs)

National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing Programs (programs in practical nursing, and diploma, associate, baccalaureate, and higher degree nurse education programs)

Occupational Therapy

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Accreditation Committee, American Occupational Therapy Association (professional programs)

Occupational, Trade and Technical Education

National Association of Trade and Technical Schools, Accrediting Commission (private, postsecondary degree and non-degree granting institutions that are predominantly organized to educate students for trade, occupational, or technical careers)

Opticianry

Commission on Opticianry Accreditation (two-year programs for the ophthalmic dispenser and one-year programs for the ophthalmic laboratory technician)

Optometry

American Optometric Association, Council on Optometric Education (professional degree programs, optometric residency programs, and

optometric technician programs)

Osteopathic Medicine

American Osteopathic Association, Bureau of Professional Education (programs leading to the D.O. degree)

Perfusion

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Perfusion Education, which is sponsored by the American Association for Thoracic Surgery, American Board of Cardiovascular Perfusion, American Society of Extracorporeal Technology, and the American Society of Thoracic Surgeons (programs for the perfusionist)

Pharmacy

American Council on Pharmaceutical Education (professional degree programs)

Physical Therapy

American Physical Therapy Association, Commission on Accreditation in Education (professional programs for the physical therapist and programs for the physical therapist assistant)

Physician's Assistant Education

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for Physician's Assistants, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician Assistants, American College of Physicians, American College of Surgeons, and the Association for Physician Assistant Programs (programs for the assistant to the primary care physician and the surgeon's assistant)

Podiatry

American Podiatric Medical Association, Council on Podiatric Medical Education (colleges of podiatric medicine, including first professional degree and graduate degree programs)

Psychology

American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, school, and combined professional-scientific psychology, and predoctoral internship programs in professional psychology)

Public Health

Council on Education for Public

- Health (graduate schools of public health, and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)
- Rabbinical and Talmudic Education**
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (advanced rabbinical and Talmudic schools)
- Radiologic Technology**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists (programs for the radiographer and radiation therapy technologist)
- Respiratory Therapy**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Respiratory Therapy Education, which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists, and the American Thoracic Society (programs for the respiratory therapist and respiratory therapy technician)
- Social Work**
Council on Social Work Education, Commission on Accreditation (master's and baccalaureate degree programs)
- Speech-Language Pathology and Audiology**
American Speech-Language-Hearing Association, Council on Professional Standards in Speech-Language Pathology and Audiology (master's degree programs)
- Surgical Technology**
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association and the Association of Surgical Technologists (programs for the surgical technologist)
- Teacher Education**
National Council for Accreditation of Teacher Education (baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools)
- Theater**
National Association of Schools of Theatre, Commission on Accreditation (institutions and units within institutions offering degree-granting and/or non-degree-granting programs in theater and theater-related disciplines)
- Theology**
Association of Theological Schools in the United States and Canada, Commission on Accrediting (free-standing schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology)
- Veterinary Medicine**
American Veterinary Medical Association, Committee on Animal Technician Activities and Training (two-year programs for animal technicians)
American Veterinary Medical Association, Council on Education (colleges of veterinary medicine offering programs leading to a professional degree)
- Other**
New York State Board of Regents (registration [accreditation] of collegiate degree-granting programs or curricular offered by institutions of higher education)
- Accrediting Agencies and Associations Recognized for Their Preaccreditation Categories**
Regional Institutional Accreditation Associations
Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Schools, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Northwest Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Southern Association of Colleges and Schools (Candidate for Accreditation)
Commission on Higher Education, Middle States Association of Colleges and Schools (Candidate for Accreditation)
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools (Candidate for Accreditation)
- Commission on Occupational Education Institutions, Southern Association of Colleges and Schools (Candidate for Accreditation)
Commission on Schools, North Central Association of Colleges and Schools (Candidate for Accreditation)
- National Institutional and Specialized Accrediting Agencies and Associations*
Accreditation Board for Engineering and Technology, Inc., Engineering Technology Committee (Candidate for Accreditation [discontinued after 1983])
American Association of Bible Colleges, Commission on Accrediting (Candidate for Accreditation)
American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (Preaccreditation)
American Council on Pharmaceutical Education (Candidate)
American Dental Association, Commission on Dental Accreditation (Accreditation Eligible)
American Optometric Association, Council on Optometric Education (Reasonable Assurance, Preliminary Approval [for professional degree programs])
American Osteopathic Association (Preaccreditation Status, Provisional Accreditation)
American Physical Therapy Association, Commission on Accreditation in Education (Candidate for Accreditation)
American Podiatric Medical Association, Council on Podiatric Medical Education (Reasonable Assurance)
American Veterinary Medical Association, Council on Education (Reasonable Assurance of Accreditation)
Association for Clinical Pastoral Education, Inc., Accreditation Committee (Candidate for Accredited Membership)
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (Correspondent, Candidate)
Association of Independent Colleges and Schools, Accrediting Commission (Recognized Candidate for Junior College Accreditation, Recognized Candidate for Senior College Accreditation [for institutions already holding accredited status])
Association of Theological Schools in the United States and Canada, Commission on Accrediting (Candidate for Accredited Membership)

Council For Noncollegiate Continuing Education, Accrediting Commission (Preaccreditation Status)

Council on Chiropractic Education, Commission on Accreditation (Recognized Candidate for Accreditation)

Council on Education for Public Health (Preaccreditation)

Council on Social Work Education (Candidacy)

Liaison Committee on Medical Education (Reasonable Assurance, Provisional Accreditation).

Dated: September 27, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-23537 Filed 10-1-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Public Service Education Fellowships Program; Application Notice for Fiscal Year 1986

This notice invites applications from institutions of higher education for grants to make fellowship awards under the Public Service Education Fellowships Program.

Authority for this program is contained in Part B of Title IX of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134d-1134g)

The Public Service Education Fellowships Program provides grants to institutions of higher education to support fellowships for graduate and professional study to students who demonstrate a financial need and who plan to pursue a career in public service at all levels of government and in nonprofit community service organizations. Public Service Education Fellowships are intended to provide opportunities for qualified students, particularly minorities and women who traditionally have been underrepresented and underserved in these areas.

Closing Date for Transmittal of Applications. An application for a grant must be postmarked or hand-delivered by December 20, 1985.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.094C, 400 Maryland Avenue SW., Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: The Administration's budget request for fiscal year 1986 does not include funds for the Public Service Education Fellowships Program. However, applications are invited to allow for sufficient time to evaluate them and to complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for this program. If funds are appropriated, the Congress will be asked again to enact legislation overriding the \$75,000 minimum grant that can be made to an institution under section 922(b)(2) of the Higher Education Act.

The Secretary will give first priority to providing continuation support for qualified students who were awarded fellowships in a previous year and who are maintaining satisfactory progress as determined by the institution. See 34 CFR 649.11 (a) and (2).

Program Information: Each institution applying for new fellowships will be ranked according to the selection criteria set out in the regulations in 34 CFR 649.13 governing the Public Service Education Fellowships Program.

Generally, the Secretary makes only one year grant awards to institutions allocated new fellowships. These awards would in turn cover up to twelve months of study by the fellowship recipients. However, the Secretary may provide grants for more than one year to institutions allocated new fellowships, if there are unique conditions or considerations that warrant a deviation from restricting funds to new fellowships for one year.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that number or amount is otherwise specified by statute or regulations. The regulations for this program are contained in 34 CFR Part 649.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 4, 1985, and may be obtained by writing to the Division of Higher Education Incentive Programs (Public Service Education Fellowships Program), U.S. Department of Education, (Room 3022, ROB-3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-3253. (OMB 1840-0509)

Applications must be prepared and submitted in accordance with the regulations, funding criteria, instructions, and forms included in the program information package. The program information package is only intended to aid applicants applying for a grant under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary strongly urges that the narrative portion of the grant application be double-spaced and not exceed 40 pages in length.

Applicable Regulations. The regulations applicable to this program include the following:

(1) The regulations governing the Public Service Education Fellowships Program in 34 CFR Part 649.

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Charles H. Miller, on (202) 245-3253 or Barbara J. Harvey, on (202) 245-2511, of the Division of Higher Education Incentive Programs (Public Service Education Fellowships Program), U.S. Department of Education,

(Room 3022, ROB-3), 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 1134d-1134g)

(Catalog of Federal Domestic Assistance No. 84.094C, Public Service Education Fellowships Program)

Dated: September 27, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-23536 Filed 10-1-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Strategic Petroleum Reserve Test Sale; Briefing and Request for Comments

AGENCY: Department of Energy.

ACTION: Notice of Briefing.

SUMMARY: The U.S. Department of Energy plans to conduct a briefing in New Orleans, Louisiana, on October 21, 1985, concerning the Department's plans for conducting a test sale of approximately 1.1 million barrels of crude oil from the Strategic Petroleum Reserve (SPR) during the period November 18, 1985, through January 17, 1986. The briefing will be open to all interested persons.

The Department has developed procedures for the sale of SPR crude oil in a severe energy supply interruption. Those procedures are to be found in the SPR "Drawdown" (Distribution) Plan, the SPR Sales Rule (10 CFR Part 625, 48 FR 56538, December 21, 1983) and the SPR Standard Sales Provisions (49 FR 2692, January 20, 1984). However, due to the non-emergency conditions under which the test sale will be conducted, the Department has planned this briefing in order to explain to interested participants how these procedures will be modified during the test sale. In addition, a draft Notice of Sale, explaining all of the sales procedures, will be mailed to anyone interested in attending the briefing or in bidding to purchase SPR crude oil in the test sale. The Department is seeking public comments on the draft Notice of Sale by October 25, 1985.

Date, Time, Location: Briefing to be held at: 9:00 A.M., October 21, 1985, Magnolia Plantation, 818 Wholesalers Parkway, Harahan, Louisiana 70123.

Persons interested in attending the pre-test sale briefing should notify the following individual by October 14, 1985: Carl Marceron, U.S. Department of Energy, Strategic Petroleum Reserve Project Management Office, Procurement and Sales Division, PR-651,

900 Commerce Road East, New Orleans, Louisiana 70123, (504) 734-4220.

Persons interested in bidding on SPR crude oil in the test sale should notify the above individual of such interest by November 18, 1985, in order to be certain of receiving the final Notice of Sale in a timely fashion.

FOR FURTHER INFORMATION CONTACT:

Fred A. Hutchinson, U.S. Department of Energy, Strategic Petroleum Reserve Office, Room 3E-042, FE-422, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-4734.

E. Grant Garrison, U.S. Department of Energy, Office of the Assistant General Counsel for International Trade & Emergency Preparedness, Room 6A-167, GC-41, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Test Sale.
- III. Pre-Test Briefing and Public Comments.

I. Background

The Strategic Petroleum Reserve (SPR) established by Title I, Part B, of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, contains approximately 487 million barrels of oil in five storage sites located along the Gulf of Mexico in Texas and Louisiana. In the event of an emergency, the SPR could be drawn down at a rate of 2.3 million barrels a day for 90 days and at a lesser rate after that. Under the EPCA, drawdown of the SPR can occur only if the President determines that such action is required by a severe energy supply interruption or by an obligation of the U.S. under the Agreement on an International Energy Program. The EPCA also requires that the distribution of SPR petroleum be conducted in compliance with the SPR Distribution Plan.

In the Energy Emergency Preparedness Act of 1982 (EEPA), Pub. L. 97-229, Congress required that a new Distribution Plan be transmitted to Congress. The new "Drawdown" (Distribution) Plan, SPR Plan Amendment No. 4, was transmitted to Congress on December 1, 1982, and took effect on that date. The new Plan provides that the principal method of distributing SPR oil will be price competitive sale. In order to implement Plan Amendment No. 4, the Department, on January 20, 1984, adopted the SPR sales rule (10 CFR Part 625, 48 FR 56538). The purpose of the rule was to facilitate the sales process during the drawdown of the SPR by providing for the establishment of Standard Sales Provisions, containing contract terms and conditions developed in accordance

with the rule, which are to be included in contracts for the sale of SPR petroleum. The Standard Sales Provisions were published as an Appendix to the sales rule on January 20, 1984 (49 FR 2692).

As part of the Energy Policy and Conservation Amendments Act of 1985, Pub. L. 99-58, enacted July 2, 1985, the Congress adopted a provision requiring that the Department, within 180 days of the Act's enactment into law, conduct a test sale or exchange of approximately 1.1 million barrels of oil from the SPR. The provision requires that the test be conducted in accordance with existing procedures modified as necessary to meet test-unique conditions; it also directs the Secretary not to sell the oil at a price less than the price which he determines to be appropriate in the circumstances, and in no event at a price less than 90 percent of the sales price of comparable crude being sold in the same area at the same time as the SPR oil as determined by the Secretary. The provision authorizes the Secretary to cancel the test sale if there are insufficient offers. A report on the results of the test sale is to be sent to Congress.

II. Test Sale

On or about November 18, 1985, the SPR Project Management Office (SPR/PMO) will issue a Notice of Sale offering for sale 1.1 million barrels of SPR crude oil. Offers must be received at the SPR/PMO by 1:00 p.m. November 25, 1985, in order to be considered.

Persons interested in bidding to purchase SPR oil in this test sale should notify the following individual in advance of November 18, 1985 in order to receive the final Notice of Sale in a timely fashion: Carl Marceron, U.S. Department of Energy, Strategic Petroleum Reserve Project Management Office, Procurement and Sales Division, PR-651, 900 Commerce Road East, New Orleans, Louisiana 7012 (504) 734-4220 or 734-4215.

It is important to note that the *final* Notice of Sale will be sent only to persons so notifying the SPR/PMO; unlike the *draft* Notice of Sale, it will not be sent automatically to persons on the current SPR sales mailing list.

Successful purchasers must take delivery of the crude oil no later than January 17, 1986. The Standard Sales Provisions, modified as necessary to reflect test-unique conditions, will be applicable to the test sale. The crude oil streams, delivery locations, quantities, delivery methods, approximate API gravities and sulfur contents are as follows:

Stream	Delivery Location	Quantity	Delivery Method	API Gravity	Sulfur
Bryan Mound Sour	Phillips Terminal No. 2, Freeport, Texas	300,000	Tanker	33.7	1.36
West Hackberry Sweet	Sun Terminal Nederland, Texas	300,000	Vessel (tanker or barge)	37.7	.30
West Hackberry Sweet	Sun Terminal Nederland, Texas	100,000	Pipeline	37.7	.30
Weeks Island Sour	DOE Docks St. James, Louisiana	300,000	Tanker	28.8	1.35
Bayou Choctaw Sweet	LOCAP Terminal St. James, Louisiana	100,000	Pipeline	36.4	.43

More detailed quality specifications on the crude oil stored in the SPR are incorporated as an exhibit to the Standard Sales Provisions (49 FR 2721-2728). The final Notice of Sale issued on November 18, 1985, will contain detailed, exact quality specifications on the crude oil actually to be delivered.

The final Notice of Sale also will contain a number of modifications to the Standard Sales Provisions which will be applicable only for the purposes of the test sale. Various changes currently are under consideration. Although the Standard Sales Provisions require a 5% offer bond, it is proposed that no offer bond be required for the test sale. It also is proposed that the Government refrain from assessing liquidated damages for non-performance in the test sale, even though it would assess such damages in a drawdown occurring during a real emergency; however, any defaulting test sale purchaser would be subject to other remedies under the contract. The Government proposes to reimburse purchasers for demurrage in the event that a purchaser's vessel is not loaded within the time specified in the contract, despite the fact that there presently is no comparable clause in the Standard Sales Provisions. The method of adjusting for quality differentials would be changed to adjust for gravity only, not for sulfur variances. Test sale purchasers would be required to report to the Department on their experiences with its sales and drawdown procedures. A number of technical changes reflecting test-unique conditions and the Department's latest procedures for drawing down the SPR also are proposed for inclusion in the final Notice of Sale.

III. Pre-Test Briefing and Public Comments

In order to acquaint interested purchasers with SPR sales procedures as modified for the test sale, the Department will make available a draft Notice of Sale and will hold a pre-test conference on October 21 at 9:00 a.m. in the Magnolia Plantation, 818 Wholesalers Parkway, Harahan,

Louisiana 70123. Any person interested in attending the briefing should notify Carl Marceron at the SPR/PMO by October 14.

A copy of the draft Notice of Sale will be sent to all persons on the current SPR sales mailing list as well as to all other persons attending the briefing or expressing interest in purchasing oil during the test sale. Public comments on the draft Notice of Sale are requested by October 25, 1985, in order that they may be considered in preparing the final Notice of Sale. Provision will be made for receiving comments, both written and oral, at the pre-test briefing. Written comments should be submitted to Carl Marceron at the SPR/PMO and be identified on the outside of the envelope and on the documents with the designation, "SPR Test Sale Comments."

Any information or data considered by the person furnishing it to be confidential or proprietary must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, DC, September 27, 1985.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 85-23599 Filed 10-1-85; 8:45 am]

BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate; Grant Award

AGENCY: Department of Energy (DOE).

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: DOE announces that pursuant to CFR 600.7(b), it intends to award on a restricted eligibility basis a grant to the National Academy of Sciences (NAS) to support the

International Atomic Energy Agency Fellowship Program. The DOE support under this grant will be \$1,100,000 over a twelve month period.

Procurement Request No.: 01-85IE10484.000.

Project Scope: The National Academy of Sciences, will provide technical advice and administrative assistance and will be responsible for the day-to-day implementation of U.S. commitments to the International Atomic Energy Agency (IAEA) to provide scientists from developing countries with opportunities for training and study in the United States in the field of nuclear science and its application for peaceful uses. These scientists are selected by the IAEA. The IAEA fellowship program was initiated in April 1958.

The National Academy of Sciences was selected by the U.S. Agency for International Development to implement and administer the fellowship program. With its experience and close ties to the academic community, the DOE has determined that award to NAS on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, D.C. 20585. (202) 252-1024.

Issued in Washington, D.C., on September 27, 1985.

Ben Goldman,

Director, Contracts Operations, Division "A", Office of Procurement Operations.

[FR Doc. 85-23568 Filed 10-1-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP85-850-000, et al.]

Natural Gas Certificate Filings; El Paso Natural Gas Company, et al.

September 26, 1985.

1. El Paso Natural Gas Company

[Docket No. CP85-850-000]

Take notice that on September 3, 1985, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978 filed in Docket No. CP85-850-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by removal certain production area facilities in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in Docket Nos. G-288, G-655, and G-1051 it was authorized to construct and operate compression and gas processing facilities as a part of Applicant's Jal No. 1 plant in Lea County, New Mexico. It is stated that the Jal No. 1 plant facilities were installed as a part of Applicant's system expansion projects, but that the deliverability of gas supplies from the Permian Basin has declined to a level where the facilities at the Jal No. 1 plant are no longer required for the processing, compression, and transportation of gas to Applicant's interstate pipeline system.

Applicant requests that the Commission find that the gas processing facilities are non-jurisdictional and that abandonment authorization for those facilities is not required. Alternatively, Applicant requests permission and approval to abandon the facilities.

Specifically, Applicant proposes to abandon six compressor units, with a combined total of 4,400 horsepower, and gasoline, purification, and dehydration facilities. It is claimed that Applicant's other compression and processing facilities have sufficient capacity to compress or process Applicant's gas.

Applicant estimates the cost of removing these facilities to be \$343,000.

Comment date: October 17, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Columbia Gulf Transmission Company Transcontinental Gas Pipe Line Corporation

[Docket No. CP81-209-001]

Take notice that on September 9, 1985, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-209-001 a petition to amend the order issued June 23, 1981, in Docket No. CP81-209-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize the revised ownership percentages in Project HI A-508, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued June 23, 1981, Columbia Gulf and Transco were authorized to construct and operate 3.5 miles of 12-inch pipeline and appurtenant facilities (Project HI A-508), to connect Block A-508 High Island area, south addition, offshore Texas, to an underwater tap on the 16-inch pipeline owned by Columbia Gulf, Transco and others in Block A-159, Galveston area, south addition, offshore

Texas. It is asserted that in order for Columbia Gulf to attach reserves which its affiliate, Columbia Gas Transmission Corporation, has acquired by the right to purchase in High Island are a Block A-507, offshore Texas, Columbia Gulf constructed a lateral pipeline attached to a tap valve on Project HI A-508. It is further asserted that the proposed revised ownership percentages of 59.25 percent for Columbia Gulf and 40.75 percent for Transco, reflect a reduction in Transco's ownership interest and an increase in Columbia Gulf's ownership interest corresponding to the effective capacity which Columbia Gulf and Transco now seek to utilize in Project HI A-508. Columbia Gulf and Transco attest that costs associated with the construction, operation and maintenance of Project HI A-508 are allocated to the parties in accordance with the proposed revised percentage ownership interests.

Comment date: October 17, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Consolidated Gas Transmission Corporation

[Docket No. CP84-306-001]

Take notice that on September 9, 1985, Consolidated Gas Transmission Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84-306-001 a petition to amend the order issued October 3, 1984, in Docket No. CP84-306-000 pursuant to section 7(c) of the Natural Gas Act so as to provide for the installation of 6,000 horsepower compressor units at Petitioner's Tonkin and Finnefrock compressor stations, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The October 3, 1984, order authorized a three-phase facility program designed to interconnect the previously segregated northern and southern portions of Petitioner's transmission system. The first phase was completed in 1984. The second and third phases of the program involve the construction and operation in 1985 of a 5,800 horsepower compressor unit at Petitioner's former Tonkin compressor station in Westmoreland County, Pennsylvania, and, in 1986, of a 6,700 horsepower compressor unit at Petitioner's existing Finnefrock compressor station in Clinton County, Pennsylvania, respectively.

Petitioner requests amendment of the order issued October 3, 1984, so as to permit the installation of a 6,000

horsepower compressor unit each at Tonkin and Finnefrock compressor stations. It is indicated that the original proposal to install a 5,800 horsepower unit at Tonkin compressor station and a 6,700 horsepower unit at Finnefrock compressor station was based on engineering estimates of the horsepower needed to satisfy Petitioner's system requirements. Petitioner states that it has determined that, in light of the equipment available, installation of 6,000 horsepower Cooper Industries slow-speed integral reciprocating compressors at both Tonkin and Finnefrock compressor stations would best suit system requirements.

Petitioner states that the estimated cost of installing the 6,000 horsepower units would be approximately \$6,600,000 at the Tonkin compressor station and approximately \$7,300,000 at the Finnefrock compressor station. Petitioner states that the cost of installing the 6,000 horsepower unit at Tonkin compressor station would not vary materially from the estimate contained in the original application and that the cost of installing the 6,000 horsepower unit at Finnefrock compressor station would be approximately \$4,763,000 less than the unit proposed in the original application.

Comment date: October 17, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85-852-000]

Take notice that on September 3, 1985, ARKLA ENERGY RESOURCES, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-852-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for direct sale to an industrial customer, International Paper Company (IPCo), and authorizing transportation of natural gas purchased by IPCo from others, in Tensas Parish, Louisiana, 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 and sell to IPCo a combined maximum quantity of up to 10,000 million Btu's equivalent of natural gas per day plus an excess volume of gas of up to 5,000 million Btu's equivalent per day. The transportation service by Arkla would be accomplished by displacement through the pipeline facilities of Southern Natural Gas

Company (Southern), whereby Southern would redeliver the gas at an interconnection, to be constructed between the facilities of IPCo and Southern in Tensas Parish, Louisiana. In addition to the proposed direct sale of gas to IPCo and the proposed transportation thereof to IPCo, Arkla anticipates that from time to time it will transport for IPCo gas that is purchased by IPCo from independent gas producers along Arkla's system. These purchases by IPCo would be transported by Arkla as part of the maximum daily quantity of gas as proposed to be transported to IPCo.

Arkla also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by IPCo. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Arkla would file a report with regard to the addition or deletion of gas sources and any additional source would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Arkla further requests that any Commission order issued contain authorization permitting the abandonment of the transportation service and any incidental facilities that would not otherwise continue in service, upon termination of the terms of the transportation agreement between Arkla and IPCo. The agreement is for a primary term of one year and year to year thereafter.

For the transportation service rendered by Arkla for gas purchased by IPCo from independent producers, Arkla will charge IPCo 34.84 cents per million Btu's equivalent of gas pursuant to Arkla's Rate Schedule TRG-1 of its FERC Gas Tariff on file with the Commission.

Comment date: October 17, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Boundary Gas, Inc.

[Docket Nos. CP81-107-025; CP81-108-005]

Take notice that on July 26, 1985, Boundary Gas, Inc. (Applicant), 110 Tremont Street, Boston, Massachusetts 02108, filed in Docket Nos. CP81-107-025 and CP81-108-005 its fourth amendment to its pending applications filed in Docket Nos. CP81-107-000 and CP81-108-005 pursuant to sections 3 and 7 of the Natural Gas Act, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Applicant states that on February 2, 1984, the Commission authorized the importation and resale by Applicant of up to 40,000 Mcf of Canadian natural gas per day commencing November 1, 1984, as the Phase 1 Boundary Project (24 FERC ¶ 61,114). Still pending before the Commission in this proceeding is the proposed Phase 2 Boundary Project, the importation and resale by Applicant of up to 92,500 Mcf of Canadian natural gas per day commencing November 1, 1986. Applicant states that this daily contract quantity would be reduced to 53,700 Mcf of gas per day on November 1, 1994, and to 27,334 Mcf of gas per day from November 1, 1995, until November 1, 1996, when the contract would terminate. It is further stated that this fourth amendment reflects that Applicant has entered into a new precedent agreement with TransCanada Pipelines Limited (TransCanada) and also has negotiated a *pro forma* Phase 2 gas purchase contract and a *pro forma* Phase 2 gas sales agreement. Applicant states that the fourth amendment supersedes the prior applications, except to the extent that the Commission approved the Phase 1 Boundary Project.

It is asserted that Applicant and TransCanada determined to renegotiate the terms for the importation of gas in the Phase 2 Boundary Project in a manner which conforms to the new market sensitive pricing policies of both the United States and Canada. Applicant states that the renegotiated terms of the *pro forma* Phase 2 gas purchase contract are as follows:

1. A two-part (demand/commodity) rate structure is established, comprised of a seasonal (5-month winter, 7-month summer) commodity rate and demand charge.

2. The Phase 2 gas purchase contract establishes an initial base price which is equal to \$3.90 per million Btu for the winter period (November through March) and \$3.30 per million Btu for the summer period (April through October).

3. The initial base price is indexed to changes in alternative fuel prices occurring after the base period of December 22, 1984 through January 21, 1985. The index consists of weighted average of prices of natural gas, No. 2 fuel oil and No. 6 fuel oil in New York City. Unless there is a change of more than 5 percent in the base price for any month, as compared to the initial or adjusted base price in effect at the time, the base price would not change.

4. The initial and adjusted base prices include both demand and commodity components. If the demand charge increases due to an increase in Canadian pipeline tolls, as approved by

Canadian regulatory authorities, the commodity charge automatically decreases so that the effective base price is unchanged. (The opposite applies if demand charge decreases, in which case the commodity charge increases).

5. The Phase 2 gas purchased contract provides that TransCanada may reduce the daily and annual contract quantities if Applicant does not take 60 percent of the contract quantity in one contract year and does not make up the deficiency by taking more than 60 percent of the contract quantity in the succeeding year. The contract reduction is limited to the amount of the deficiency which is not made up in the succeeding year and would not go into effect prior to April 1 in the next succeeding year.

6. Key terms of the revised contract are subject to renegotiation annually. If renegotiations of price-related terms are unsuccessful, provision is made for arbitration of those terms. Implementation of any changes resulting from renegotiation or arbitration is subject to all necessary regulatory approvals.

It is stated that Applicant and its fifteen stockholders to which it would resell the imported Canadian natural gas (the Repurchasers) also determined to renegotiate the terms of the resale of gas in the Phase 2 Boundary Project after the new pricing policies were announced by the United States and Canada.

Applicant states that the renegotiated terms of the *pro forma* Phase 2 gas sales agreement provide that demand charges would be allocated in proportion to each Repurchaser's purchase entitlement, while the allocation of commodity charges is to be based solely on volumes actually taken, and that entitlement reductions, if any, would be borne by the Repurchasers whose actions resulted in the reduction in contract quantities.

Applicant states that it requests that the Commission exempt its sales of Canadian gas to the Repurchasers from the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978 (NGPA) and the regulations thereunder. Applicant states that it specifically requests that the Commission grant an adjustment to the incremental pricing regulations as authorized by section 502(c) of the NGPA, and that the Commission consider the adjustment request concurrently with consideration of this Application.

It is stated in this Application that Applicant requests that the Commission authorize it to pass through, charge, and

collect from each Repurchaser all gas acquisition costs and other costs associated with Applicant's performance under the Phase 2 gas purchase contract and the Phase 2 gas sales agreement. Applicant also requests that the Commission authorize it to impose on and collect from each Repurchaser a surcharge for the Gas Research Institute.

Applicant states that it has been authorized by Granite State Gas Transmission, Inc. (Granite State) and by the Nation Fuel Gas Supply Corporation (National Fuel) to request that the Commission authorize Granite State and National Fuel permission to include in the costs to be recovered from their customers the pre-certification expenses incurred by Granite State and National Fuel after October 14, 1980, to the extent that such expenses have not been collected in connection with the Phase 1 Boundary project.

Comment date: October 17, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. Granite State Gas Transmission, Inc.

[Docket No. CP85-829-000]

Take notice that on August 27, 1985, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP85-829-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a firm transportation service of natural gas for Bay State Gas Company (Bay State) and pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially an existing best-efforts transportation service for Bay State, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Granite State states that it is authorized to provide an interruptible best-effort transportation service for Bay State pursuant to a certificate of public convenience and necessity issue in Docket No. CP85-348-000, 21 FERC ¶ 61,199, that the transportation service utilized by Bay State to store natural gas in a facility owned and operated by Penn-York Energy Corporation (Penn-York), and that the transportation service is rendered for the account of Granite State by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), pursuant to an authorization also issued in the foregoing order of the Commission. Granite State further states that the existing best-efforts service provides

transportation for Bay State for up to 16,818 Mcf of daily injection and withdrawal gas in the Penn-York storage facility and for seasonal withdrawal volumes of 1,850,000 Mcf. Granite State states that the storage transportation service is rendered for its account under Tennessee's Rate Schedule T-130 in its FERC Gas Tariff, Sixth Revised Volume No. 2, and under Granite State's Rate Schedule T-2 in its FERC Gas Tariff, Original Volume No. 2.

Granite State further states that Tennessee was authorized in Docket No. CP84-441-000, *et al.*, to convert 15,000 Mcf of the existing best-efforts transportation rendered for Granite State's account to a firm storage related transportation service and to reduce the existing best-efforts transportation service under Rate Schedule T-130 proportionate to the conversion to firm service (31 FERC ¶ 61,308 and 32 FERC ¶ 61,228). Granite State requests authorization to convert 15,000 Mcf of existing best-efforts transportation service for Bay State to a firm transportation service for storage in the Penn-York facility and to reduce the best-efforts transportation from 16,818 Mcf a day for daily injection and withdrawals to 1,818 Mcf and to reduce the seasonal withdrawal volumes available to Bay State from 1,850,000 Mcf to 199,980 Mcf. Granite State states that its proposed change in storage transportation service for Bay State is equivalent to the change in storage transportation that Tennessee has been authorized to provide for Granite State's account in Docket No. CP84-441-000, *et al.*

Granite State states that the firm transportation service to be provided for its account would be rendered under Tennessee's Rate Schedule FSST-NE, and Granite State proposes to render the firm transportation for Bay State under its proposed Rate Schedule T-4, which reflects all the essential terms, including the rate, of Tennessee's Rate Schedule FSST-NE. In this connection, Granite State requests waiver of the provisions of §§ 154.38(d)(3) and 154.63 of the Commission's Regulations in order to track changes in Rate Schedule FSST-NE as they occur. Granite State states that in providing the transportation service for Bay State under Rate Schedule T-4 it would be only a billing and accounting conduit for the charges it incurs under Tennessee's Rate Schedule FSST-NE.

Comment date: October 17, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Lone Star Gas Company, a Division of ENSERCH Corporation

[Docket No. CP85-880-000]

Take notice that on September 18, 1985, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP85-880-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales tap and appurtenant facilities under the certificate issued in Docket Nos. CP83-59-000, CP83-59-001, and CP83-59-002, 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.

Lone Star proposes to sell approximately 100 Mcf of natural gas on an annual basis to each of the following residential customers:

Customer	Location	Line
Buddy Mullins.....	Grayson County, TX.....	EE
Larry Eaves.....	McCain County, OK.....	G08-1
Jen Buchanan.....	Grayson County, TX.....	E23
Johnny Wing Field.....	Bryan County, OK.....	E5

Lone Star proposes to sell approximately 1,600 Mcf of natural gas on an annual basis to the following residential customer:

Customer	Location	Line
Harry Downs.....	Denton County, TX.....	F10

Sales to each of these customers would be made at a rate as provided by state authorities, Lone Star states.

Comment Date: November 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Natural Gas Pipeline Company of America

[Docket No. CP85-841-000]

Take notice that on August 30, 1985, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-841-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport up to 3 billion Btu of natural gas per day, on a firm, long-term basis from Cameron Parish, Louisiana, to Cameron and Vermilion Parishes, Louisiana, for the account of E.I. du Pont de Nemours and Company (Du Pont), all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

Applicant reports that it concluded a long-term gas transportation agreement with Du Pont on May 13, 1985. Under this contract, states Applicant, it would transport daily demand quantities of gas for Du Pont that would decrease in volume from a maximum of 3 billion Btu per day during the first contractual year to 600 million Btu per day during the fifth contractual year and to 500 million Btu on a year-by-year basis thereafter. In addition to these demand quantities of gas, Applicant says, it could accept additional daily quantities on a fully-interruptible basis under the contract.

Applicant indicates that it would receive gas from Du Pont at Applicant's existing interconnection points with Stingray Pipeline Company and with U-T Offshore System (UTOS) in Cameron Parish, Louisiana, and would in turn deliver equivalent volumes (minus fuel gas and gas losses) to Du Pont (or its designee) at existing points of interconnection located at the UTOS terminus in Cameron Parish and at Texaco Inc.'s Henry plant in Vermilion Parish, Louisiana.

Applicant proposes to charge Du Pont a monthly transportation demand charge equal to 73 cents times the then-effective demand quantity. For any excess volumes received from Du Pont for delivery, Applicant states, it would charge Du Pont an overrun charge equal to 2.4 cents per million Btu of overrun gas.

Applicant indicates that its proposed transportation service in the instant docket is associated with applications filed by Sabine Pipe Line Company in Docket No. CP85-655-000 and by Florida Gas Transmission Company in Docket No. CP85-776-000.

Comment date: October 17, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Texas Eastern Transmission Corporation

[Docket No. CP85-859-000]

Take notice that on September 5, 1985 Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, One Houston Center, Houston, Texas 77252, filed in Docket No. CP85-859-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon its Staten Island, New York, liquefied natural gas facilities (facilities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that abandonment of the facilities is required by the public

convenience and necessity because the facilities cannot be used in their present condition, due to severe damage by a fire on February 10, 1973.

It is stated that the facilities were certificated in Docket No. CP66-43 by a Commission order issued on April 2, 1966, and amended on October 30, 1967. Applicant alleges that it is not desirable or practical to repair the facilities under present circumstances or to incur the taxes and other costs associated with their protection and maintenance.

Applicant further states that the cost to remove and salvage the facilities and to restore the site is estimated to be \$1,963,000.

It is alleged that the amortization of the facilities would be completed by February 1986. Applicant states that in accordance with the settlement reached in Docket No. RP78-87, Applicant would make an appropriate rate filing to be effective on the first day of the month following the completion of amortization to reflect the effect of the elimination of the amortization surcharge and to reduce rates for its Rate Schedule SS customers.

Applicant explains that it would delete all costs for taxes and operating and maintenance expenses attributable to the facilities from its Rate Schedule SS rates effective on the first day of the month following the date the Commission's order granting the abandonment becomes final.

Comment date: October 17, 1985, in accordance with Standard Paragraph F at the end of this notice.

10. United Gas Pipe Line Company

[Docket No. CP85-868-000]

Take notice that on September 10, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-868-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Bishop Pipeline Corporation (Bishop) on behalf of Ralston Purina Company (Ralston Purina) and Haywood Company (Haywood) under the certificate issued United in Docket No. CP82-430-000 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.

United states that it would transport a maximum daily quantity of gas not to exceed 2,000 Mcf. United would receive the gas at United's 8-inch Tyler-Longview pipeline located in Smith County, Texas, and United's 20-inch pipeline located in Shelby County, Texas. Redelivery of the gas would be

made to Texas Gas Transmission Corporation's (Texas Gas) facilities at Champlin Petroleum Company's Carthage Gasoline Plant in Panola County, Texas.

United further states that Texas Gas, Memphis Light Gas and Water Company (MLGW) and Brownsville Utilities Company would continue the transportation service on behalf of Ralston Purina and Haywood under the terms of separate transportation agreements. It is explained that the gas would be used for fuel oil displacement at the Ralston Purina Memphis Plant located in Memphis, Tennessee, and the Haywood Company Plant located in Brownsville, Tennessee.

United also states that the rate applicable to this transportation service would be in accordance with its Rate Schedule IT, FERC Gas Tariff, First Revised Volume No. 1, which is currently 11.02 cents per Mcf and includes a component for gas consumed in the operation of United's pipeline system.

United 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. United 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.

United explains that the transportation agreement was effective on June 1, 1985, and would remain in full force and effect from the date of initial deliveries until the earlier of (1) October 31, 1985, or (2) the date specified by the Commission in a final rule in Docket No. RM85-1-000 or (3) the term set forth in the transportation agreement.

Comment date: November 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

11. Williston Basin Interstate Pipeline Company

[Docket No. CP85-879-000]

Take notice that on September 13, 1985, Williston Basin Interstate Pipeline Company (Williston Basin), 304 East Rosser Avenue, Suite 200, Bismarck, North Dakota 58501, filed in Docket No. CP85-879-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing

Williston Basin to increase the interim maximum working storage inventory, the interim maximum storage capacity, and the interim maximum stabilized shut-in wellhead pressure for its Baker storage field in Montana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin proposes to increase (a) the interim maximum working storage inventory for "other storage" from 42,800,000 Mcf to 78,000,000 Mcf, (b) the interim maximum storage capacity from 252,000,000 Mcf to 287,200,000 Mcf, and (c) the interim maximum stabilized shut-in wellhead pressure from 250 psig to 280 psig. Williston Basin states that it expects to reach the interim maximum authorized storage level for gas stored for others in October 1985. It is explained that this gas is produced in association with oil production and unless Williston Basin continues to store gas for these producer-suppliers (from which Williston Basin is not currently purchasing), Williston Basin alleges gas processing plants would have to cease production, resulting in cash flow restrictions on the individual processors and producers, a reduction in the exploration and development of new oil and gas reserves, and a reduction in tax revenues from oil production. Williston Basin asserts that the proposal is a remedy to this problem. Williston Basin states that the proposed interim increase would not damage the storage field or present a safety hazard. Williston Basin states that the proposed authorization would expire six months after Williston Basin's filing of an application in Docket No. Cp82-487-000, *et al.*, (Phase IV) for permanent inventory, capacity and pressure limits.

Comment date: October 17, 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 filed 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. 85-23496 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-44-000, 001]

Commercial Pipeline Co., Inc.; PGA Filing

September 26, 1985.

Take notice that on September 20, Commercial Pipeline Co., Inc. ("Commercial") tendered for filing its 48th Revised Sheet No. 3A, superseding 47th Revised Sheet No. 3A reflecting Purchased Gas Adjustments and Total Rate as shown below.

	Current adjustment	Cumulative adjustment	Surcharge adjustment	Total rate
(Base)	\$(.6584)	\$(.8002)	\$(.3983)	\$3.2564
(Excess)	(.7134)	(.8018)	(.3983)	3.3653

The effective date of Commercial's filing is October 23, 1985.

Commercial states that this filing reflects adjustments in its purchased gas cost to provide for the tracking of a corresponding PGA adjustment by Commercial's sole supplier, Northwest Central Pipeline Corporation. The filing also reflects surcharge adjustments in accordance with Commercial's PGA.

Copies of the filings were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 4, 1985. Protestants 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. 85-23496 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-21-001]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 26, 1985.

Take notice that Consolidated Gas Transmission Corporation (Consolidated), on September 18, 1985, tendered for filing the following proposed changes in its FERC Gas Tariff Original Volume Nos. 2 and 3, to be effective October 14, 1985:

Volume No. 2:

- First Revised Sheet No.4 Superceding Original Sheet No. 4
- First Revised Sheet No.5 Superceding Original Sheet No. 5
- First Revised Sheet No.631 Superceding Original Sheet No. 631

Original Sheet Nos. 6 and 631A
Volume No. 3:

First Revised Sheet No. 1 Superceding
Original Sheet No. 1

First Revised Sheet Nos. 4 and 5 to
volume No. 2 contain a part of the Table
of Contents to Volume No. 2 and are
being filed to reflect the addition of Rate
Schedules X-49 through X-57 to Volume
No. 2. Original Sheet No. 6 is being filed
to reflect the reservation of pages 6
through 10 for future use. Prior to this
filing this reservation included page 5.

First Revised Sheet No. 631 is the title
page to Rate Schedule X-50 which was
inadvertently omitted when the rate
schedule was filed. Original Sheet No.
631A is being filed as a result of
repaginating the pages of Rate Schedule
X-50 to allow for this title page.

First Revised Sheet No. 1 to Volume
No. 3 contains the Table of Contents to
Volume 3 and is being filed to reflect
cancellation of Rate Schedules F-3, F-4,
and F-5.

This filing is being made to correct the
earlier filing made on August 26, 1985, in
this docket. The earlier filing contained
pagination errors.

Any person desiring to be heard or to
protest said filing should file a motion to
intervene or a protest with the Federal
Energy Regulatory Commission, 825
North Capitol Street, NE, Washington,
DC 20426, in accordance with Rules 211
and 214 of the Commission's Rules of
Practice and Procedure (18 CFR 385.211,
385.214). All such motions or protests
should be filed on or before October 4,
1985. Protests will be considered by the
Commission in determining the
appropriate action to be taken, but will
not serve to make protestants parties to
the proceeding. Any person wishing to
become a party must file a motion to
intervene. Copies of this filing are on file
with the Commission and are available
for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23497 Filed 10-1-85; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-46-000,001]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

September 26, 1985.

Take notice that Kentucky West
Virginia Gas Company (Kentucky West)
on September 20, 1985, tendered for
filing with the Commission its
Fourteenth Revised Sheet No. 27A to its
FERC Gas Tariff, First Revised Volume
No. 1, to become effective September 1,
1985.

Kentucky West requests waiver of the
Commission's regulations to permit an
out-of-cycle PGA adjustment and a
waiver of the 30-day notice requirement,
in order to reflect a substantial
reduction in gas purchase cost due to
Kentucky West's exercise of market-out
provisions in its contracts with
independent producers and purchases of
natural gas from affiliated companies,
effective September 1, 1985.

Kentucky West states that the PGA
adjustment only relates to the current
adjustment and does not reflect any
change in the deferred account. The six-
month filing to reflect changes in the
deferred account will be subsequently
filed, to be effective November 1, 1985,
as required by the Commission's
regulations.

The current purchase gas adjustment
is a reduction of 55.82¢ per dekatherm
(dth). This reduction results in a total
net jurisdictional sales rate of 304.70¢
per dth, to be effective September 1,
1985.

Kentucky West states that a copy of
its filing has been served upon its
purchasers and interested state
commissions and upon each party on
the service list of Docket No. RP83-46.

Any person desiring to be heard or to
protest said filing should file a motion to
intervene or protest with the Federal
Energy Regulatory Commission, 825
North Capitol Street, NE, Washington,
DC 20426, in accordance with Sections
385.211 and 385.214 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
October 4, 1985. Protests will be
considered by the Commission in
determining the appropriate action to be
taken, but will not serve to make
protestants parties to the proceeding.
Any person wishing to become a party
must file a motion to intervene. Copies
of this filing are on file with the
Commission and are available for public
inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23498 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-204-000]

Kentucky West Virginia Gas Co.; Petition for Waiver of Minimum Bill Provisions of Rate Schedule PLS-1

September 26, 1985.

Take notice that on September 23,
1985, Kentucky West Virginia Gas
Company (Kentucky West) filed a
Petition For The Waiver Of Minimum
Bill Provisions Of Rate Schedule PLS-1

as applicable to Equitable Gas Company
(Equitable). Kentucky West seeks
Commission approval of a proposed
Stipulation and Agreement between
Kentucky West and Equitable settling
all issues involved with the purchase by
Equitable of less than minimum contract
volumes for certain months during 1983
and 1984. Kentucky West states that the
proposed settlement is modeled after
one approved in Docket No. RP83-12-
000 in which Kentucky West and
Columbia Gas Transmission
Corporation settled similar issues.

As is more fully explained in the
filing, the proposed agreement provides
for waiver, as to Equitable, of payment
of the minimum commodity portions of
Kentucky West's bill under its currently
effective Rate Schedule PLS-1. The
period of waiver is July 1, 1983 through
July 31, 1984, during which time an
Interim Monthly Minimum Bill is to be in
effect. The agreement further provides
that Equitable will be responsible for
purchasing certain additional quantities
of gas during the period of waiver.
Equitable shall have the right to
redelivery of such quantities during the
period January 1, 1985 through
December 31, 1988.

Any person desiring to be heard or to
protest said filing should file a motion to
intervene or a protest with the Federal
Energy Regulatory Commission, 825
North Capitol Street, NE, Washington,
DC 20426, in accordance with Rules 211
and 214 of the Commission's Rules of
Practice and Procedure (18 CFR 385.211,
385.214). All such motions or protests
should be filed on or before October 4,
1985. Protests will be considered by the
Commission in determining the
appropriate action to be taken, but will
not serve to make protestants parties to
the proceeding. Any person wishing to
become a party must file a motion to
intervene. Copies of this filing are on file
with the Commission and are available
for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23499 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-5-004]

Midwestern Gas Transmission Co.; Withdrawal of Tariff Sheet

September 26, 1985.

Take notice that on September 20,
1985, Midwestern Gas Transmission
Company (Midwestern) withdrew its
Sixteenth Revised Tariff Sheet No. 5
filed in this proceeding on September 9,
1985.

On September 9, 1985 Midwestern filed in the referenced proceeding tariff sheets reflecting a concurrent purchased gas adjustment filing by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Sixteenth Revised Tariff Sheet No. 5 to Midwestern's FERC Gas Tariff was filed to be effective September 9, 1985 and reflected a weighted average cost of gas of \$4.7194 per dth. Alternate Sixteenth Revised Sheet No. 5 and Second Alternate Sixteenth Revised Sheet No. 5 were also filed by Midwestern to be effective on the date of the Commission's order accepting either of the related alternate proposals in Tennessee's filing for recovering its deferred account balance. No action to date has been taken by the Commission with respect to the tariff sheets filed by Midwestern on September 9, 1985.

Midwestern has now determined that it has available sufficient supplies of natural gas to serve its customers from suppliers other than Tennessee and at a substantially lower cost than those supplies which result in a weighted average cost of gas of \$4.7194 on Midwestern's system. Therefore, Midwestern hereby withdraws Sixteenth Revised Tariff Sheet No. 5 in order to accurately reflect in rates to its customers the benefits of the lower cost supplies. Midwestern is maintaining on file Alternate Sixteenth Revised Tariff Sheet No. 5 and Second Alternate Sixteen Revised Sheet No. 5 to be effective in the event the Commission approves one of Tennessee's alternate proposals.

Absent approval of one of Tennessee's alternate proposals, Midwestern will maintain in effect the gas rates reflected on Substitute Fourteenth Revised Tariff Sheet No. 5 and approved by order issued July 26, 1985, in Docket No. TA85-5-5-002 for the period July 1, 1985 through December 31, 1985.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 3, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23500 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-43-000 and 001]

**Northwest Central Pipeline Corp.;
Proposed Changes in FERC Gas Tariff**

September 26, 1985.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on September 20, 1985, tendered for filing Fifth Revised Sheet No. 6 and Sixth Revised Sheet Nos. 7 and 8 to its FERC Gas Tariff, Original Volume No. 1. Northwest Central states that pursuant to the Purchased Gas Adjustment in Article 21 and the Incremental Pricing Provisions in Article 24 of its FERC Gas Tariff, it proposes no rate change effective October 23, 1985, to reflect:

(1) 5.49¢ per Mcf decrease in the Cumulative Adjustment due to a decrease in Northwest central's projected gas purchase costs.

(2) A 5.57¢ per Mcf increase in the Subcharge Adjustment (to a negative 11.95¢ per Mcf from a negative 17.52¢ per Mcf) to Amortize the Deferred Purchased Gas Cost Subaccount balance.

(3) A .08¢ per Mcf decrease in the Advance Payment Rate Adjustment (to a negative 1.48¢ per Mcf from a negative 1.40¢ per Mcf) in compliance with the Stipulation and Agreement in Docket No. RP82-114-000, *et al.*

Northwest Central states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 925 North Capitol Street, NE, Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken will not serve to make protestants parties to the proceedings. 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. 85-23501 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-205-000]

**Northwest Pipeline Corp.; Change in
FERC Gas Tariff**

September 26, 1985.

Take notice that on September 23, 1985, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets.

Fifth Revised Sheet No. 1
Fifth Revised Sheet No. 14
First Revised Sheet No. 101
First Revised Sheet No. 105
First Revised Sheet No. 106
First Revised Sheet No. 300
First Revised Sheet No. 301
First Revised Sheet No. 302
Second Revised Sheet No. 131
First Revised Sheet No. 132
First Revised Sheet No. 214
First Revised Sheet No. 227
First Revised Sheet No. 108
Second Revised Sheet No. 129
Second Revised Sheet No. 130

The tendered tariff sheets provide for the updating of Northwest's Table of Contents and Index of Purchasers, elimination of certain Form of Service Agreements, and miscellaneous administrative changes all as more fully explained in the filing itself. Northwest has requested an effective date of October 23, 1985 for all tendered tariff sheets which is 30 days from the date of filing.

A copy of this filing has been mailed to all jurisdictional customers and interested State commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23502 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-3-28-002]

**Panhandle Eastern Pipe Line Co.;
Proposed Changes in FERC Gas Tariff**

September 26, 1985.

Take notice that on September 19, 1985 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Fifty-Second Revised Sheet No. 3-A

First Substitute Twenty-Ninth Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is September 1, 1985.

These revised tariff sheets are being submitted by Panhandle at this time in compliance with the Commission's August 30, 1985 order, and they reflect a reduction of 9.66¢ per dekatherm in the applicable commodity and one-part rates to be effective September 1, 1985. The basis for this reduction is the removal of \$19,579,321 in unrecovered purchase gas costs and related carrying charges.

Panhandle states that the filing of these revised tariff sheets by Panhandle in compliance with the Commission's August 30, 1985 order in this proceeding is without prejudice to Panhandle's rights to seek rehearing of the conditions contained in the August 30, 1985 order.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23503 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-203-000]

**Panhandle Eastern Pipe Line Co.;
Petition of Panhandle Eastern Pipe
Line Co., for Authority to Use a Direct
Billing Procedure for Retroactive
Production-Related costs**

September 26, 1985.

Take notice that on September 23, 1985, Panhandle Eastern Pipe Line Company (Panhandle) filed a Petition for Authority to Use a Direct Billing Procedure for Retroactive Production-Related Costs. Panhandle states that it seeks authorization to bill its jurisdictional customers directly for retroactive production-related costs, which have been or will be paid by Panhandle on a "retroactive" basis, to avoid inequitable cost allocations and incorrect market signals that, would otherwise result from recovering such costs through purchased gas adjustment (PGA) filings. As is more fully explained in the filing, Panhandle proposes to allocate such costs based upon each customer's share of Panhandle's total sales for the August, 1980-February, 1985 period in which such costs were incurred and to directly bill the resulting amounts, including paid and accrued interest. Panhandle proposes to bill customers in twelve monthly installments commencing November, 1985; or, at the option of each customer payment may be made on a lump-sum basis.

Panhandle requests any waiver of the Commission regulations and the terms of its tariff necessary to effect the proposed direct billing procedure.

Panhandle states that it has served a copy of the Petition on its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All such motions or protests should be filed on or before October 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23504 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-201-000]

**South Georgia Natural Gas Co.;
Petition**

September 26, 1985.

Take notice that on September 20, 1985, South Georgia Natural Gas Company (South Georgia) filed a petition requesting authorization to implement a direct billing procedure for retroactive Order No. 94 costs in lieu of recovering such costs through its PGA mechanism. South Georgia notes that its petition is made in light of the August 14, 1985 filing in Docket No. RP85-184-000 of Southern Natural Gas Company (Southern), South Georgia's sole supplier, requesting for authority to direct bill its Order No. 94 costs to its customers.

Under the proposed procedure, South Georgia would direct bill each of its customers for its proportionate share of the Order No. 94 costs for which South Georgia is direct billed by Southern based on the ratio of that customer's annual purchases from South Georgia to the total of all purchases from South Georgia during the same period. Customers would be billed for such amounts in either a lump sum or twelve monthly installments, at their election. South Georgia states that the special billing procedure is necessary to avoid undesirable market distortions and inequitable allocation of costs among its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of this chapter. All such motions or protests must be filed on or before November 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23505 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-202-000]

Trunkline Gas Co.; Petition of Trunkline Gas Co., for Authority To Use a Direct Billing Procedure for Retroactive Production-Related Costs

September 26, 1985.

Take notice that on September 23, 1985, Trunkline Gas Company (Trunkline) filed a Petition for Authority to Use a Direct Billing Procedure for Retroactive Production-Related Costs. Trunkline states that it seeks authorization to bill its jurisdictional customers directly for production-related costs, which have been or will be paid by Trunkline on a "retroactive" basis, to avoid inequitable cost allocations and incorrect market signals that, would otherwise result from recovering such costs through purchased gas adjustment (PGA) filings. As is more fully explained in the filing, Trunkline proposes to allocate such costs based upon each customer's share of Trunkline's total sales for the August, 1980—February, 1985 period in which such costs were incurred and to directly bill the resulting amounts, including paid and accrued interest. Trunkline proposes to bill customers in twelve monthly installments commencing November, 1985; or, at the option of each customer payment may be made on a lump-sum basis.

Trunkline requests any waiver of the Commission regulations and the terms of its tariff necessary to effect the proposed direct billing procedure.

Trunkline states that it has served a copy of the Petition on its customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests must be filed on or before October 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-23506 Filed 10-1-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-2-FRL-2905-3]

Issuance of Final NPDES General Permit for Individual Homes in the La Parguera Area of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Notice of final NPDES general permit.

SUMMARY: The Regional Administrator, Region 2, is today issuing a final National Pollutant Discharge Elimination System (NPDES) general permit for private homes ("Casetas") in the La Parguera area of Puerto Rico. The final La Parguera general permit establishes effluent limitations, standards, prohibitions, and other conditions on discharges from these facilities. These conditions are based on the administrative record, EPA regulations and the permit contain a procedure which allows the owner or operator of a point source discharge to apply for an individual permit instead of coverage under the general permit.

Request for Coverage: Owners or operators of Casetas located in the permit area must make a written request to the Regional Administrator for authorization to discharge under the general permit. Owners or operators of existing Casetas must submit their written request within 45 days of issuance of this general permit. Those owners or operators which have already submitted an NPDES permit application will be covered under the general permit and therefore need not submit a written request. Facilities constructed after the effective date of the permit will not be covered under the general permit. Facilities constructed after the effective date of the general permit must apply for an individual NPDES permit. All requests shall include the name and legal address of the owner or operator, the name and location of the Caseta and a description of sewage disposal method proposed to be used. Owners or operators of Casetas located in the permit area who fail to make a written request to discharge under the general permit or who fail to apply for an individual NPDES permit will be subject to enforcement action.

ADDRESSES: The administrative record for this permit is available for public review at EPA Region 2, Room 837, at the address listed below. Requests for coverage and notifications should be sent to: Environmental Protection Agency, Region II, Attn: New York and Caribbean Construction, Grants Branch, Room 837, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Mr. James C. DeLaura, P.E., Chief, New York & Caribbean Construction Grants Branch at the address listed above (telephone (212) 264-0959) or the Director of the Caribbean Field Office at Stop 8½, Avenue Fernandez Juncos, San Juan, Puerto Rico 00902-0792 (telephone (809) 725-7825). Copies of today's publication, and the general permit will be provided upon request.

Appendix A—Public Comments

The following parties responded with written comments during the public comment period:

Natural History Society of Puerto Rico,
United States Department of the Interior, Fish and Wildlife Service

Significant comments presented during the public comment period and at the public meeting were reviewed by EPA and considered in the formulation of the final decision regarding the general permit. These comments and Region II's responses to the comments are presented below:

Comment: The Natural History Society of Puerto Rico commented that there is no assurance that the issuance of the general permit for the La Parguera area will in any way reduce pollution in the area.

Response: 309(A)(5)(a) Administrative Order will be issued concurrently with the general permit which will contain compliance schedules for achieving the effluent limitations specified in the general permit. The effluent limitations in the general permit reflect Commonwealth water quality standards for that area. The permitted discharges will be a significant improvement over the current untreated discharges.

Comment: The United States Department of the Interior, Fish and Wildlife Service commented that the high nutrient content of the discharges cause algae blooms which block light penetration necessary for seagrass photosynthesis and that no discharge should be allowed.

Response: The effluent limitations specified in the general permit are substantially more stringent than the current level of pollutant discharge and the discharge of nutrients should be

significantly reduced. The permitted discharges reflect Commonwealth water quality standards.

Comment: The United States Department of the Interior, Fish and Wildlife Service commented that the issuance of a general permit could possibly stimulate new development and that any new structures beyond the original 175 casetas should not be covered under the general permit.

Response: As stated in Section V.B. of the fact sheet, facilities constructed after the effective date of the permit will not be covered under the general permit. Facilities constructed after the effective date of the general permit must apply for an individual NPDES permit.

Comment: The United States Department of the Interior, Fish and Wildlife commented that the public notice did not mention the forty (40) plus recently constructed floating houses termed "houseboats". They recommend that the "houseboats" be dealt with in another NPDES permit.

Response: Although not specifically mentioned, "houseboats" more closely fit the definition of "Casetas" ("Casetas" are defined as the homes along the shore of La Parguera Bay) and are therefore covered by the provisions of the general permit. "Houseboats" not permanently moored and with an independent means of propulsion are not covered by the provisions of the general permit. Instead they are considered vessels regulated by the Coast Guard.

Fact Sheet in Support of the NPDES General Permit for Individual Homes in the La Parguera Area of Puerto Rico

I. Background

A. *General Permits.* Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of "general permits" to categories of discharges. See 40 CFR 122.28 (48 FR 14146, April 1, 1983). EPA may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollutant control measures.

The EPA Regional Administrator is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same type of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring requirements; and

5. In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

Violation of a condition of a general permit constitutes a violation of the Clean Water Act and subjects the discharger to the penalties specified in Section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request, no later than 90 days after publication by EPA of the final general permit in the *Federal Register*. The Regional Administrator may require any person authorized by a general permit to apply for an obtain an individual permit. Any interested person may petition the Regional Administrator to take this action. However, individual permits will not be issued for direct dischargers into La Parguera Bay covered by a general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Regional Administrator may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollutants;
2. The discharge(s) is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in the previous paragraphs are not met.

B. *General Permit Covering Individual Homes.* In the La Parguera area of Puerto Rico there are currently approximately 175 dwellings built along the shore discharging untreated wastewater without an NPDES permit. The large number of existing unpermitted dischargers into La Parguera Bay with similar effluent characteristics has prompted EPA to issue this general permit. This permit will enable those facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a larger number of dischargers. This

permit does not allow discharges into the bioluminescent bays adjacent to the La Parguera Bay. The discharge limitations in this permit are mandated by approved Commonwealth water quality standards. La Parguera Bay has been designated as Class SB waters.

II. Nature and Effect of Discharge

This permit will not allow any discharge which would violate Commonwealth water quality standards. 309(a)(5)(A) Administrative Orders will be issued to individual dischargers which will include a schedule for ceasing discharge or providing treatment and complying with the permit within one year of issuance.

Presently, the "Casetas" ("Casetas" are defined as the homes along the shore of La Parguera Bay) discharge untreated domestic wastewater. Depending whether the discharge is "gray water" (i.e., bath, shower and galley waste) or "black water" (i.e., sanitary waste) the BOD₅, total suspended solids and settleable solids would range from very low to relatively high.

III. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into ocean waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The final 403(c) Ocean Discharge Criteria guidelines published on October 3, 1980, set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of an NPDES permit. The Regional Administrator has determined that the discharges authorized by this permit will not cause unreasonable degradation of the marine environment. The majority of the discharges are inside the baseline of the territorial sea and are therefore not subject to section 403(c) review. Those discharges outside of the baseline meeting the terms and conditions of this permit will need no significant decrease in pollutant loadings to comply with the permit limits, and the fact that the effluent will meet Commonwealth water quality standards.

IV. Environmental Fate and Effects

The discharge of untreated domestic waste results in increased suspended solids, turbidity, settleable solids, floating solids, oil and grease which is presently causing local water quality deterioration and may also have adverse impact on the neighboring bioluminescent bays. In order to comply with Commonwealth water quality

standards the current untreated discharges must cease.

V. Conditions in the General Permit

Facilities which are not covered by either a general permit or an individual permit are not authorized to discharge into navigable waters, and enforcement action may ensue for discharging without an NPDES permit under the Clean Water Act.

A. Geographic Area. The proposed general permit will authorize discharges from Casetas within the area defined on page 1 of the permit to the "waters of the United States" as defined at 40 CFR 122.2.

B. Request to be Covered by General Permit. Owners or operators of Casetas located in the permit area must make a written request to the Regional Administrator for authorization to discharge under the general permit. Unless otherwise notified in writing by the Regional Administrator within 45 days after submission of their request, these owners or operators will be authorized to discharge under the general permit.

Owners or operators of existing Casetas must submit their written request within 45 days of issuance of the final general permit. Those owners or operators which have already submitted an NPDES permit application will be covered under the general permit and therefore need not submit a written request. Facilities constructed after the effective date of the permit will not be covered under the general permit. Facilities constructed after the effective date of the general permit must apply for an individual NPDES permit. All requests shall include the name and legal address of the owner or operator, the name and location of the Caseta and a description of sewage disposal method proposed to be used.

C. Effluent Limitations and Best Management Practices. All permits issued or effective after July 1, 1984, are required by Section 301(b)(2) of the Act to contain effluent limitations representing Best Conventional Pollutant Control Technology (BCT) for all categories and classes of point sources. BCT effluent limits apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). Permits effective or issued after July 1, 1984, are also required to contain effluent limitations which control toxic (40 CFR 401.15) pollutants to the level achievable by means of the Best Available Technology Economically Achievable (BAT).

D. Monitoring and Reporting Requirements. The general permit will require annual monitoring of the

discharge when the Caseta is in use. Discharge Monitoring reports are due on January 15 of each year. A report notifying EPA of the method used to comply with the permit is due 45 days after the effective date of the permit.

VI. Other Legal Requirements

A. State Certification. Under Section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the state in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and state law, including water quality standards.

B. Water Quality Standards. Section 301(b)(1)(c) of the Act requires that NPDES permits contain limitations necessary to ensure compliance with water quality standards established pursuant to state law or regulations, or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. This general permit contains effluent limitations which, in EPA's opinion, meet the requirement of Section 301(b)(1)(c) including the water quality standards of the Commonwealth of Puerto Rico.

The Puerto Rico Environmental Quality Board (EQB) has determined that most if not all of the discharges covered by this general permit are Class SB waters. Although the EQB has declined to provide a water quality certificate for this general permit the effluent limitations included in the general permit are identical to effluent limitations for other permits for discharge to Class SB waters. These effluent limitations are consistent with Article 2 of EQB's recently revised water quality standards.

C. Endangered Species. The Endangered Species Act (ESA) requires that each Federal Agency shall ensure that any of its actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modifications of their habitat.

Based on available information on endangered species to be found in the geographic area of this permit, including environmental impact statements for other activities in the area, EPA has determined that this action will not endanger the species involved, nor result in destruction of their habitats. The following rare and endangered species are known to occur in La Parguera: the West Indian Manatee, the hawksbill sea turtle, the leatherback sea turtle and the brown pelican. EPA will initiate consultation should new information reveal impacts not

previously considered, should the activities be modified in a manner beyond the scope of the original consultations, or should the activities affect a newly listed endangered species.

D. Coastal Zone Management. The Coastal Zone Management Act (CZMA) and its implementing regulations (15 FR 930) require that any Federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP (section 307(c)(3)(A) Subpart D). EPA has determined that the activities authorized by this general NPDES permit are consistent with the Puerto Rico Coastal Zone Management Plan. The general permit and consistency certification was submitted to the Commonwealth of Puerto Rico for review at the time of public notice issuance.

E. The Marine Protection, Research, and Sanctuaries Act. The Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. The discharges authorized by this permit are Clean Water Act Section 402 point source discharges, not discharges covered by the MPRSA. In addition, the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or aesthetic values.

The Agency has contacted the appropriate NOAA office and has been informed that the general permit area is an active candidate for marine sanctuary designation. EPA has determined that the activities authorized by this NPDES general permit are consistent with NOAA regulations concerning marine sanctuaries. NOAA has indicated to EPA that as long as the general permit is consistent with Commonwealth water quality standards it has no objections to the issuance of the permit.

F. Paperwork Reduction Act. EPA has reviewed the requirements imposed on regulated facilities in this general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection and notification requirements of the permit have already been approved by the Office of Management and Budget (OMB) under submissions made for the

NPDES permit program under provisions of the Act.

G. *Executive Order 12291*. The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of the Order.

H. *Regulatory Flexibility Act*. The general permit is for private dwellings. The private dwellings are not small entities under the Small Business regulations for the purpose of the Regulatory Flexibility Act. Therefore, the provisions of the Act do not apply to this permit.

[NPDES Permit No. PRC40001]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*; (the "Act"),

The owners of "Casetas" ("Casetas" are defined as the homes in existence as of the effective date of this permit located along the shore of La Paraguera Bay) who had applied for NPDES permits or will submit to the Regional Administrator written requests within 45 days of issuance of this permit for coverage under this permit are authorized to discharge in accordance with the effluent limitations, monitoring requirements and other conditions set forth in this permit within an area described by the following fixed points:

The southwest coast of Puerto Rico in the municipality of Lajas from

Latitude 17° 58' 10" N
Longitude 67° 01' 30" W

to
Latitude 17° 58' 40" N
Longitude 67° 04' 00" W

These fixed points are contained within the boundaries of La Paraguera Bay which are classified under the Commonwealth's Water Quality Standards as class SB waters.

This permit shall become effective on October 2, 1985.

This permit and authorization to discharge shall expire as midnight, October 2, 1990.

Signed this 1st day of August, 1985.

Christopher J. Dagget

Regional Administrator, U.S. Environmental Protection Agency, Region II.

I. Special Conditions

A. Effluent Limitations

1. *Effluent limitations for permittees that choose to utilize an approved holding tank/treatment unit in lieu of connecting to the PRASA system*. During the period beginning on the effective date and lasting until the expiration date of this permit discharges shall be limited as specified below:

Required effluent characteristics	Discharge limitations	
	Daily Average	Daily Maximum
Flow—M ³ /Day (MGD)		
BOD ₅ (mg/l)	30	45
Suspended solids (mg/l)	30	45
Fecal coliforms (MPN/100 ml)	200	400
Total coliforms (MPN/100 ml)		10,000
Residual chlorine (mg/l)		0.5
Dissolved oxygen (mg/l)	Shall be at all times above 4.0	
Oil and grease (mg/l)	10.0	15.0
pH (SU)	Shall always lie between 7.3-8.5	
Temperature	No heat may be added to the waters of Puerto Rico which would cause the temperature of any site to exceed 94° F (34.5 °C). The rate of temperature change shall not be more than 1° F per hour and shall not exceed a total of 5° F in any 24-hour period except when due to natural causes.	
Turbidity (JTU)		10.0
Color	The color shall not be altered by other than natural phenomena.	
Detergents (methylene blue active substances) (mg/l)		0.5
Floating solids and visible foam	The waters of Puerto Rico shall not contain floating debris, scum or other floating materials attributable to discharges in amounts sufficient to be unsightly or deleterious.	

Limitations set forth above are consistent with state water quality standards for SB waters.

2. *Required Effluent Limitations for Discharge of Untreated Wastewater.*

Zero discharge of Untreated Wastewater in La Paraguera Bay.

B. *Monitoring and Records*

1. *Monitoring Requirements*. The permittee must monitor the effluent at least once per year (when the Caseta is in use). The sample must be analyzed for the parameters listed in Part I Section I.A.1. All samples shall be grab samples.

2. *Records*. The permittee shall retain records of water bills, proof that a holding tank/treatment unit was installed, date of installation, monitoring results, and documentation which serves to prove that the system is being properly operated and maintained. The permittee shall retain the abovementioned records for at least 3 years from the date generated.

3. *Inspection and Entry*. The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility is located or conducted or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable time, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times a facilities, equipment, practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

4. *Duty to Provide Information*. The permittee shall furnish to the Regional Administrator within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator upon request copies of records required to be kept by this permit.

C. *Reporting Requirements*

1. Within 45 days of the effective date of this permit, all discharging Casetas must submit the following information, unless it has already been submitted, or an application for an individual permit has been submitted:

(a) Name and address of discharger and permit number (PRC40001)

(b) Option chosen.

(i) Connection to PRASA system

(ii) Installation of a holding tank/treatment unit.

2. In the event of a homeowner recommending direct discharge after connection to the PRASA system without notifying EPA requesting coverage under this general permit may subject the homeowner to an enforcement action.

3. The permittee must submit the results of the monitoring required under Part I Section I.B.1. to EPA no later than January 15 of each year.

4. *Anticipated Noncompliance*. The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

5. *Other Noncompliance*. The permittee shall report all instances of noncompliance not reported above within 30 days of their occurrence.

6. *Signatory Requirements*. All reports or information submitted to the Regional Administrator shall be signed and certified by the owner of the facility or an authorized representative.

7. *Availability of Reports*. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public

inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and monitoring data shall not be considered confidential.

8. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or both.

9. Reports required under this permit shall be submitted to the Regional Administrator at the following address:

Regional Administrator, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza New York, New York 10278 ATTN: Permits Administration Branch, Room 432

10. Planned Changes. The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility.

11. Twenty-Four Hour Reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, anticipated time is expected to continue; and steps taken or planned, to reduce, eliminate and prevent recurrence of the noncompliance. Reports required under this section shall be submitted to Mr. Weems L. Clevenger, Director of the Caribbean Field Office at the following address: Environmental Protection Agency P.O. Box 792, San Juan, Puerto Rico 00902-0792. Telephone Number (809) 725-7825.

II. Standard Conditions for NPDES General Permits

A. General Conditions

1. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit

termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to a civil penalty not to exceed \$10,000 per day of each violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of each violation, or by imprisonment for not more than 1 year or both.

3. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

4. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. Civil and Criminal Liability. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

6. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

7. Commonwealth Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Commonwealth law or regulation under authority preserved by Section 510 of the Act.

8. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal,

Commonwealth, or local laws or regulations.

9. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision or other circumstances, and the remainder of this permit, shall not be affected hereby.

10. Duty to Halt or Reduce Activity. The permittee must comply with the requirements of 40 CFR 122.41(c).

11. Monitoring and Records. The permittee must comply with the requirements of 40 CFR 122.41(j).

12. Duty to Reapply. The permittee must comply with the requirements of 40 CFR 122.41(b).

13. Proper Operation and Maintenance. The permittee must comply with the requirements of 40 CFR 122.41(e).

B. Additional General Permit Conditions

1. When the Regional Administrator May Require Application for an Individual NPDES Permit. The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(3) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual NPDES permits.

2. When an Individual NPDES Permit May be Requested. Any owner or operator authorized by this permit may request to be excluded from the

coverage of this general permit by applying for an individual permit. The owner or operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than 90 days after publication by EPA of this general permit in the Federal Register.

3. *Issuance of an Individual Permit.* When an individual NPDES permit is issued to an owner or operator otherwise subject to this general permit, the applicability of this general permit to that owner or operator shall automatically terminate on the effective date of the individual permit.

4. *Requesting Coverage Under the General Permit.* A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this permit. Upon revocation of the individual permit, this general permit shall apply to the source.

[FR Doc. 85-23493 Filed 10-1-85; 8:45 am]

BILLING CODE 6650-50-M

[FRL-2905-4]

Chesapeake Bay Executive Council Meeting; Opening Meeting

Under section 10 (a) (2) of Pub. L. 92-463, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the Chesapeake Bay Executive Council established in accordance with the Chesapeake Bay Agreement of December 1983, will be held from 10:00 a.m. to 3:00 p.m. on October 17, 1985, at the World Trade Center, Room 400(A&B), the Central Fidelity Bank Conference Room, Main Street and Waterside Drive, Norfolk, Virginia.

The agenda of the quarterly council meeting will include, but is not limited to:

1. Citizen Advisory Committee—Quarterly Report to the Executive Council.
2. Proposed Restoration and Protection Management Program.
3. Maryland Critical Areas Commission Program, and
4. Virginia Initiatives

Comments from the public will be welcomed at the end of the meeting as time permits. Questions about the meeting may be directed to Pat Bonner, U.S. EPA, Chesapeake Bay Liaison Office, Annapolis City Marina, Suite 109-110, Annapolis, Maryland. 21403.

The telephone number is: Area code 301/266-6873

September 25, 1985.

Hank Zygmunt,

Acting Director, Chesapeake Bay Liaison Office.

FR Doc. 85-23491 Filed 10-1-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No.: FEMA-REP-9-AZ-1]

Arizona Radiological Emergency Response Plan Site-Specific to the Palo Verde Nuclear Generating Station

ACTION: Certification of FEMA finding and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Arizona submitted its State and local plans for radiological emergencies related to the Palo Verde Nuclear Generating Station to the Director of FEMA Region IX on July 18, 1984, for FEMA review and approval. On February 22, 1985, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Also in accordance with that section, he submitted supplemental information on April 18, 1985. Included in these evaluations are a review of the State and local plans around the Palo Verde facility, and evaluations of the joint exercises conducted on May 11, 1983 and September 26, 1984, in accordance with § 350.9 of the FEMA rule; and a report of the public meeting held on May 16, 1983, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on these evaluations by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that the State and local plans and preparedness for the Palo Verde Nuclear Generating Station are adequate to protect the health and safety of the public living in the vicinity of the plant. The offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The public alerting and notification (A&N) system was approved by FEMA on August 16, 1985, in accordance with the joint Nuclear Regulatory Commission (NRC)/FEMA criteria in NUREG-0654/

FEMA-REP-1, Rev. 1, Appendix 3 and in FEMA-43, "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants".

FEMA will continue to review the status of offsite plans and preparedness associated with the Palo Verde Nuclear Generating Station in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-9-AZ-1 maintained by the Regional Director, FEMA Region IX, Building 105, Presidio of San Francisco, California 94128.

Dated: September 25, 1985.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director.

[FR Doc. 85-23474 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-01-M

[Docket Nos.: FEMA-REP-5-MN-1]

Minnesota Radiological Emergency Response Plan Site-Specific to the Prairie Island Nuclear Power Plant

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Minnesota submitted its plans relating to the Prairie Island Nuclear Power Plant to the Director of FEMA Region V on March 12, 1981, for FEMA review and approval. On January 26, 1984, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Also in accordance with that section, he submitted a supplemental evaluation on August 12, 1985, covering certain revisions to those plans. Included in these evaluations are a review of the State and local plans around the Prairie Island facility, and evaluations of the joint exercises conducted on October 14, 1980, December 8, 1981, October 14, 1982, and March 13, 1984 in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on October 15, 1980, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on these evaluations by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that the State and local plans and preparedness for the Prairie Island Nuclear Power Plant are adequate to protect the health and safety of the

public living in the vicinity of the plant. The offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The public alerting and notification (A&N) system was approved by FEMA on April 25, 1985, in accordance with the joint Nuclear Regulatory Commission (NCR)/FEMA criteria in NUREG-0654/FEMA-REP-1, Rev. 1, Appendix 3 and FEMA-43, "Standard Guide for the Evaluation of Alert and Notification System for Nuclear Power Plants".

FEMA will continue to review the status of offsite plans and preparedness associated with the Prairie Island Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-5-MN-1 maintained by the Regional Director, FEMA Region V, Federal Center, Battle Creek, Michigan 49016.

Dated: September 24, 1985.

For the Federal Emergency Management Agency

Samuel W. Speck,

Associate Director,

[FR Doc. 85-23475 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-743-DR]

Florida; Amendment To Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA-743-DR), dated September 12, 1985, and related determinations.

DATED: September 20, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Florida, dated September 12, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 12, 1985:

Franklin, Levy, Manatee, and Pinellas Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 85-23478 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-743-DR]

Florida; Amendment To Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA-743-DR), dated September 12, 1985, and related determinations.

DATED: September 23, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Florida, dated September 12, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 12, 1985:

Dixie, Hillsborough, and Wakulla Counties for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-23477 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-744-DR]

Michigan; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Michigan (FEMA-744-DR), dated September 18, 1985, and related determinations.

DATED: September 25, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Michigan, dated

September 18, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 18, 1985:

Iosco County as an adjacent county for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-23476 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-02-M

National Emergency Training Center Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA).

Dates of Meeting: October 13-14, 1985.

Place: National Emergency Training Center, Emmitsburg, Maryland.

Time: October 13—2:00 p.m. to 5:00 p.m.; October 14—8:30 a.m. to 5:00 p.m.

Proposed Agenda: October 13-14: Approval of Minutes; Old Business; BOV Visitation to NFA Classes and Facilities; New Business; Review of FY85; Plans for FY86.

The meeting will be open to the public with approximately 10 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact Mr. Joseph Donovan, Superintendent, National Fire Academy, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD, 21727 (telephone number, 301-447-6771) on or before October 7, 1985.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, MD, 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 19, 1985.

Joseph L. Donovan,

Superintendent, National Fire Academy.

[FR Doc. 85-23473 Filed 10-1-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION**Ocean Freight Forwarder License; Sky International et al.; Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Arthur G. Moya d.b.a. Sky International, 10415 So. La Cienega, Los Angeles, CA 90045.

Cal Hono Freight Forwarders, Inc., 430 S. Anderson Street, Los Angeles, CA 90033. Officers: Farris B. Scott, President; James M. Zant, Vice President; William T. Zant, Vice President.

Galaxy Forwarding, Inc., 17 Battery Place, New York, NY 10004. Officers: Anne Gomez, President/Director; Barbara Marling, Secretary/Treasurer/Director; Joseph Feldberg, Director.

Guillermo E. Muniz d.b.a. Rainbow Forwarding Corp., 13832 SW 22nd Terrace, Miami, FL 33175.

Buschmann International, Inc.; 8152 Loch Raven Blvd.; Baltimore, MD 21204. Officers: Dorthy M. Buschmann CDS, President; Katherine S. Buschmann Clemens; Harlan L. Neill, Secretary/Treasurer; Eric R. Clemens, Director.

Seafast, Inc., 2754 N.W. North River Drive, Miami, FL 33142. Officers: Robert Clark, President/Treasurer/Director; Alan C. Egan, Vice President/Secretary/Director; Lissette Santiago, Assistant Treasurer.

American Cargo and Steamship Agency, Inc., 76 Beaver Street, 24th Floor, New York, NY 10005-3498. Officers: Jochen Semler, President/Treasurer/Director; Kira M. Semler, Secretary; Karlne Moise, Vice President.

World Freight Forwarders, 65 Scudder Street, Garfield, NJ 07026. Officer: Anthony Patti, President.

O'Neill and Whitaker, Inc., 1809 Baltimore Avenue, Kansas City, MO 64108. Officers: Michael O'Neill, President/Director; John W. Whitaker, Treasurer/Director; Mary Etta O'Neill, Vice President.

General Brokerage Services, Inc., 500 Deer Run, Miami, FL 33166. Officers: Anthony A. Toro, President/Director; Samuel Steen, Secretary.

Dated: September 27, 1985.

By the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-23544 Filed 10-1-85; 8:45 am]

BILLING CODE 6730-01-M

Performance Review Board Membership

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT:

William J. Herron, Jr., Director of Personnel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

James J. Carey,
Vice Chairman.

The members of the performance review board are:

1. James J. Carey, Vice Chairman.
2. Thomas F. Moakley, Commissioner.
3. Edward J. Philbin, Commissioner.
4. John E. Cogrove, Chief Administrative Law Judge.
5. Seymour Glanzer, Administrative Law Judge.
6. Charles E. Morgan, Administrative Law Judge.
7. Norman, D. Kline, Administrative Law Judge.
8. Joseph N. Ingolia, Administrative Law Judge.
9. Wm. Jarrel Smith, Jr., Director of Programs.
10. Robert D. Bourgoin, General Counsel.
11. John Robert Ewers, Director, Office of Regulatory Overview.
12. Robert A. Ellsworth, Director, Office of Policy Planning and International Affairs.
13. Joseph C. Polking, Director, Bureau of Agreements and Trade Monitoring.
14. Robert G. Drew, Director, Bureau of Tariffs.

[FR Doc. 85-23543 Filed 10-1-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Agency Forms Under Review by OMB**

September 26, 1985.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the *Federal Register*, but occasionally the public interest requires more rapid action.

The Federal Financial Institutions Examination Council ("Council") is also requesting comment on the public disclosure of one item from the proposed information collection.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822).

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

DATE: Comment on the proposed disclosure must be received within 15 days from the date of publication in the *Federal Register*.

ADDRESS: Comments may be mailed to Rhoger Pugh, Assistant Executive Secretary, Federal Financial Institutions Examination Council, Suite 701, 1776 G Street, NW, Washington, DC 20006.

When the Council originally published for comment the proposal for this report, it specifically requested information on whether a broad range of information should be made public. After consideration of the comments received, the Council has determined that such broad disclosure is not necessary at this time but instead now proposes that only one item of the report be disclosed to the public. This item is total adjusted claims on residents of the foreign bank's

home country on a combined office basis (including direct claims on related offices abroad), which will be calculated by the banking agencies from the individually submitted reports. Disclosure of this item would indicate the extent to which funds raised in the United States by foreign bank branches and agencies are used to support activities in the home country and consequently the degree to which the branches and agencies are linked to economic conditions in the home country. In order to place the data on total adjusted claims on home country into context, each such disclosure will be accompanied by the amount of total assets (as defined for item 3, Schedule RAL of the FFIEC 002 report) for the relevant offices (also on a combined office basis). The proposed disclosure represents a significant reduction from what the Council had originally requested comment on and might have adopted. In light of the change in recommended disclosure, the Council is requesting comment for a period of 15 days on disclosure of the one item representing total adjusted claims on home country residents. This comment period should be sufficient in light of the 90-day period previously afforded to commenters and the extensive comments already submitted on the issue of disclosure generally.

The issue of disclosure may be considered separately and will not affect implementation of the report itself for the quarter ending December 31, 1985.

Request for OMB approval to implement:

1. Report title: Quarterly Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FFIEC 019.

OMB Docket number: 7100-0213.

Frequency: Quarterly.

Reporters: U.S. branches and agencies of foreign banks.

Small businesses are not affected.

General description of report: This information collection is mandatory [12 U.S.C. 248] and is given confidential treatment [5 U.S. 552(b)(4) and (b)(8)], except for one item, i.e., column 4, line 1, "Total adjusted claims" on home country.

Each quarter, every U.S. branch or agency (of a foreign bank) with more than \$30 million in total direct claims on foreign residents is required to report information on its exposure to its home country and to the five other countries to which its exposure is largest and is at least \$5 million for an individual country. The data are used for supervisory and regulatory purposes.

Board of Governors of the Federal Reserve System, September 26, 1985.

William Wiles,

Secretary of the Board.

[FR Doc. 85-23522 Filed 10-1-85; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review by OMB

September 28, 1985.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Classman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822).

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Letter Advising Federal Reserve System of Consummation of Proposed Acquisition of Bank and/or Nonbank Company or Consummation of a Stock Redemption.

Agency form number: FR 4016.

OMB Docket number: 7100-0170.

Frequency: Event-generated.

Reporters: Bank holding companies.

Small businesses are affected.

General description of report: This information collection is mandatory [12 U.S.C. 1844 (a) and (c)] and is not given confidential treatment.

Whenever a bank holding company (BHC) is formed, or acquires another bank or nonbank, or redeems its stock, it is required to notify the Federal Reserve System via this letter form. The System uses the information to update and verify its structural files and to monitor the capital structure of BHCs.

Board of Governors of the Federal Reserve System, September 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23523 Filed 10-1-85; 8:45 am]

BILLING CODE 6210-01-M

New Danville Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 24, 1985.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *New Danville Bancorp, Inc.*, Lexington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Danville, Danville, Kentucky. Comments on this application must be received not later than October 25, 1985.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama; to acquire 100 percent of the voting shares of Shelby State Bank, Pelham, Alabama.

2. *Hibernia Corporation*, New Orleans, Louisiana; to merge with Southwest Bancshares, Inc., Lafayette, Louisiana, and thereby indirectly acquiring Southwest National Bank of Lafayette, Lafayette, Louisiana.

3. *Hibernia Corporation*, New Orleans, Louisiana; to acquire 24.9 percent of the voting shares of Southwest National Bank of Lafayette, Lafayette, Louisiana.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230

South LaSalle Street, Chicago, Illinois 60690:

1. *First Financial Bancorporation*, Iowa City, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank, Iowa City, Iowa.

2. *M&I Interim Corporation*, Lancaster, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Lancaster Bancshares, Inc., Lancaster, Wisconsin, thereby indirectly acquiring Lancaster State Bank, Lancaster, Wisconsin.

D. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Ozark Bankshares, Inc.*, Ozark, Arkansas; to acquire at least 80 percent of the voting shares of Bankstock Two, Inc., Dardanelle, Arkansas, thereby indirectly acquiring Arkansas Valley Bank, Dardanelle, Arkansas, and to acquire at least 80 percent of the voting shares of Newco Corporation, Jasper, Arkansas, thereby indirectly acquiring Newton County Bank, Jasper, Arkansas.

Board of Governors of the Federal Reserve System, September 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23516 Filed 10-1-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(AA-6698-B)

Alaska Native Claims Selection; Salamatof Native Association

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Salamatof Native Association, notice of which was published in the *Federal Register* Vol. 50, No. 141, page 30018 on July 23, 1985, is modified by adding more sections to the land description for easement (EIN 100, J).

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the modified DIC may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 1, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to

file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given July 23, 1985, is final.

Olivia Short,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-23509 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-JA-M

[I-20103]

Exchange of Public and Private Lands, Cassia County ID

The United States has issued an exchange conveyance document to Mark T. Newcomb, Burley, Idaho 83318, for the following-described lands under section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 10 S., R. 26 E.,

Sec. 5, lot 1, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 6, lots 1 to 4 inclusive.

Comprising 234.86 acres of public land.

In exchange for these lands the United States acquired the following-described lands:

Boise Meridian, Idaho

T. 9 S., R. 26 E.,

Sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 10 S., R. 26 E.,

Sec. 4, that portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$ lying north of Interstate 86 (I-86) described as follows:

Beginning at the $\frac{1}{4}$ corner of sections 3 and 4, T. 10 S., R. 26 E., Boise Meridian, Idaho:

Thence southerly along the line between sections 3 and 4 to the intersection with the north right-of-way line of I-86;

Thence southwesterly along the north right-of-way line of I-86 to the intersection with the north and south centerline of section 4;

Thence northerly along the north and south centerline of section 4 to the center $\frac{1}{4}$ section corner of section 4;

Thence easterly along the east and west centerline of section 4 to the $\frac{1}{4}$ section corner, the point of beginning.

Comprising 205.56 acres of private land.

The purpose of this exchange was to acquire the non-Federal land which will provide protection of wildlife and recreational values and more efficient management of rangeland.

Dated: September 24, 1985.

Orin B. Collier,

Acting Deputy State Director for Operations.

[FR Doc. 85-23527 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-GG-M

[INT PRMP/FEIS 85-39]

Availability of the Proposed Resource Management Plan/Final Environmental Impact Statement for the Esmeralda- Southern Nye Planning Area, Nevada

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Esmeralda-Southern Nye Planning Area, Las Vegas and Battle Mountain Districts, Nevada.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976, the BLM Las Vegas and Battle Mountain Districts have prepared a combined Resource Management Plan/Environmental Impact Statement for the Esmeralda-Southern Nye Planning Area, Las Vegas and Battle Mountain Districts, Nevada.

SUPPLEMENTARY INFORMATION: The Esmeralda-Southern Nye Proposed Resource Management Plan/Final Environmental Impact Statement is a comprehensive land use planning document which establishes management actions and objectives for resource condition and use levels, the standards for monitoring and evaluating the plan's effectiveness, and the need for more detailed management plan(s) and support actions. It also is an environmental impact statement which analyzes the effects of implementing a multiple-use resource management plan on 3.4 million acres of public land in the Las Vegas and Battle Mountain Districts in Nevada. Four alternatives were considered along with the Preferred Alternative.

A formal protest period of 30 days will extend until November 4, 1985. Comments will be considered in the decision-making process. Protests must be made in writing to the Director, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C., 20240.

FOR FURTHER INFORMATION CONTACT: William Calkins, Acting District Manager, Attn: RMP/EIS Project Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, Nevada, 89126 (702) 388-6403.

Copies of the final document are available for review at the following locations:

- Bureau of Land Management, Office of Public Affairs, 18th and C Streets, Washington, D.C. 20240.
- Bureau of Land Management, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5448.
- Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada 89102, (702) 388-6403.
- Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada 89820, (702) 635-5181.
- Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445, (702) 623-3676.
- Bureau of Land Management, Elko District Office, 3900 E. Idaho Street, Elko, Nevada 89801, (702) 738-4071.
- Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289-4865.
- Bureau of Land Management, Carson City District Office, 1050 E. William Street, Carson City, Nevada 89701, (702) 882-1631.
- Bureau of Land Management, Tonopah Resource Area Office, Old Air Force Building No. 102, Tonopah, Nevada 89049, (702) 482-6214.
- Copies are also available for review at the following public libraries:
- Amargosa Public Library, Star Route 15, Box 401-T, Lathrop Wells, Nevada 89020.
- Beatty Community Library, 323 Montgomery, Beatty, Nevada 89002.
- Charleston Heights Library, 800 Brush Street, Las Vegas, Nevada 89107.
- Clark County Community College, Learning Resource Center, 3200 E. Cheyenne Avenue, North Las Vegas, Nevada 89030.
- Esmeralda County Public Library, Silver Peak, Nevada 89013.
- Las Vegas Public Library, 1862 E. Charleston Blvd., Las Vegas, Nevada 89104.
- Mount Charleston Public Library, P.O. Box 269, S.R. 89038, Mt. Charleston, Nevada 89101.
- North Las Vegas Library, 2300 Civic Center Drive, North Las Vegas, Nevada 89030.
- Pahrump Public Library, Pahrump, Nevada 89041.
- Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89109.
- Esmeralda County Public Library, County Courthouse, Goldfield, Nevada 89013.
- Washoe County Library, 301 S. Center Street, Reno, Nevada 89505.

University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154.

University of Nevada, Reno, Getchell Library, Government Publications Dept., Reno, Nevada 89507.

A copy of the proposed RMP/FEIS will be sent to all individuals, agencies, and groups who have expressed interest in the Esmeralda-Southern Nye Area Planning process. A limited number of copies are available upon request from the District Manager at the above address.

Dated: September 24, 1985.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 85-23187 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-NC-M

Colorado; Resource Management Plan/Record of Decision for the San Juan-San Miguel Planning Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Record of Decision, including Designation of Special Management Areas for the Resource Management Plan for the San Juan-San Miguel Planning Area, Montrose District, Colorado.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (40 CFR 1505.2), the Department of the Interior, Bureau of Land Management (BLM), has issued a Record of Decision on the Final San Juan-San Miguel Resource Management Plan/Environmental Impact Statement (FRMP/EIS). The Record of Decision will be available from the address below, following printing in November 1985.

The BLM has also designated one area of critical environmental concern (ACEC), one research natural area (RNA), and one outstanding natural area (ONA), within the planning area, pursuant to 43 CFR 1610.7-2.

ADDRESS: Request for copies of the Record of Decision/Resource Management Plan should be sent to the San Juan Resource Area Office, Bureau of Land Management, Federal Building, Room 102, 701 Camino del Rio, Durango, Colorado 81301; or the Uncompahgre Resource Area Office, Bureau of Land Management, 2505 South Townsend, Montrose, Colorado 81401.

FOR FURTHER INFORMATION CONTACT: David J. Miller, San Juan Resource Area Manager, Federal Building, Room 102, 701 Camino del Rio, Durango, Colorado 81301, telephone (303) 247-4082; or Lance Nimmo, Uncompahgre Resource Area Manager, 2505 South Townsend,

Montrose, Colorado 81401, telephone (303) 249-7791.

SUPPLEMENTARY INFORMATION:

Alternatives Analyzed

Four alternatives for managing the resources were considered: Current Management, Resource Conservation, Resource Utilization, and Preferred.

The Current Management Alternative emphasized current management direction, policies, and existing land use plans. It was the No Action Alternative required by the National Environmental Policy Act.

The Resource Conservation Alternative emphasized nonconsumptive natural resource values.

The Resource Utilization Alternative emphasized consumptive use of the resources in the planning area.

The Preferred Alternative (called the Proposed Plan in the final environmental impact statement) balances competing demands by providing goods and services while protecting important environmental values.

Decision

The decision is to adopt the Proposed Plan as the San Juan-San Miguel Resource Management Plan as modified by the BLM Director decisions to protestors of the FRMP/EIS. Major actions contained in the Final RMP/EIS are:

- Maintain wildlife habitat to support existing wildlife populations.
- Implement intensive livestock grazing management on 71 priority allotments.
- Recommend 28,539 acres of the Dolores River Canyon WSA as suitable for wildlife designation, and recommend Cross, Cahone, and Squaw/Papoose Canyons, Weber and Menefee Mountains, McKenna Peak and Tabeguache Creek WSAs as non-suitable for wilderness designation (approximately 73,971 acres).
- Improve aquatic/riparian habitat on the San Miguel and Dolores Rivers.
- Manage the Dolores River Canyon and the Silverton areas as Special Recreation Management areas to improve recreation experiences by the visiting public.
- Leave the majority of the resource area open for mineral exploration and development, but restrict mineral development in some areas having other important and unique resource values.
- Provide forest products (sawtimber, firewood, etc.) to meet expected demand.

- Protect important cultural resources through intensive management. Stabilize sites, improve public education, and prevent damage to the cultural resources.
- Make 21,700 acres of mostly small, isolated parcels of public land available for disposal.
- Provide intensive watershed management on 65,000 acres to reduce erosion and sediment yield; and manage 46,000 acres to reduce erosion and sediment yield; and manage 46,000 acres to reduce salinity in the Dolores River.
- Designate the Anasazi Culture Multiple Use Area as an Area of Critical Environmental Concern. Designate McElmo Research Natural Area and Area of Critical Environmental Concern, and Tabeguache Creek Outstanding Natural Area and Area of Critical Environmental concern.
- Designate public lands as open, limited or closed to off-road vehicle (ORV) use.

Major Modifications to the Final RMP/EIS

- Manage one herd (approximately 50 head) of wild horses in the Spring Creek Basin area. All other wild horses would be removed.
- The tract of land along the Dolores River (T. 48 N., R. 18 W., Section 11) will be removed from the disposal emphasis category.
- If wilderness status is not conferred on the Dolores River Canyon WSA by Congress, prescriptions for management of the Coyote Wash portion will be reassessed through the plan amendment process and associated public participation.
- The Coal Unsuitability Analysis report dated September 1984 will be revised as follows:

The exceptions listed under Criterion Number 16 on Page 39 of the report is eliminated for all three areas. The exception analysis on page 41 is removed from the Nucla KRCRA and the heading "Exception Analysis" is removed from the Durango KRCRA. The paragraph under this heading for the Durango KRCRA is modified to read, "Pending additional information, the study areas should be considered suitable for further coal lease consideration due to this criterion. Those portions of the area crossed by water sources supplying water to off-study area floodplains should be considered unsuitable for further coal lease consideration to the boundaries of the 100-year flood stage level.

"Any proposed activities in or adjacent to the floodplains will require

approval from BLM on a site-specific basis after consultation with the U.S. Geological Survey."

The analysis portion of Criterion Number 19 on page 42, under the Durango KRCRA will be changed to read, "Those portions of the KRCRA falling within the above-mentioned alluvial valley floors should be designated unsuitable for surface mining operations, but should receive further consideration for coal leasing where mining operations would be by subsurface methods." The exceptions for all three areas on page 44 are eliminated. The exception analysis for all three areas are removed except the last paragraph under the Durango KRCRA will remain with the addition of the word "potential". It reads as follows, "Any proposed activity in or adjacent to the potential alluvial valley floors will require approval from BLM on a site-specific basis after consultation with the state of Colorado.

Designations

Pursuant to the authority in the Federal Land Policy and Management Act of October 21, 1976 (Section 202(c)(3)) and 43 CFR Parts 1610, 8223, and 8352, the BLM has designated lands in the following areas for special management direction.

Anasazi Culture Multiple Use Area An Area of Critical Environmental Concern

Approximately 156,000 acres of BLM-administered land west of Cortez, Colorado, in Montezuma and Dolores Counties. (See FRMP/EIS, Chapter 1, Fig. 1-1, for boundary.)

The area contains important cultural, mineral, recreation, and range resources. It covers the heart of the northern Anasazi development, with more than 100 archaeological sites per square mile in many places, the highest known site density of any area in the nation. The total number of sites on public land in the area is estimated at 20,000. Large oil and gas reserves are also contained there. A major CO₂ development field is in place and has a project life of more than 30 years.

Multiple resource uses will be provided for, while emphasizing the cultural and mineral values. Site-specific management guidance is contained in Emphasis Area "L" (ACEC, see Appendix 5 of the Final RMP). Specific areas within the ACEC will have management constraints designated to protect sensitive environmental resources. Cross, Cahone, and Squaw/Papoose Canyons will be closed to off-road vehicles. They will also be managed under visual resource management Class II guidelines.

Current restrictions related to hard rock mining and no surface occupancy for oil and gas leasing will be continued after designation in Sand and East Rock Canyons; Cannonball, Lowry, and Dominguez-Escalante Ruins; McLean Basin Towers; and Painted Hand Petroglyphs.

No surface occupancy stipulations for oil and gas development in Cross, Cahone, and Squaw/Papoose Canyons and Painted Hand Ruin will be implemented. Public access into Mockingbird Mesa and Sand, East Rock, and Squaw/Papoose Canyons will be limited to foot or horse only. Vehicle access in these areas will be restricted to authorized vehicles.

McElmo Research Natural Area, an Area of Critical Environmental Concern

440 acres of BLM-administered land in Montezuma County, Colorado, T. 36 N., R. 20 W., NMPM, Sec. 22: Lots 3, 4, 7, 8, and SE ¼; Sec. 27: Lots 1, 2, 5, and 6.

This area is designated to preserve the diversity of flora and fauna found in the area for research presently being conducted. Professional educators use the area to study its values.

Management of the area will be outlined in a site-specific plan to be completed in the future; however, based on the RMP, no surface occupancy for oil and gas leasing will be stipulated. The area will be managed to maintain generally undisturbed conditions.

Tabeguache Canyon Outstanding Natural Area, an Area of Critical Environmental Concern

3,200 acres of BLM-administered land in Montrose County, Colorado, T. 47 N., R. 15 W., NMPM, Sec. 4, Sec. 5, and Sec. 6: E ½, and T. 48 N., R. 15 W., Sec. 31: E ½, Sec. 32, and Sec. 33.

This area is designated to preserve its natural ecosystem and cultural resources.

Management of the area will be outlined in a site-specific activity plan to be completed in the future. The RMP decisions state that 560 acres in the immediate canyon bottom would be leased for oil and gas with no surface occupancy stipulations. The entire canyon will be closed to off-road vehicle use to maintain a semiprimitive, nonmotorized, recreation experience. In addition, visual resource management Class II standards will be utilized for future actions.

Mitigation Measures

All practicable measures will be taken to mitigate adverse impacts. These measures will be strictly enforced during implementation of the RMP. Monitoring

will tell how effective these measures are in minimizing environmental impacts. Additional measures to protect the environment may be taken during or following monitoring as warranted.

Dated: September 25, 1985.

Bob Moore,

Associate State Director.

[FR Doc. 85-23538 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-JB-M

Revocation of Lands in Known Geothermal Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Revocation of Lands in Known Geothermal Resource Area.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1.H, and Secretarial Order 3071 and 3087, the following described lands are hereby deleted from the following Known Geothermal Resource Area, effective September 18, 1985:

(53) Washington

Indian Heaven Known Geothermal Resource Area.

Willamette Meridian, Washington

T. 6 N., R. 8 E.,

Sections: 23, 24 and 26

T. 6 N., R. 9 E.,

Section 18: All (containing 2,547.00 acres).

There being no lands remaining, Indian Heaven KGRA is now revoked.

The subject lands will be made available to the first qualified applicant under regulations appearing in 43 CFR Part 3210 beginning with the first calendar month following the date of this notice.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Oregon State Office, Division of Mineral Resources, 825 N.E. Multnomah Street, Portland, Oregon 97208, (503) 231-6994.

Dated: September 17, 1985.

Eric G. Hoffman,

Acting Deputy State Director, Mineral Resources.

[FR Doc. 85-23539 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-33-M

Filing of Supplemental Plat; New Mexico

September 18, 1985.

The supplemental plat described below was officially filed in the New Mexico State Office, Bureau of Land

Management, Santa Fe, New Mexico, effective at 10:00 a.m. on September 18, 1985.

The relotting in Section 31 of Township 23 South, Range 1 West, of the New Mexico Principal Meridian, New Mexico, was approved September 12, 1985.

This survey was requested by the District Manager, Las Cruces, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of \$2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-23529 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-FB-M

Filing of Plats of Survey; New Mexico

September 17, 1985.

The plats of survey described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on September 17, 1985.

The dependent resurveys of portions of the Fifth and Sixth Standard Parallels North, the corrective resurvey of a portion of the Sixth Standard Parallels North, and the survey of the west and north boundaries and subdivisional lines of Townships 21 and 25 North, Range 17 West, New Mexico Principal Meridian, New Mexico, under Group 833 NM, approved September 11, 1985.

These surveys were requested by the Area Director, Bureau of Indian Affairs, Navajo Area Office, Windowrock, Arizona.

The plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of \$2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-23528 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-FB-M

[Serial No. I-15319]

Proposed Continuation of Withdrawal, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 3.14 acre withdrawal for

a public reserve for the City of Melba continue for an indefinite period. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by December 31, 1985.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 208-334-1735.

The Bureau of Reclamation proposes that the existing land withdrawal made by Secretarial Order of January 20, 1920, be continued for an indefinite period 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:

Boise Meridian, Idaho

T. 1 S., R. 2 W.,
sec. 2, lot 8.

The area described contains 3.14 acres in Canyon County.

The purpose of the withdrawal is to protect a public reserve for the City of Melba. The withdrawal segregates the land from operation of the public land laws generally, including 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 Idaho State Director of the Bureau of Land Management.

The authorized officer of the Bureau of the 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 determination is made.

Dated: September 25, 1985.

Orin B. Collier,

Acting Deputy State Director for Operations.

[FR Doc. 85-23530 Filed 10-1-85; 8:45 am]

BILLING CODE 4310-GG-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-286
(Preliminary)]

Anhydrous Sodium Metasilicate From the United Kingdom

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-286 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the United Kingdom of anhydrous sodium metasilicate, provided for in item 421.34 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by October 31, 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: September 16, 1985.

FOR FURTHER INFORMATION CONTACT: Dan Dwyer (202-523-4618), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:**Background**

This investigation is being instituted in response to a petition filed on September 18, 1985 by PQ Corp., Valley Forge, PA.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19

CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance, in accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on October 9, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Dan Dwyer (202-523-4618) not later than October 7, 1985 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before October 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 section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope

and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

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: September 20, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23565 filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-236 and 237
(Final)]

Certain Castor Oil Products From Brazil

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: September 20, 1985.

FOR FURTHER INFORMATION CONTACT:

Lynn Featherstone (202-523-0242), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: On July 30, 1985, the Commission instituted the subject investigations and established a schedule for their conduct (50 FR 33858, Aug. 21, 1985). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from October 8, 1985, to December 14, 1985 (50 FR 35110, Aug. 29, 1985). The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than November 27, 1985; the prehearing conference will be held at 10:00 a.m. in room 117 of the U.S. International Trade Commission Building on December 2, 1985; the public version of the prehearing staff report will be placed on the public record on December 3, 1985; the deadline for filing

prehearing briefs is December 13, 1985; the hearing will be held in room 331 of the U.S. International Trade Commission Building on December 18, 1985; and the deadline for filing all other written submissions, including posthearing briefs, is December 27, 1985.

For further information concerning these investigations see the Commission's notice of investigations cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Parts 201).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 206.20).

By order of the Commission.

Issued: September 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23562 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-216]

Certain Ceramic Drainage Foils; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Feldmuehle Aktiengesellschaft and American Feldmuehle Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 24, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E.

Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments:

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E. Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: September 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23563 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Certain Double-Sided Floppy Disk Drives and Components Thereof; Decision to Review Initial Determination Permitting Limited Intervention by Non-Respondents, and to Reverse Initial Determination, and Exclude Evidence

AGENCY: International Trade Commission.

ACTION: The Commission has determined to review the initial determination (ID) (Order No. 24) permitting Sankyo Seiki Mfg. Co., Ltd., Sankyo Seiki (America) Inc., (the Sankyo non-respondents) and Epson America, Inc., Epson Corporation, and Sunritz Ltd. (the Epson non-respondents) to intervene for limited purposes. The Commission has also determined to reverse the ID, exclude the evidence offered by complainant Tandon Corporation (Tandon) which relates to products of non-respondents, complainant's exhibits CX 757 and CPX 38-53, and to deny the motions of the Epson and Sankyo non-respondents to intervene (Motions Nos. 215-51 and 215-52).

SUMMARY: The Commission has determined to review the presiding administrative law judge's ID permitting the Sankyo and Epson non-respondents to intervene for the limited purpose of cross-examining the one witness of complainant which will testify regarding products of non-respondents. The Commission is reversing the ID and excluding complainant's evidence concerning non-respondents' products, complainant's exhibits CX 757 and CPX 38-53.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

SUPPLEMENTARY INFORMATION: On August 9, 1985, complainant filed its prehearing statement and a list of its proposed hearing exhibits alleging that a total of 16 drives, manufactured by 14 non-respondents, infringed the patent in suit and that these allegedly infringing drives have a tendency to substantially injure the domestic industry.

The Commission investigative attorney (the IA) contacted the 14 named non-respondents. The IA also filed a motion in limine (Motion No. 215-50) to limit complainant's evidence with regard to products of the non-respondents to the issue of whether the products of the non-respondents are the same as either the allegedly infringing double-sided floppy disk drives of the named respondents, Sony, Mitsubishi, and TEAC, or Tandon.

On August 16, 1985, two groups of the named non-respondents, the Epson and the Sankyo non-respondents moved to intervene under 19 CFR 210.26 for the limited purpose of opposing complainant's introduction of evidence relating to their products. (Motion Nos. 215-52 and 215-51).

On August 20, 1985, complainant Tandon responded to the motions to intervene of the Sankyo and Epson non-respondents.

On August 23, 1985, the administrative law judge (ALJ) issued an ID allowing the Epson and Sankyo non-respondents to intervene for the limited purpose of cross-examining the one witness who will testify concerning their products and adduce evidence showing their products are not closely similar or identical to the products of the named respondents.

On August 29, 1985, the Epson and Sankyo non-respondents each filed a petition for review of the ID. Complainant Tandon filed a response to the petitions for review on September 6,

1985. No government agency comments have been received.

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 204536, telephone 202-523-0161.

By order of the Commission.

Issued: September 26, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-23559 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-249 (Final)]

Heavy Iron Construction Castings From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-249 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of heavy iron construction castings,¹ provided for in item 657.09 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before January 6, 1986, and the Commission will make its final injury determination by February 19, 1986 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's

Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subpart A through E (19 CFR Part 201).

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-523-0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of heavy iron construction castings. The investigation was requested in a petition filed on May 13, 1985, by the Municipal Castings Fair Trade Council. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 27499, July 3, 1985).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3),

each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on December 23, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on January 16, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 6, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on January 9, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 10, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 23, 1986. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the

¹ For purposes of this investigation, "heavy iron construction castings," are limited to manhole covers, rings and frames, cleanout covers and frames, and catch basin grates and frames, used for drainage or access purposes for public utility, water and sanitary systems. These articles must be of cast iron, not alloyed, and not malleable.

investigation on or before January 23, 1986.

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 Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: September 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23561 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 603-TA-9]

Certain Hydrogenerators From Japan; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of preliminary investigation.

SUMMARY: On April 11, 1984, at the request of the Office of Unfair Import Investigations, the Commission voted to institute a preliminary investigation pursuant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) into the possible existence of unfair methods of competition and unfair acts with respect to the importation into the United States or in the sale of certain hydrogenerators from Japan and the effects, if any, of such methods and acts. Notice of this investigation was issued on April 13, 1984, and published in the **Federal Register** on April 18, 1984 (49 FR 15283).

The investigation, as set forth in the notice, was to cover the following alleged unfair methods of competition and unfair acts:

1. A combination or conspiracy to restrain trade and commerce in the United States;

2. Monopolization, a conspiracy to monopolize or attempt to monopolize trade and commerce in the United States;

3. A combination or conspiracy in restraint of the import trade and commerce of the United States;

4. A combination or conspiracy to allocate customers or markets; and

5. The bidding on and/or sale, either individually or in concert, of hydrogenerators in the United States at predatory prices.

Having conducted an investigation into these matters, and received the report and recommendation from the Office of Unfair Import Investigations with respect thereto, the Commission determined that no further investigatory activity need take place at this time. In reaching this determination, the Commission concluded that the public interest factors set forth in 19 CFR 210.58(a)(2) will be fully safeguarded.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sulzer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington D.C. 20436, telephone 202-523-0419.

By Order of the Commission.

Issued: September 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23564 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-240 and 241 (Final)]

Photo Albums and Photo Album Filler Pages From Hong Kong and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: September 24, 1985.

FOR FURTHER INFORMATION CONTACT:

Maria Papadakis (202-523-0439), Office of Investigations, U.S. International Trade Commission, 701, E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: On July 16, 1985, the Commission instituted the subject investigations and established a schedule for their conduct (50 FR 31055, July 31, 1985). Subsequently, the

Department of Commerce extended the date for its final determinations in the investigations from September 23, 1985, to October 23, 1985 (50 FR 36911, September 10, 1985, and 50 FR 37018, September 11, 1985). The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: the deadline for filing prehearing briefs is October 25, 1985; the hearing will be held in room 331 of the U.S. International Trade Commission Building on November 1, 1985, the 11:00 a.m.; and the deadline for filing all other written submissions, including posthearing briefs, is November 7, 1985.

For further information concerning these investigations see the Commission's notice of investigations cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: September 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-23560 Filed 10-1-85; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; Government of the Virgin Islands

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 25, 1985, a proposed Consent Decree in *United States v. The Government of the Virgin Islands*, Civil Action No. 84-104, was lodged with the United States District Court of the Virgin Islands. The proposed Consent Decree concerns the discharge of pollutants from the Virgin Islands' ten publicly-owned wastewater treatment plants and the Christiansted Pumping Station. The proposed Consent Decree requires the defendant to undertake certain corrective actions, prepare and implement a long-term compliance plan, and pay a civil penalty for past violations of the Clean Water Act.

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 Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. The Government of the Virgin Islands*, D.J. Ref. #90-5-1-1911.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Federal Building and U.S. Courthouse, Room 260, Veterans Drive, Charlotte Amalie, St. Thomas, Virgin Island 00801; at the Caribbean Field Office of Region II of the Environmental Protection Agency, Fernandez Juncos Avenue, Stop 8½, San Juan, Puerto Rico 00902-0792; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 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 of the Department of Justice at the above address. In requesting a copy, please enclose a check in the amount of \$17.30 payable to the Treasurer of the United States, to cover the cost of reproduction.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-23543 Filed 10-1-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Air Act; Damba Corp. N.V.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on September 23, 1985 a proposed Consent Decree in *United States v. Damba Corp., N.V.*, Civil Action No. 85-C-746 was lodged with the United States District Court for the District of Colorado. The complaint filed by the United States alleged violations of the Clean Air Act by the defendants due to failure to comply with the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos, at an asbestos renovation operation located at 28½ Road and North Avenue in Grand Junction, Colorado, otherwise known as the Eastgate Shopping Center. The complaint sought civil penalties and injunctive relief. The Consent Decree provides that defendants will pay civil penalty of FIFTY THOUSAND DOLLARS (\$50,000) and the defendant

contractors will comply with asbestos NESHAPs provisions for one year.

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 Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Damba Corp., N.V.*, D.J. Ref. 90-5-2-1-779.

The proposed Consent Decree may be examined at the office of the United States Attorney, 1961 Stout Street, Suite 1200, Federal Office Building, Denver, Colorado 80294 and at the Region VIII Office of the Environmental Protection Agency, 999 Eighteenth Street, Denver, Colorado 80202. 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, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 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 of the Department of Justice. To request a copy of the Consent Decree, please enclose a check in the amount of \$1.80 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-23535 Filed 10-1-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Proposed Consent Decree Pursuant to the Clean Air Act; Cabot Corp. and Hotco Insulation Co.

In accordance with Departmental Policy, 28 CFR 50.7 notice is hereby given that on September 17, 1985, a proposed Consent Decree in *United States v. Cabot Corporation and Hotco Insulation Co.*, Civil Action No. 84-0743(L) (W.D.La.), was lodged with the United States District Court for the Western District of Louisiana. The proposed Consent Decree requires Cabot Corporation and Hotco Insulation Co. to comply with the National Emission Standard for Hazardous Air Pollutants for asbestos promulgated under the Clean Air Act in conducting demolition or renovation activities involving asbestos materials, and to pay civil penalties for past violations.

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 Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States v. Cabot Corporation and Hotco Insulation Co.*, Civil Action No. 84-0743(L) (W.D.La.), D.J. Ref. 90-5-2-1-658.

The proposed Consent Decree may be examined at Office of the United States Attorney, United States Courthouse and Federal Building, Room 305, 705 Jefferson Street, Lafayette, Louisiana 70501 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, Ninth and Pennsylvania Avenue, NW., Washington, DC 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 of the Department of Justice.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-23533 Filed 10-1-85; 8:45 am]

BILLING CODE 4410-01-M

Federal Bureau of Prisons

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Facility, Polk-Yamhill County Vicinity, State of Oregon

AGENCY: Federal Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

1. *Proposed Action.* The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new medium security Federal Correctional Institution with an adjacent minimum security Federal Prison Camp is needed in the Northwestern United States. Several sites are currently being evaluated near Sheridan-Willamina, Oregon. The proposal calls for the initial construction of a minimum security camp housing as many as 250 inmates. The second phase of the development would consist of an adjacent 500-bed facility to house medium security inmates. Approximately 220 total acres

would be required for road access and parking, inmate housing, administration space, program areas and service/support facilities for the two facilities. In addition, exercise areas and an adequate natural buffer zone around the entire property would be included in the required acreage.

2. In the process of evaluating the specific site, the following subjects will receive a detailed examination: Water and sewage, wetlands, threatened and endangered species, cultural resources, unique and prime farmlands, and varied socioeconomic issues.

3. *Alternatives.* In developing the DEIS, the options of no action and alternative sites for the proposed facilities will be fully and thoroughly examined.

4. *Scoping Process.* A number of meetings have already been held with local officials and interested citizens. Additional meetings including at least one public meeting will be held once a specific site is identified. A formal public hearing will be held after the publication of the DEIS.

5. *DEIS Preparation.* The DEIS should be available for public review and comment in the fall of 1985.

6. *Address.* Questions concerning the proposed action and the DEIS should be addressed to:

Jim Jones, Site Acquisition Coordinator of Jon Irwin, Project Manager, Facilities Development and Operations, U.S. Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, Telephone: (202) 272-6871.

Dated: September 27, 1985.

Loy S. Hayes,

Chief, Office of Facilities Development and Operations, Federal Bureau of Prisons, Department of Justice.

[FR Doc. 85-23573 Filed 10-1-85; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: Office of Records Administration, National Archives and 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 December 2, 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, DC 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 Street, NW, Washington, DC 20408.

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 identifies the Federal agencies 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. U.S. Department of Agriculture, Animal and Plant Health Inspection Service (NC11-463-85-1). Paper and microfilm copies of case files relating to

investigations of animal quarantine violations.

2. Department of the Army, Office of the Adjutant General (NC1-AU-85-15). Records concerning the administration of the quality of life program and installation compliance with program standards.

3. Department of the Army, Office of Adjutant General (NC1-AU-85-45). Records relating to unsatisfactory subsistence, including unsatisfactory material reports, narrative reports, and correspondence.

4. Department of the Army, Office of Adjutant General (NC1-AU-85-69). Records relating to quarters terminations, including termination notices, communications with U.S. attorneys, and similar documents.

5. Department of the Army, Office of Adjutant General (NC1-AU-85-71). Records relating to veterinary sanitation inspection of animal facilities, including reports and correspondence.

6. Department of Health and Human Services, Social Security Administration (NC1-47-85-3). Revision of disposition standards for Title XVI Claims Case Files.

7. Department of Justice, Immigration and Naturalization Service (NC1-85-85-1). Records relating to the operation of the Student/Schools System, including forms (hard copy and microfilm) and machine-readable database.

8. Department of Labor, Office of Pension and Welfare Benefit Programs (NC1-317-85-2). Case files and reference files relating to the implementation of the compliance with the Employee Retirement Income Security Act of 1974.

9. Office of Personnel Management (NC1-146-83-7). Records relating to the administration of the Senior Executive Service and Executive Assignment System.

10. Department of the Treasury, Internal Revenue Service, Facilities Management Division. (NC1-58-85-14) Form 6522, VITA Assistance Card, of the Tax Assistance Program and Form 6177, General Assistance Program Determination of the General Assistance Program, both maintained by the Taxpaper Service Activity.

Dated: September 24, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-23402 Filed 10-1-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION**President's Committee on the National Medal of Science; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Friday, October 25, 1985.

Time: 9 a.m. to 5 p.m.

Place: Room 520, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Mary E. Clutter, Executive Secretary of the President's Committee on the National Medal of Science, National Science Foundation, Washington, DC 20550. Telephone: 202/357-9443.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To review nominations, with supporting documentation, as part of the selection process for the Medals.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: The determination made on September 22, 1985 by the Director of the National Science Foundation pursuant to the provisions of section 10(d) of Pub. L. 92-463.

M. Rebecca Winkler,

Committee Management Officer,

September 27, 1985.

[FR Doc. 85-23517 Filed 10-1-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit No. 3); Exemption

I.

Commonwealth Edison Company (CECo) (the licensee) is the holder of a Facility Operating License No. DPR-25 which authorizes operation of the Dresden Nuclear Power Station, Unit No. 3 (the facility). This license provides, among other things, that the facility is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II.

By letter dated August 26, 1985, CECo requested an exemption from the requirements of Appendix J, 10 CFR Part 50, Sections III.D.2(a) and III.D.3 so that the required two year test interval between type B and C testing of certain valves, vents, drains, sumps and penetrations, which maintain containment integrity at design basis accident conditions, can be extended for 30 days to conform with the start of the next refueling outage for Dresden Unit 3.

Dresden Unit 3 shut down for its Cycle 9 refueling outage on September 30, 1983. The required Appendix J, type B and C, local leak rate testing commenced on September 30, 1983 and continued through March 1984. The unit was originally scheduled to shut down for its Cycle 10 refueling outage in the Spring of 1985. This would have allowed the Type B and C testing to be completed during the required 2 year interval. However, damage to the High Pressure Turbine rotor during initial startup attempts in the Spring of 1984 extended the outage by approximately 4 months to July 24, 1984. Due to this unanticipated outage extension and other considerations, the shutdown for Cycle 10 refueling has been delayed to October 26, 1985. This will result in extending the 2 year test interval required by Appendix J for Type B and C tests about 30 days.

Because of the aforementioned outage extension, the operational period of Dresden 3 between its startup for Cycle 9 (July 24, 1984) and the scheduled October 26, 1985 shutdown (approximately 15 months) will be less than the normal 18 month cycle. The normal end-of-cycle coastdown period to the Technical Specification limit of 45 percent power is approximately 3½ months. Dresden 3 started coastdown in the middle of August 1985 and, thus, the October 26, 1985 shutdown would mean a coastdown period of approximately 2½ months. Therefore, the operational challenge to the components required to be given the Type B and C tests within the 2 year interval required by Appendix J has, even with the proposed 30 day extension, been less than usually occurs during the 2 year interval. Based on these circumstances and reduced power levels, the staff believes that a significant safety margin still exists for these components.

Accordingly, in view of the above analysis, the staff concludes that the likelihood of these components failing at design basis accident conditions during

the additional 30 days is remote and that offsite doses during such an event will be within the values previously analyzed and found acceptable. Therefore, a one-time exemption from the requirements of Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR Part 50 is justified and should be granted.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest, and hereby grants an exemption as described in Section II above from Sections III.D.2(a) and III.D.3 of Appendix J to the extent that the 2 year interval for performing Type B tests, except for air locks, and Type C tests may be extended for 30 days, on a one-time basis only, for Dresden Unit No. 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (September 25, 1985, 50 FR 38908).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 26th day of September 1985.

For the Nuclear Regulatory Commission,
Frank J. Miraglia,
Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.
[FR Doc. 85-23512 Filed 10-1-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I.

The Power Authority of the State of New York (PASNY/the licensee) is the holder of Facility Operating License No. DPR-59 which authorizes the licensee to operate the James A. FitzPatrick Nuclear Power Plant (the facility) at power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II.

Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50 requires that airlocks opened during periods when

containment integrity is not required by the plant's Technical Specifications, shall be tested at the end of such periods at not less than P_a (the calculated peak containment internal pressure related to the design basis accident). The licensee, in its letter of May 2, 1985, has requested an exemption from the requirements of Paragraph III.D.2(b)(ii) of Appendix J. The licensee proposes to conduct a seal test, in lieu of the entire airlock test, following a period during which containment integrity is not required by the plant's Technical Specifications and no maintenance has been performed on the airlock that could affect its sealing capability. The seal test would be conducted at P_a (45 psig) with a leakage limit of 120 SCFD and would require approximately 30 minutes to conduct. The licensee has provided the following discussion to support its request.

The existing airlock doors are designed so that a full pressure test of an entire airlock at P_a can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are required because the pressure exerted on the inner door during the test is in a direction opposite to the pressure direction following a postulated accident and the locking mechanisms are not designed to withstand reverse forces associated with pressures on the order of P_a .

Installation of the strong backs must commence approximately 24 hours prior to the need to establish containment integrity. During this 24-hour period, approximately 1 hour is required to inspect the door seal and door seat surfaces; 3 hours are required to install strong backs; and 16 to 20 hours are required to pressurize the airlocks to 45 psig and troubleshoot. This could effectively delay plant startup by up to 24 hours.

The periodic 6-month leak test of Paragraph III.D.2(b)(i) and the 3-day test requirements of Paragraph III.D.2(b)(iii) provide assurance that the airlock will not leak excessively due to its being opened during cold shutdown or refueling, assuming that no maintenance has been performed on the airlock.

We have evaluated the licensee's requested exemption from Paragraph III.D.2(b)(ii). Whenever the plant is in cold shutdown (Mode 4) or refueling (Mode 5), containment integrity is not required. However, if an airlock is opened during Modes 4 and 5, Paragraph III.D.2(b)(ii) of Appendix J requires that an overall airlock leakage test at not less than P_a be conducted prior to plant heatup and startup (i.e., entering Mode 3).

The required 6-month test of Paragraph III.D.2(b)(i) and the test of Paragraph III.D.2(b)(iii) will provide assurance that the airlock leakage rate will not be increased as a result of airlock openings in Mode 4 or Mode 5, provided no maintenance has been performed on the airlock.

Accordingly, the staff concludes that the licensee may substitute the seal leakage test of Paragraph III.D.2(b)(iii) for the full pressure test of Paragraph III.D.2(b)(ii) when no maintenance has been performed on an airlock. Whenever maintenance has been performed on an airlock, the requirements of Paragraph III.D.2(b)(ii) must still be met by the licensee.

Therefore, an exemption from the requirements of Paragraph III.D.2(b)(ii) of Appendix J, following normal door opening during periods when containment integrity is not required and maintenance has not been performed on the airlock, is justified and acceptable for the James A. FitzPatrick Nuclear Power Plant.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letter of May 2, 1985, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements of Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50 to the extent that the licensee may substitute the seal leakage test specified in Paragraph III.D.2(b)(iii), for the full pressure test specified in Paragraph III.D.2(b)(ii), prior to restoring containment integrity after periods when containment integrity is not required, and airlock doors have been opened but no maintenance has been performed on the airlocks.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 37736).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 18th day of September 1985.

For the Nuclear Regulatory Commission,

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85-23511 Filed 10-1-85; 8:45 am]

BILLING CODE 7590-01-M

Health Effects Models for Accident Consequence Assessment; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meetings (2).

SUMMARY: The NRC staff will hear presentations by its contractor, Sandia National Laboratories, and Sandia's sub-contractor, Harvard University School of Public Health, regarding results of research on models for estimating potential consequences of accidents at nuclear power plants. These presentations are open to the public.

DATE AND TIMES: Thursday, October 10, 1985, 9:00 to 11:30 a.m. and 1:00 to 3:30 p.m.

ADDRESS: Phillips Building, 7920 Norfolk Avenue, Room P-118, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: James A. Martin, (301) 443-7625.

SUPPLEMENTARY INFORMATION: Harvard University will present its revised health effects models in the morning session; these models are discussed in NUREG/CR-4214, "Health Effects Model for Nuclear Power Plant Accident Consequence Analysis," July 1985. In the afternoon session Sandia National Laboratories will discuss accident consequence modeling in general, including sensitivities to health effects models.

These will be information presentation meetings for the NRC staff. Because of time constraints, opportunities for discussion will be limited. Persons other than NRC staff and contractor representatives will be permitted to participate in the discussions only as time will allow. Attendees will be requested to register at the meeting.

Dated at Rockville, Maryland, this 28 day of September 1985.

For the Nuclear Regulatory Commission,

Frank P. Gillespie,

Director, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research.

[FR Doc. 85-23510 Filed 10-1-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's Advisory Committee on Reactor

Safeguards, which were published October 3, 1984 (49 FR 39122), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safeguards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a nuclear power reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee and Subcommittee meetings are conducted in accordance with sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.).

General Rules Regarding ACRS Meetings

An agenda is published in the Federal Register for each full Committee meeting and for each Subcommittee meeting which is partially or fully open to public attendance. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee or Subcommittee which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, DC, reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to

the Designated Federal Official specified in the Federal Register notice for the individual meeting in care of the ACRS, NRC, Washington, DC 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution, and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone: 202-634-3265, ATTN: the Designated Federal Official specified in the Federal Register Notice for the meeting) between 8:15 a.m. and 5:00 p.m., Washington, DC time.

(d) Questions may be asked only by ACRS Members, Consultants, and Staff.

(e) The use of still, motion picture and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

Special Provisions When Proprietary Sessions Are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon conformation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the projector projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting.

Dated: September 25, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85-23549 Filed 10-1-85; 8:45 am]

BILLING CODE 7580-01-M

Advisory Panel for the Decontamination of Three Mile Island Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI-2) will be meeting on October 16, 1985 from 7:00 PM to 10:00 PM at the Lancaster Council Chambers, Public Safety Building, 201 N. Duke Street, Lancaster, PA 17603. The meeting will be open to the public.

At this meeting the Panel will receive a presentation on the results of health studies relating to the March 28, 1979 TMI-2 accident by Dr. H. Arnold Muller, Pennsylvania State Health Secretary. The Panel will also receive a status report on the progress of the cleanup from General Public Utilities Nuclear Corporation. Members of the public will be given the opportunity to address the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program

Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7466.

Dated: September 26, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85-23548 Filed 10-1-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Not to Initiate an Investigation Under Section 301; Roses Inc.

On August 5, 1985, Roses, Inc. filed a petition under sec. 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411) (hereafter the "Act") alleging that the acts, policies, and practices of the European Communities (EC), the Netherlands, Colombia, Mexico, Guatemala, Costa Rica, the Dominican Republic and Israel are unjustifiable, unreasonable and discriminatory and burden and restrict U.S. commerce. The petition also alleges that such acts, policies and practices are inconsistent with, or deny benefits under the General Agreement on Tariffs and Trade (GATT) or the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code). The petition claims that the effect of these practices is to limit U.S. exports of fresh cut roses and to increase imports in the U.S. both directly and as a result of diversion to the United States of third country exports.

On September 19, the United States Trade Representative determined not to initiate an investigation. The reasons for this determination are based on the following factors: (1) Several of the alleged unfair practices named in the petition had been terminated or were found not to exist; (2) several of the practices had already been dealt with in the context of countervailing duty investigations; (3) many of the allegations of unfair practices were not sufficiently supported by information in the petition; and (4) the petition did not, with respect to several allegations, adequately demonstrate the burden to U.S. commerce or the causal link between the alleged practice and effect. Where the decision not to initiate is based on the latter two factors, it is without prejudice to the right of the petitioner to re-file when adequate information is developed. The petitioner has been advised that USTR is willing to provide assistance in obtaining

information about the alleged foreign practices.

More detailed reasons for this determination are set forth below with respect to each country named in the petition:

The EC

The petition alleges that the EC maintains non-tariff barriers to imports of fresh cut roses which result in the diversion to the U.S. market of third country exports which would otherwise be exported to the EC. The petition also alleges that these barriers have adversely affected U.S. exports to the EC.

The specific practices alleged in the petition include (1) maintenance of an import surveillance system which restricts imports; (2) control of the market through Dutch auction houses which have entered into agreements with Colombia and Israel to control imports of roses; (3) provision of domestic subsidies to rose producers in the EC in violation of the Subsidies Code; and (4) excessive fumigation and improper handling of imported roses.

USTR found that these allegations were either unfounded or inadequately supported by information in the petition. The surveillance system referred to by the petitioner, which has been in effect in various forms since 1975, requires importers to obtain an import license. The requirement of an import license is not, of itself, a restriction on imports. The petition does not allege any case in which the EC rejected an application for an import license or imposed restrictions on imports of fresh-cut roses as a result of its surveillance system.

With regard to the second allegation, the petition presents no evidence that the EC, in fact, controls the Dutch auction houses, directly or indirectly or that it sanctions any arrangements that the houses make with respect to the sale of imported roses. The same is true for the government of the Netherlands. Nor is there any evidence that the governments of Colombia or Israel are party to any agreements to restrict exports. The petition claims that the auction houses are government-sponsored or regulated but presents no evidence to support this claim. Indeed, the petition acknowledges that the auction houses are run by grower cooperatives, not the government. Moreover, roses imported in the EC are not required to be sold through auction houses. This is simply a method developed by Dutch flower growers, for bringing buyers and sellers together. Indeed, only a small percentage of roses imported into the EC are sold through the Dutch auction houses.

With regard to the third allegation, the petition does not contain evidence to support its claim that the named benefits are in fact received by rose growers in the EC. Nor does it quantify the value of the benefits. Domestic subsidies are permitted under Art. 8 of the Subsidies Code unless they cause serious prejudice. The petition does not contain sufficient evidence of serious prejudice and contains no evidence that substantiates a causal linkage between U.S. or other countries' export performance to the EC and the alleged subsidies.

Similarly, the petition does not provide any detailed information as to the alleged fumigation of, and delays in handling, rose imports. There is no statement as to the frequency of these occurrences or of the quantity of goods affected.

The Netherlands

The petition alleges that the government of the Netherlands confers domestic subsidies in violation of the Subsidies Code which result in the displacement of U.S. exports to Canada, the reduction of U.S. exports to Europe and an increase in Dutch exports to the U.S. It also alleges that the Netherlands has, through the activities of the auction houses, restricted imports of roses into the EC. This latter allegation is dealt with above.

The subsidies specifically alleged in the petition include (1) natural gas subsidies; (2) aids for the creation of cooperative organizations; (3) subsidized interest rates; (4) energy saving aids; and (5) aids for the destruction of unprofitable greenhouses.

USTR found that several of these programs no longer exist and that insufficient information had been presented in the petition concerning the remaining allegations. The aids for destruction of greenhouses and energy saving terminated on April 1 and July 1, 1985 respectively. The aid to create cooperative organizations consisted of a one-time grant made in 1978.

The petition provides insufficient information concerning the remaining two programs and their effects to warrant initiation of an investigation. With respect to the subsidized interest rates, there is no information as to whether and to what degree these programs are utilized. Similarly there is no evidence of the value of the alleged natural gas subsidies. Nor does the petition offer evidence of the causal link between the alleged subsidies and their claimed effects. Moreover, while the petition alleges that Dutch exports have adversely affected U.S. exports to the

Canadian market, the data presented by petitioner demonstrates that U.S. exports to Canada have increased slightly over the last three years.

Colombia

The petition alleges that the Government of Colombia confers export subsidies on cut roses in violation of Art. XVI of the GATT. The petition alleges that the subsidies have resulted in Colombia obtaining more than an equitable share of world trade and in burdening U.S. commerce with respect to sales in the U.S. The petition also alleges that Colombia has entered into an export restraint agreement with the Dutch auction houses. This allegation is dealt with above.

Specifically, the petition alleges that Colombian rose exports to Canada benefit from a rebate of 25% of the f.o.b. value while exports to the U.S. benefit from a 1% rebate. Exports to Canada are also alleged to benefit from preferential export financing under the "Proexpo" programs.

In keeping with its policy not to initiate investigations concerning foreign government practices which are the subject of investigations under some other provision of law (see 47 FR 52059 terminating the investigation concerning subsidized financing of Canadian subway cars), USTR will not review the Colombian practices as they affect sales in the U.S. market. The Department of Commerce initiated a countervailing duty investigation against Colombia on August 26, 1982. The investigation was suspended on January 12, 1983. Any concerns the petitioner has about possible circumventions of that agreement can be taken up in the context of a review of that suspension agreement.

With respect to the Canadian market, the petition's allegations are not sufficiently substantiated. As noted above, U.S. exports to Canada have increased in recent years. Thus, a case of displaced exports has not been made. Nor is there evidence of price undercutting since, according to information presented in the petition, Colombian exports have a substantially higher value than do U.S. exports.

Israel

The petition alleges that Israel (1) subsidizes its rose exports to Canada; (2) transships roses through the Netherlands to avoid payment of U.S. countervailing duties; (3) undervalues its exports for Customs purposes; and (4) has entered into an export restraint agreement with the Dutch auction houses. The latter allegation is dealt with above in the section on the EC.

With respect to subsidies, we understand that Israel, as of July 1, 1985, no longer makes preferential loans available to rose producers under short-term export financing programs. With respect to the remaining programs, the petition contains insufficient information to support an allegation that these subsidies cause serious prejudice to U.S. interest or displace U.S. exports in violation of the Subsidies Code. As noted earlier, the petition indicates that U.S. exports to Canada have not decreased, but have increased slightly in recent years. Similarly, the petition contains no information to support the allegation of transshipment. Moreover, the petition does not specify in what way transshipment, if it occurs, reflects a policy or practice of the Israeli government.

The allegations of Customs fraud are similarly unsubstantiated and again do not demonstrate that such action involves the Israeli government. In any case, we believe that the U.S. Customs Service is the correct agency to deal with allegations of Customs fraud.

Costa Rica and the Dominican Republic

The petition alleges that the governments of both of these countries subsidize rose exports to the United States. In each case USTR found that the allegations were inadequately supported by information in the petition. There is no information presented which indicates the degree to which the named programs have been utilized by rose growers or the value of the subsidies. Moreover, the petition presents insufficient information concerning a burden to U.S. commerce and of a causal link between the alleged practices and their effects. Information in the petition indicates that Costa Rican exports to the U.S. in 1984 accounted for only .1% of total U.S. consumption. For the Dominican Republic the figure was .4%.

Guatemala

The petition alleges that rose exports may benefit from the following subsidies: (1) Elimination of taxes on export income for agricultural exports as of July 1, 1985; (2) tax rebates; (3) production incentives for exportable goods; (4) concessionary loans; and (5) regional investment incentives. USTR found that some of these programs do not exist or have not been utilized by rose producers or exporters. With respect to the remaining programs, USTR found that the information in the petition was inadequate. The petition also alleges that Guatemala's

agricultural sector benefits from government loans. However, the petition does not allege that these loans are preferential or in any other respect unreasonable.

USTR understands that the July 1 action described above referred to the elimination of export taxes, not the tax on export income, across all sectors. USTR further understands that rose growers have not benefitted from either tax rebates or concessionary loans. We also note that rebates of indirect taxes are not generally considered to be subsidies unless they are excessive. There is no information presented in the petition to support a contention that the rebate, if granted to rose producers, was excessive. The Guatemalan Export Promotion Center, which was identified in the petition as a distributor of some of the regional investment incentives, no longer exists; it was abolished in 1983.

Concerning the remaining programs the petition provides inadequate information. It does not indicate whether, and to what degree these programs benefit Guatemalan rose producers. Finally, the petition presents insufficient evidence of a burden to U.S. commerce and of a causal link between the alleged practices and their effect in the U.S. market. With respect to effect, we note that the petition indicates that Guatemalan exports accounted for less than 1% of U.S. consumption in 1984.

Mexico

The petition alleges that Mexican rose exports to the U.S. benefit from preferential loans, funds for industrial development, and export promotion programs. The preferential loans were the subject of a countervailing duty investigation and were found not to constitute countervailable subsidies. We do not accept petitioner's argument that such programs should nevertheless be considered unreasonable. With regard to the remaining programs, the Department of Commerce, in the same countervailing duty investigation, found that they had not been bestowed on the production of roses. The petition does not present sufficient basis to believe that circumstances have changed with respect to these programs. For these reasons USTR has not initiated an investigation on this issue.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 85-23494 Filed 10-1-85; 8:45 am]
BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Docket No. A85-30; Order No. 636]

Moreno, California 92369 (Daniel C. Knopp et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: September 26, 1985

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher, Bonnie Guiton; Patti Birge Tyson.

Docket Number: A85-30.

Name of affected post office: Moreno, California 92369.

Name(s) of petitioner(s): Daniel C. Knopp and others.

Type of determination: Closing.

Date of filing of appeal papers: September 23, 1985.

Categories of issues apparently raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before October 8, 1985.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

September 23, 1985: Filing of Petition.

September 26, 1985: Notice and Order of Filing of Appeal.

October 18, 1985: Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].

October 28, 1985: Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].

November 18, 1985: Postal Service Answering Brief [see 39 CFR 3001.115(c)].

December 3, 1985: (1) Petitioners' Reply Brief should petitioners choose to file one [see 39 CFR 3001.115(d)].

December 10, 1985: (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [see 39 CFR 3001.116].

January 21, 1986: Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 85-23531 Filed 10-1-85; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22451; File No. SR-CBOE-85-34]

Self-Regulatory Organizations; Chicago Board Options Exchange Inc; Order Approving Proposed Rule Change

On August 6, 1985, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 under the Act² a proposed rule change to revise certain of CBOE's dues, fees, and other charges.³ In particular, CBOE proposes to raise its annual member dues to \$2,000.00 from \$1,000.00; raise its trade match fee to four cents from three cents;⁴ impose a "RAES"⁵ market maker (OEX) fee of 25¢ per contract; raise its market maker fee (OEX) to five cents from four cents; and create a 30% discount for Order Book Official ("OBO") fees.⁶

The CBOE states that the purpose of the proposal is to enable the CBOE to remain both competitive and fiscally sound. The CBOE also states that the proposed rule change is consistent with section 6(b)(4) of the Act⁷ in that it

¹ 15 U.S.C. 78s(b)(1) (1982).² 17 CFR 204.19b-4 (1985).³ The proposed rule change was noticed in Securities Exchange Act Release No. 22310, August 9, 1985; 50 FR 32933, August 15, 1985.⁴ For fiscal year 1986, the trade match fee increase of one cent will be reviewed on a quarterly basis. If CBOE's fiscal year-to-date average daily contract volume exceeds 660,000 contracts at the end of any fiscal quarter, the one cent increase will not be effective for the next quarter.⁵ RAES is CBOE's retail automatic execution system ("RAES") which currently is used for the automated execution of small orders only for options on the S&P 100 Index ("OEX").⁶ The OBO is an Exchange employee who, among other things, handles limit orders on behalf of public customers whose brokers choose not to work the orders themselves or to leave them with an independent floor broker CBOE Rule 7.1 [§ 2221 CCH].⁷ 15 U.S.C. 78f(b)(4) (1982).

provides for an equitable allocation of reasonable dues, fees and other charges among CBOE members.

The CBOE received a comment from the Floor Broker Advisory Group ("FBAG").⁸ The FBAG suggested that the goal of reducing the cost of doing business of CBOE's floor could be accomplished by a combination of OBO rate cuts and reductions in fixed costs to member firms. Specifically, FBAG recommends a 20% OBO rate reduction (rather than the proposed 30%) and a 50% reduction in fees charged for booths and Quotron machines. The FBAG stated that this alternative would have the advantage of keeping the "independent floor broker competitive with the book."

CBOE responded by stating that the CBOE proposed fee decrease would have at most a "limited" impact on floor brokers' ability to compete with the public order book. CBOE points out that only certain kinds of orders can be booked (CBOE Rule 7.4),⁹ and that floor brokers may compete by means of the quality of services provided and/or their ability to discount their fees. Finally, CBOE states the decrease in this fee is "necessary in order to compete with other option exchanges."

The Commission believes that so long as an exchange's fees accord with the requirements of the Act, including sections 6(b)(4) and (8), the amount of these fees is principally a matter within the business judgment of each Exchange. Even the FBAG acknowledges that a reduction in OBO fees may be warranted, and its suggested alternative (a 20% reduction) does not appear to be dramatically different than CBOE's proposed 30% reduction. Thus, accepting the fact that some fee reduction is appropriate, CBOE's proposed OBO fee reduction would appear to have a *de minimis* affect on competition, at least as

⁸ Letter from Floor Broker Advisory Group to CBOE Executive Committee, dated July 16, 1985. The CBOE also received a letter from attorneys representing a group of floor brokers, requesting that the CBOE provided them with certain information about the proposed reduction in OBO fees and asking that any proposal be submitted to the Commission in a manner that would allow for public comment. Letter from Joseph H. Spiegel, Esq., Spiegel and Fain, Ltd., to Frederic M. Krieger, Assistant General Counsel, CBOE, dated July 17, 1985. This group did not submit comments in response to publication of the CBOE proposal in the Federal Register. Indeed, no comments were submitted to the Commission in response to publication in the Federal Register of notice of filing of the CBOE proposal.⁹ This rule allows the OBO to accept market and limit orders and other types of orders designated by the Floor Procedures Committee, and forbids the acceptance of member firm proprietary orders.

compared to the alternative proposed by the FGBA. Furthermore, as CBOE points out, floor brokers can compete by discounting their own fees, an alternative the FBAG does not address.

In addition, while the FBAG suggests that its alternative would be preferable competitively, it does not claim that the CBOE's proposed revised OBO fee in itself is either unreasonable or represents an unequitable allocation of fees among CBOE members. In light of the limited impact on competition CBOE's proposed fee reduction will have, as well as the fact that the reduced OBO fee appears to be reasonable, the Commission believes that no significant competitive concerns are raised by the proposed rule filing and that the rule proposal is consistent with the provisions of section 6 of the Act and in particular section 6(b)(4) and (8). The Commission also finds that the other proposed revisions to CBOE's dues, fees and charges are consistent with the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁵ that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 25, 1985.

John Wheeler,
Secretary.

[FR Doc. 85-23484 Filed 10-1-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 03/04/0011]

Greater Washington Investors, Inc.; Filing of a Conflict of Interest Transaction Between Associates

Notice is hereby given that Greater Washington Investors, Inc., 5454 Wisconsin Avenue, Chevy Chase, MD 20815, a Federal License under the Small Business Investment Act of 1958, as amended (Act), has been granted an exemption by the Securities and Exchange Commission for an investment by the Licensee and its associate in Voice Computer Technology Corporation, (VCT), 5730 Oakbrook Parkway, Norcross, Georgia 30093.

GW and RIL, who will each invest \$100,000 in VCT, have equity ownerships of 12.2 and 12.4,

respectively, in the company. GW and RIL are associates and § 107.903(g) requires publication of the transaction.

Notice is hereby given that any interested person may, not later than 15 days from the date of publication of this Notice, submit written comments on the transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Norcross, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: September 23, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for
Investment.

[FR Doc. 85-23521 Filed 10-1-85; 8:45 am]

BILLING CODE 8025-01-M

South Carolina; Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 9:30 a.m., Tuesday, October 8, 1985, at the Town House, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, P.O. Box 2786, Columbia, South Carolina—(803) 765-5339.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 26, 1985.

[FR Doc. 85-23518 Filed 10-1-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-85-25]

Petitions for Exemption; Summary of Petitions Received and 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 Chapter 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 October 22, 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 CONTACT: 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 September 26, 1985.

John H. Cassidy,

Assistant Chief Counsel, Regulations and
Enforcement Division.

¹⁵ 15 U.S.C. 78a(b)(2) (1982).

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24703	New York Air	14 CFR 61.3 (a) and (c)	To permit petitioner to assign and airman to accept an assignment without the pilot having in his or her personal possession an appropriate current medical and/or pilot certificate, if the certificate(s) have been lost or stolen.
24763	General Electric Co.	14 CFR SFAR 27, Section 9b and 40 CFR 87.21.	To exempt up to a maximum of 110 CF-34 series engines manufactured after December 31, 1985, and before April 1, 1986, from the provisions of § 87.7(c). Petitioner has previously been granted an exemption for 71 engines of this type manufactured after January 1, 1984, and before January 1, 1986, under the provisions of § 87.7(b).
23904	Rolls Royce, Ltd.	do	To amend Exemption No. 4251 to increase the number of exempt RB211-524 engines from 97 to 115 and extend the exemption expiration date from December 31, 1986, to January 31, 1987.
24748	Florida Power & Light Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24752	Combustion Engineering, Inc.	do	Do.
24753	Dayton Hudson Corp.	do	Do.
24747	Jimmy Swaggart Ministries	do	Do.
24746	General Dynamics Corp.	do	Do.
24157	Chiu Shrimp, S.A.	do	Do.
23488	Amway Corporation	14 CFR 61.58(c)	To allow petitioner to complete a 24-month Pilot-in-Command check for the BAC 1-11 in an FAA-approved simulator.
24607	Atorie, Air, Inc.	14 CFR 121.709(b)(3)	To permit petitioner's employees to perform the daily external visual inspection of the horizontal tail surfaces in accordance with the Airworthiness Directive 56-17-02.
24753	Ozark Airlines	14 CFR 121.391(a)(3)	To permit petitioner to operate certain aircraft with a required number of seats blocked off to reduce the passenger limit to 100. To enable petitioner to use two flight attendants on a limited schedule until a third flight attendant would board at a different station.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23556	Canadian Pacific Airlines, Ltd.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 12, 1985.
24676	Eagle Air	do	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 7, 1985.
15184	Compania Mexicana De Avionacion, S.A.	do	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 9, 1985.
24717	Atlantic Southeast Airlines	14 CFR 135.337 and 135.339	To permit petitioner to use certain qualified instructor pilots of Embraer to train petitioner's initial cadre of pilots in the Embraer 120 (EMB-120) type airplane without holding U.S. certificates and ratings and without meeting all of the applicable training requirements of Subpart H of Part 135 of the FAR. Granted Aug. 13, 1985.
24509	Mercury Flight, Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 14, 1985.
23620	Canadian Pacific Air Lines	14 CFR 21.197	To permit the petitioner the use of a special flight permit with continuing authorization for DC-10 aircraft N-1634U and N-1637U. Granted July 31, 1985.
24712	Orion Air, Inc.	14 CFR 121.371(a) and 121.375	To permit petitioner to contract with British Airways, a certificated foreign repair station (Number 810-34F), for the inspection, repair, and overhaul of the airframes, engines, accessories, and parts thereof on its Boeing 747-100 aircraft, Serial Numbers 20325 (N671UP), 20100 (N674UP), and 20101 (N676UP). Granted Aug. 8, 1985.
24396	Fuqua Industries, Inc.	14 CFR 21.181	To allow petitioner to operate HS-125/700 aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 7, 1985.
24500	Contel Service Corp.	do	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 7, 1985.
24469	Hach Company	do	To allow petitioner to operate a Beech King Air 200 aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24412	General Electric	do	To allow petitioner to operate Gulfstream G-1159B airplanes utilizing the provisions of minimum equipment list. Granted Aug. 9, 1985.
24515	United Airlines	14 CFR 121.434(c)(1)	To allow a pilot initially qualifying or upgrading as a pilot in command to be observed either by an FAA inspector or a United Airlines FAA-designated pilot examiner. Denied July 30, 1985.
24521	Florida Federal Savings & Loan Assoc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 6, 1985.
24452	Guardman Chemicals	do	To allow petitioner to operate a Beech King Air 200 aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 6, 1985.
24483	R & F 727, Inc.	do	To allow petitioner to operate B-727 aircraft utilizing the provisions of a minimum equipment list. Granted July 29, 1985.
24440	American Flyers	14 CFR 141.91(a)	To allow petitioner to conduct ground and flight training at a satellite base located more than 25 nautical miles from its main base. Granted July 29, 1985.
24411	Superior Training Services	14 CFR 21.181	To allow petitioner to operate Falcon DA-20-C aircraft utilizing the provisions of a minimum equipment list. Granted July 29, 1985.
24389	Honeywell, Inc.	do	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 2, 1985.
24557	W.W. Grainger, Inc. Doerr Electric Corp.	do	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted Aug. 6, 1985.
23512	Accelerated Ground Training	14 CFR 61.63(d)(2) and (3)	Extension of exemption 3617 to permit trainees of petitioner who are applicants for a type rating to be added to any grade of pilot certificate to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d)(2) and (3) and to complete a portion of that practical test in a simulator authorized by § 61.157(d) subject to certain conditions and limitations. Granted July 29, 1985.
23514	Farrington Aircraft Corporation	14 CFR 61.131(b)(3)	To allow students of petitioner to take the gyroplane commercial pilot flight test after having completed 40 hours of flight time in gyroplanes, subject to certain conditions and limitations. Granted July 29, 1985.
24699	National Airlines, Inc. and Peninsula Seafoods, Inc.	14 CFR 91.303	To allow petitioner to operate one Stage 1 DC-8-55 aircraft until hush kits are installed. Denied Aug. 23, 1985.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24231-1	Rich International	do	To exempt petitioner from the Jan. 1, 1985, noise level compliance date. Granted Aug. 23, 1985.
24358	Rich International	do	Do.
24699	National Airlines, Inc. and Peninsula Seafoods, Inc.	do	To allow petitioner to operate one Stage 1 DC-8-55 aircraft until hush kits are installed. Denied Aug. 23, 1985.
21397	FlightSafety Int'l	14 CFR 135.303 and 135.307(a)(3)	To allow petitioner to use FAA approved motion base visual simulators instead of aircraft to evaluate the check pilot status described. Granted July 31, 1985.
21882	China Airlines Limited	14 CFR Portions of Part 21	Extension of Exemption 3360 to allow petitioner to operate two Boeing 747-SP aircraft, N4508H and N4522V, using a Federal Aviation Administration (FAA)-approved continuous airworthiness maintenance program. Granted July 31, 1985.
24724	Cargolux Airlines International, S.A.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 30, 1985.
24591	California Aeromedical Rescue and Evacuation, Inc.	14 CFR 135.261	To allow petitioner to operate its helicopter in hospital emergency medical evacuation service without meeting the flight and duty time limitations of that section. Granted July 29, 1985.
24356-1	Trans Global Airlines, Inc.	14 CFR 91.303	To allow petitioner to operate two Stage 1 DC-8-55 aircraft until hush kits are installed. Granted Sept. 10, 1985.

[FR Doc. 85-23469 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

FAA Conference on Planning Perspectives

The Federal Aviation Administration (FAA) hereby announces that its Conference on Planning Perspectives will be held on October 30-31, 1985, at the Departmental Auditorium, 13th & Constitution Avenue, NW., Washington, D.C.

The purpose of this conference is to give the aviation community some insight into what FAA has done under the Airport and Airway Improvement Act of 1982, which authorized activities through 1987, and to discuss planning considerations through 1992.

This two-day conference will begin at 9:00 a.m. each day. Following an opening morning session, the conference will include a review of Aviation Trust Fund sources and uses and a presentation on the conversion from Instrument Landing Systems to Microwave Landing Systems. The afternoon session will consist of a overview of airports operations, a panel discussion on airport planning and programming, a presentation of airport safety and standards, and a panel discussion on air traffic control services—transition to the future.

The second-day morning session will be devoted to National Airspace System Plans for Facilities & Equipment and Research, Engineering and Development. The afternoon session will be a panel discussion on post-1987 legislative issues.

All sessions will include a question and answer period.

The conference is open to the public at no charge. Registration by telephone or mail is requested in order to ensure available space.

For further information concerning the conference or to register for the conference, please call or write to the Federal Aviation Administration, Office of Aviation Policy and Plans, APO-120, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3220.

Issued in Washington, DC, on September 27, 1985.

Dale E. McDaniel,

Acting Deputy Associate Administrator for Policy and International Aviation.

[FR Doc. 85-23508 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-778]

United States Lines (S.A.) Inc.; Application to Serve Miami on a Privilege Basis on its TR 20 (U.S. Gulf/East Coast South America Service)

United States Lines (S.A.) Inc. (USL(S.A.)), by application dated April 1, 1985, as amended, had requested an amendment to Appendix A of Operating-Differential Subsidy Agreement, Contract No. MA/MSB-353 TR 20 (U.S. Gulf/East Coast South America) service to add Miami as a privilege port on a permanent basis. By application dated September 18, 1985, USL(S.A.) has requested permission to serve to Miami as a privilege port of TR 20 for Voyage 37 of the American Reservist, Voyage 41 of the American Vega and Voyage 6 of the American Banker. USL(S.A.) has received

permission to call Miami on a voyage by voyage basis for eight previous calls.

Currently, Miami is served on USL(S.A.)'s TR 1 (U.S. East Coast/East Coast South America) service. USL(S.A.) wants the flexibility to call Miami for the final three TR 20 voyages in 1985.

USL(S.A.) intends to suspend TR 20 service in the immediate future following termination of the above three voyages. USL(S.A.) has requested that the Maritime Administration discontinue its consideration of its April 1, 1985, request for permanent authority.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 P.M. on October 21, 1985. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, a filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Administrator.

Dated: September 27, 1985.

Georgia P. Stamas,

Secretary.

[FR Doc. 85-23514 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	<i>Item</i>
Federal Communications Commission.....	1
Interstate Commerce Commission.....	2
Postal Rate Commission.....	3
Tennessee Valley Authority.....	4, 5

1

FEDERAL COMMUNICATIONS COMMISSION

September 27, 1985.

The following item has been deleted at the request of the Chief, Mass Media Bureau from the list of agenda items scheduled for consideration at the October 4, 1985 Open Meeting and previously listed in the Commission's Notice of September 25, 1985.

Agenda, Item No., and Subject

Mass Media—2—Title: Amendment of Part 76, Subpart G of the Commission's Rules and Regulations Concerning the Fairness Doctrine and political Cablecasting Requirements for Cable Television Systems. Summary: The Commission will address revision or elimination of rules which make cable television system operators subject to certain obligations relative to political telecasts and the fairness doctrine obligations.

Issued: September 27, 1985.

Federal Communications Commission,

William J. Tricarico,

Secretary.

[FR Doc. 85-23627 Filed 9-30-85; 2:57 pm]

BILLING CODE 6712-01-M

2

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, October 9, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTERS TO BE DISCUSSED:

Ex Parte MC-175—International Joint Through Rates Involving Ocean Carriers—Revision of Tariff Filing
Ex Parte 387—Rail Transportation Contracts

CONTACT PERSON FOR MORE

INFORMATION: Robert R. Dahlgren, Office of Public Affairs Telephone: (202) 275-7242.

James H. Bayne,

Secretary.

[FR Doc. 85-23612 Filed 9-30-85; 12:22 pm]

BILLING CODE 7035-01-M

3

POSTAL RATE COMMISSION

Change in Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 39070, September 26, 1985.

PREVIOUS TIME AND DATE OF MEETING: 2:00 p.m., October 7, 1985.

PLACE: Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001.

STATUS: Open.

CHANGE IN MEETING: Rescheduled for October 9, 1985, 2:00 p.m.

CONTACT PERSON FOR MORE

INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 85-23586 Filed 9-30-85; 11:19 am]

BILLING CODE 7715-01-M

4

TENNESSEE VALLEY AUTHORITY

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m. (EDT), Monday, September 30, 1985.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

F. Unclassified

13. Subagreement to Memorandum of Agreement Between the United States Department of the Army, Corps of Engineers, and TVA for Repairs to Pickwick Auxiliary Lock.

CONTACT PERSON FOR MORE

INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of

his staff can respond to requests for information about this meeting. Call 615-632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: September 26, 1985.

Approved:

G.H. Dean, Jr.,

Director and Chairman.

Richard M. Freeman,

Director.

John B. Waters,

Director.

[FR Doc. 85-23570 Filed 9-30-85; 8:47 am]

BILLING CODE 8120-01-M

5

TENNESSEE VALLEY AUTHORITY

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. (EDT), Monday, September 30, 1985.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

C. Power Items

2. Consideration of proposed interim rate arrangements under which electric power would continue to be made available on a temporary basis to commercial and industrial consumers of TVA power that have not entered into renewal standard form power contracts applicable for long-term supply arrangements.

CONTACT PERSON FOR MORE

INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call

615-632-8000, Knoxville, Tennessee.
Information is also available at TVA's
Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: September 27, 1985.

Approved:

C.H. Dean, Jr.,

Director and Chairman.

Richard M. Freeman,

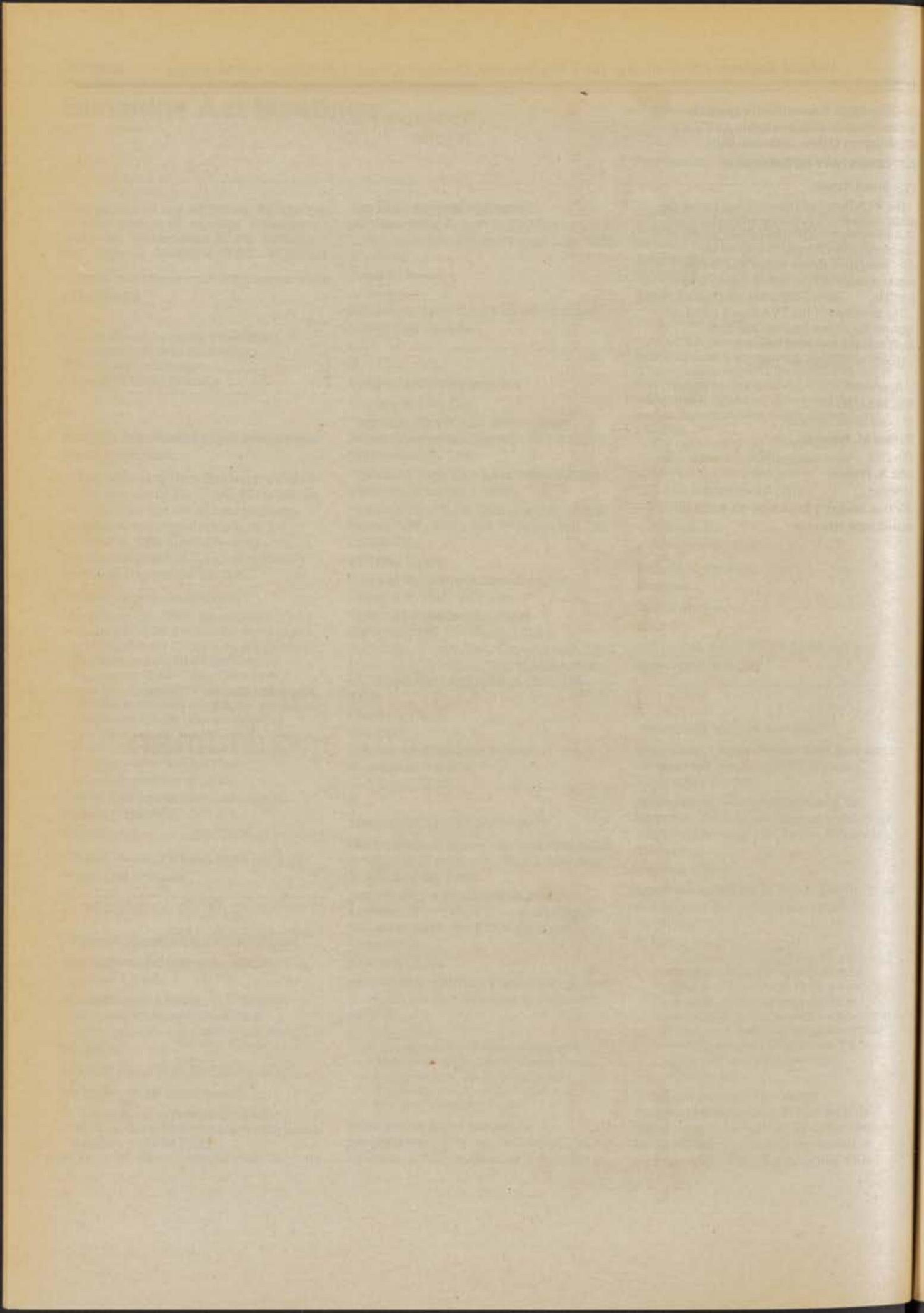
Director.

John B. Waters,

Director.

[FR Doc. 85-23571 Filed 9-30-85; 8:47 am]

BILLING CODE 8120-01-M



Wednesday
October 2, 1985

Part II

**Department of
Health and Human
Services**

Food and Drug Administration

21 CFR Part 348

**Male Genital Desensitizing Drug Products
for Over-the-Counter Human Use;
Proposed Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 348**

[Docket No. 78N-0301]

Male Genital Desensitizing Drug Products for Over-the-Counter Human Use; Proposed Rule**AGENCY:** Food and Drug Administration.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking to amend the tentative final monograph for over-the-counter (OTC) external analgesic drug products to establish conditions under which OTC male genital desensitizing drug products (premature ejaculation remedies) are generally recognized as safe and effective and not misbranded. (See the *Federal Register* of February 8, 1983; 48 FR 5852.) FDA is issuing this notice of proposed rulemaking after considering the statement on OTC male genital desensitizing drug products of the Advisory Review Panel on OTC Miscellaneous External Drug Products and public comments on an advance notice of proposed rulemaking that was based on that statement. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by December 2, 1985. New data by October 2, 1986. Comments on the new data by December 2, 1986. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by January 30, 1986.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center For Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of September 7, 1982 (47 FR 39412), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to amend the monograph for OTC

external analgesic drug products, together with the recommendations on OTC male genital desensitizing drug products of the Advisory Review Panel on OTC Miscellaneous External Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients used as male genital desensitizers. That notice also reopened the administrative record for OTC external analgesic drug products to allow for consideration of the Miscellaneous External Panel's statements on OTC drug products intended for use as male genital desensitizers. Interested persons were invited to submit comments by December 6, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by January 5, 1983.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

In response to the advance notice of proposed rulemaking, two drug manufacturers and one trade association submitted comments. Copies of the comments received are on public display in the Dockets Management Branch.

In order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. The Panel proposed certain external analgesic active ingredients for use as male genital desensitizers. In this tentative final monograph (proposed rule) to amend Part 348 (21 CFR part 348), FDA states for the first time its position on the establishment of a monograph for OTC external analgesic drug products for use as male genital desensitizers and proposes to amend the tentative final monograph for OTC external analgesic drug products to include certain external analgesic active ingredients for use as male genital desensitizers. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC external analgesic drug products for use as male genital desensitizers.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC external analgesic drug products for use as male genital desensitizers as modified on the basis of comments received and the agency's independent

evaluation of the Panel's statement. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them. (See Part I below.)

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the *Federal Register* of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the *Federal Register*. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products

subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking published in the **Federal Register** of September 7, 1982, the agency suggested that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**.

Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments.

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May

11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F. 2d 688, 696-98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers v. FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. Noting its continued opposition to the exclusivity policy, one comment stated that FDA should not prohibit the use of alternative OTC labeling terminology to describe indications, if the terminology is truthful, not misleading, and intelligible to the consumer. The comment's views on this subject were presented in oral and written testimony submitted to FDA in connection with the September 29, 1982 FDA hearing on the exclusivity policy.

During the course of the OTC drug review, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12).

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. In a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002), FDA announced that a hearing would be held to assist the agency in resolving this issue. On September 29, 1982, FDA conducted an open public forum at which interested parties presented their views. The forum was a

legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monographs for nighttime sleep-aids and stimulants (published in the **Federal Register** of June 13, 1978; 43 FR 25544).

After considering the testimony presented at the hearing and the written comments submitted to the record, in the **Federal Register** of April 22, 1985 (50 FR 15810), FDA proposed to change its exclusivity policy for the labeling of OTC drug products. As proposed, manufacturers may select one of the following options:

(1) The label and labeling would contain within a boxed area designated "APPROVED USES" the specific wording on indications for use established under an OTC drug monograph. The boxed area would be required to be displayed in a prominent and conspicuous location. As under the present policy, the labeling in the boxed area would be required to be stated in the exact language of the monograph. However, with this option a statement that the information in the box was published by the Food and Drug Administration would appear either in the box or reasonably close by. At the manufacturer's option, the designation of the boxed area and the statement that the labeling was established by FDA could be combined.

(2) As a complete alternative to using the boxed area designated "APPROVED USES," the proposal would for the first time allow manufacturers an option to use other truthful and nondeceptive statements relating only to the indications established in an applicable monograph subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling. If this alternative is selected, the manufacturer would not be able to use a boxed area or include a statement that the indications are endorsed by the Food and Drug Administration.

(3) As a third alternative, manufacturers could use both a boxed area with the monograph language and also, elsewhere in the labeling, use other non-monograph language that meets the statutory standards of truthfulness and accuracy.

Regardless, other aspects of OTC drug labeling, such as the statement of identity, warnings, and directions, would continue to be required to comply with the monograph, including following any exact language established in the monograph.

The proposal to change the exclusivity policy provides for 90 days of public

comment. After considering all comments submitted, the agency will announce its final decision on this matter, in a future issue of the *Federal Register*.

B. Comments on Ingredients and Labeling.

3. One comment disagreed with the warning recommended by the Miscellaneous External Panel on male genital desensitizing drug products containing benzocaine. The warning states "Use this product with caution if you or your partner are sensitive to topical anesthetics, sunscreens, sulfa drugs, or hair dyes." The comment quoted the Panel's statement on male genital desensitizers in which the Panel discussed the incidence of benzocaine sensitivity. The comment further cited references identified by the Panel that found the incidence of benzocaine sensitivity to be 5 percent in patients with a history of chronic skin disorders and 0.17 percent in a general population study. The comment cited other references in the Panel's statement, which concluded that "reported adverse reactions to benzocaine have not been considered in relation to the total number of repeated applications of the drug . . ."; "instances of cross sensitivity among the local anesthetics is rare regardless of the mode of administration"; and "contact dermatitis occurs more frequently on the skin than on mucous membranes." The comment pointed out that despite these findings the Panel based its recommendation largely on a study by Fisher (Ref. 1) who stated that benzocaine is a potent sensitizer. The comment also cited the external analgesic advance notice of proposed rulemaking (44 FR 69795) in which the Panel concluded that benzocaine is one of the most widely used and safest external analgesic ingredients in OTC use and that the incidence of sensitivity to benzocaine is quite low. The comment argued that it would be inconsistent for the warning to apply to products used in a similar manner for different indications. The comment further argued that in the advance notice of proposed rulemaking for anorectal drug products published in the *Federal Register* of May 27, 1980 (45 FR 35576) and in the information copy of the report on vaginal drug products, a sensitivity warning was required on benzocaine because these products are used on irritated, not normal skin.

The agency agrees with the comment that there is a low potential of benzocaine sensitivity in the general population. The Topical Analgesic Panel, in its advanced notice of proposed rulemaking on external

analgesic drugs, published in the *Federal Register* of December 4, 1979 (44 FR 69768), did not include a specific warning for benzocaine but instead proposed the following warning for all external analgesic ingredients:

"Discontinue use if condition worsens or if symptoms persist for more than 7 days, and consult a physician." The agency agreed with the Panel in the tentative final monograph (48 FR 5852). The agency also notes that the Miscellaneous External Panel in its statement on male genital desensitizers proposed a general warning "If skin to which you apply this product becomes irritated, discontinue use and consult a doctor" and a specific warning for benzocaine "Use this product with caution if you or your partner are sensitive to topical anesthetics, sunscreens, sulfa drugs, or hair dyes" (47 FR 39433). Although agreeing with the first warning, the agency finds a lack of sufficient information to support a specific warning for benzocaine. In addition, consideration must be given to the intended use of these products on healthy, intact skin and mucous membranes. Therefore, based upon a review of the two panel recommendations, and the intended use of these products, the agency proposes to further clarify the general warning for all male genital desensitizing drug products to state "If you or your partner develop a rash or irritation, such as burning or itching, discontinue use. If symptoms persist, consult a doctor."

The agency believes that the revised warning is more meaningful and provides adequate information for safe use. The agency proposes to include the labeling on all male genital desensitizing products.

Reference

- (1) Fisher, A., "Contact Dermatitis," 2d Ed., Lea and Febiger, Philadelphia, pp. 42, 312, and 313, 1973.

4. A comment requested that products containing a complex of camphor and metacresol in a ratio of 3 parts camphor to 1 part metacresol be placed in Category I for use as male genital desensitizers. The comment did not include information on the concentration of camphor and metacresol contained in these products. The comment stated that the chemical complex of these two ingredients is well suited for this use because of the complex's properties of (1) low surface tension which allows it to penetrate unbroken skin, (2) controlled release of metacresol from the complex which limits the total available amount of free metacresol to less than 2 percent at any given time, (3) strong desensitizing and

anesthetizing effect, and (4) effective fungicidal, sporicidal, and antiseptic properties. The comment incorporated, by reference, its previous submissions of studies and clinical tests to the external analgesic rulemaking to substantiate the points listed above.

The agency is unaware of the use of this complex as a male genital desensitizing agent in any commercially marketed OTC drug product in the United States. Such a product would, therefore, be a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act). Marketing of a male genital desensitizing agent containing this complex in the absence of an approved new drug application would be in violation of section 505(a) of the act unless and until the agency placed the complex for this use in Category I for safety and efficacy in the final monograph covering male genital desensitizing agents.

In addition, the agency notes that camphorated metacresol was classified in Category I in the tentative final monograph for external analgesics for use in the temporary relief of pain and itching associated with minor burns, sunburn, minor cuts, scrapes, insect bites, or minor skin irritations (48 FR 5858). Benzocaine and lidocaine, which were classified by the Miscellaneous External Panel in Category I for use as male genital desensitizers, are identified at § 348.10(d) as external analgesic active ingredients that depress cutaneous sensory receptors (47 FR 39432). These same ingredients are grouped in the external analgesic TFM under § 348.10(a) *amine and "caine" type local anesthetics* (48 FR 5867). Camphorated metacresol is grouped into § 348.10(b) *alcohols and ketones* (48 FR 5867). While ingredients of both groups (a) and (b) are effective in relieving pain and itching, only those in group (a) are known to also exert an anesthetic effect.

An anesthetic (or desensitizing) effect is necessary for use as a male genital desensitizer. There are no efficacy data available demonstrating such an effect for camphorated metacresol. In addition, the agency disagrees with the comment that the complex of camphor and metacresol is safe for use as a male genital desensitizer. The comment submitted no data to establish the safety on mucous membranes or for use intravaginally. The earlier submissions which the comment incorporated by reference were discussed previously in the external analgesic tentative final monograph published in the *Federal Register* of February 8, 1983 (48 FR 5852) which classified camphorated metacresol in Category I for the label

claims noted above. However, the earlier submissions do not support safety and effectiveness for use as a male genital desensitizer. Accordingly, based upon a lack of marketing experience or data to support safe and effective use as a male genital desensitizer, camphorated metacresol is classified in Category II for safety and effectiveness for this use.

5. One comment requested that lidocaine for use as a male genital desensitizer not be limited to a container size of 120 milligrams (mg). The comment stated that this restriction is scientifically ungrounded, legally unsupportable, and commercially impracticable. The comment argued that the 120 mg capacity limitation was not needed because quantities substantially exceeding 120 mg have been applied to the genital area as local anesthetic during childbirth, without adverse effects, and therefore should be considered as safe. The comment also argued that there is no reason from a legal standpoint to limit the container size for an ingredient classified in Category I, i.e., not misbranded. Rather, concerns about misuse or abuse and restrictions on usage should be dealt with through labeling requirements.

The agency agrees with the comment. The agency has reviewed the Panel's recommendation and finds insufficient evidence for a container size limitation for lidocaine. The Panel's container size limitation of 120 mg lidocaine was based on the maximum dose of 10 sprays of 10 mg each with an allowance for variation as would normally occur in manufacturing. However, the agency is not aware of marketed aerosol products with this small capacity. Further, the product submitted to the Panel (Refs. 1 and 2), contained 7/16 ounce of product which contains approximately 1,200 mg of lidocaine. No adverse reactions attributable to misuse or abuse of this product have been reported to the agency. The Topical Analgesic Panel, in its external analgesic advance notice of proposed rulemaking published in the Federal Register of December 4, 1979 (44 FR 69768), concluded that lidocaine was Category I without a container size limitation. The agency agreed with that conclusion in the tentative final monograph, published in the Federal Register of February 8, 1983 (48 FR 5852). The agency believes that the dose limit can most effectively be communicated to the consumer in the "Directions for Use" rather than by a container size limitation. The agency believes the Directions "Apply 3 or more sprays not to exceed 10 sprays" is adequate to provide safe use of the product.

References

- (1) OTC Volume 160260.
- (2) OTC Volume 160296.

II. The Agency's Amended Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Nonmonograph Conditions

1. *Summary of Ingredient Categories.* The agency has reviewed all the claimed active ingredients submitted to the Panel, as well as other available data and information, and has made the following tentative classification of external analgesic active ingredients for use as male genital desensitizers. As convenience to the reader, the following list is included as a summary of the categorization of active ingredients proposed by the agency.

EXTERNAL ANALGESIC INGREDIENTS FOR USE AS MALE GENITAL DENSITIZERS

Ingredients	Category	
	Panel	Agency
Benzocaine	I	I
Lidocaine	I	I
Benzyl alcohol	II	II
Ephedrine hydrochloride	II	II
Camphorated metacresol	NA*	II

*Not applicable.

2. *Testing of nonmonograph conditions.* Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any external analgesic ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the Federal Register of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows:

1. The agency is not including the limitation on container size for lidocaine recommended by the Panel. (See comment 5 above.)

2. The agency has combined the warning on allergy to benzocaine with the more general warning regarding irritation also included in the advanced notice of proposed rulemaking. (See comment 3 above.)

3. The agency has classified camphorated metacresol as Category II on the basis of a lack of marketing experience or data to support safe and effective use as a male genital desensitizer. (See comment 4 above.)

4. The agency has made further changes in the format and in numbering of the amended tentative final monograph in order to include the amendment in the external analgesic tentative final monograph. (See tentative final monograph below.)

5. Following the format of other documents, the agency has provided for one indication statement to be required and five indications statement to be designated as "other allowable indications." (See tentative final monograph below.)

6. The agency is aware of the Panel's concern about the lack of data on the effect of benzocaine and lidocaine on sperm and the ovum (female egg) (47 FR 39421). Although the Panel's proposed warning statement, "The effect of this product on sperm and fertility has not been determined," is intended to be informative, the agency believes that the warning would not achieve any useful purpose and may even be confusing to consumers.

The agency recognizes that both benzocaine and lidocaine have a long history of topical use with relatively few side effects reported. Benzocaine and lidocaine were reviewed by the Topical Analgesic Panel, which found that the use of benzocaine and lidocaine preparations on the skin, mucous membranes, and internally have been associated with a high degree of safety (44 FR 69793). The Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products reviewed benzocaine for relief of minor vaginal irritations and concluded that benzocaine was safe for intravaginal use. Neither Panel recommended a warning statement such as that proposed by the Miscellaneous External Panel (47 FR 39433). The agency did not receive any comments in favor of or in opposition to this recommendation.

Based on the many years of extensive marketing experience of products containing these ingredients, the recommendations of other advisory panels, and the lack of any data on adverse effects of these drugs on sperm and the ovum, the agency concludes that there is insufficient basis for the

warning and is not including § 348.50(c)(9)(v) in this tentative final monograph.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the *Federal Register* of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC external analgesics for use as male genital desensitizers drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC external analgesics for use as male genital desensitizers drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC male genital desensitizer drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC male genital desensitizer drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on male genital desensitizer drug products, a period of 120 days from the date of publication of this proposed rulemaking in the *Federal Register* will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before December 2, 1985, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before January 30, 1986. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the *Federal Register*.

Interested persons, on or before October 2, 1986, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before December 2, 1986. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the *Federal Register* of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on December 2, 1986. Data submitted after the closing of the administrative record will be

reviewed by the agency only after a final monograph is published in the *FEDERAL REGISTER*, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 348

OTC drugs, External analgesic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 348 (as proposed in the *Federal Register* of February 8, 1983 (48 FR 5852)) as follows:

PART 348—EXTERNAL ANALGESIC PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for part 348 continues to read as follows:

Authority: Secs. 201(p) 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); [5 U.S.C. 553], 21 CFR 5.11.

2. In Subpart A, § 343.3 would be amended by adding new paragraph (f), to read as follows:

§ 348.3 Definitions.

(f) *Male genital desensitizing drug product.* A drug product applied to the penis to aid in temporarily slowing the onset of ejaculation.

3. In Subpart B, § 348.10 is amended by adding new paragraph (e), to read as follows:

§ 348.10 Analgesic, anesthetic, and antipruritic active ingredients.

(e) *Male genital desensitizers.* (1) Benzocaine, 3 to 7.5 percent in a water-soluble base.

(2) Lidocaine in a metered spray with approximately 10 milligrams per spray.

4. In Subpart C, § 348.50 is amended by adding new paragraph (a)(3); by revising the introductory text of paragraph (b); by redesignating (b)(4) as (b)(5) and adding new paragraph (b)(4); by adding new paragraph (c)(8), and by redesignating (d) as (d)(1) and adding new paragraph (d)(2), to read as follows:

§ 348.50 Labeling of external analgesic drug products.

(a) * * *

(3) *For products containing any external analgesic ingredient identified in § 348.10(e).* The labeling of the

product contains the established name of the drug, if any, and identifies the product as a "male genital desensitizer."

(b) *Indications.* The labeling of the product states, under the heading "Indication(s)," the following:

(4) *For products containing any ingredient identified in § 348.10(e).* (i) "Aids in the prevention of premature ejaculation."

(ii) *Other allowable indications.* In addition to the information identified in paragraph (b)(4)(i) of this section, the labeling of the product may contain additional indication statements as follows:

(a) "For temporary male genital desensitization helping to slow the onset of ejaculation."

(b) "Aids in temporarily retarding the onset of ejaculation."

(c) "Aids in temporarily slowing the onset of ejaculation."

(d) "Aids in temporarily prolonging time until ejaculation."

(e) "For reducing oversensitivity in the male in advance of intercourse."

(iii) Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce of unapproved new drugs.

(c) * * *

(8) *For products containing any ingredient identified in § 348.10(e).* The labeling of the product contains the following warnings under the heading, "Warnings":

(i) "Premature ejaculation may be due to a condition requiring medical supervision. If this product, used as directed, does not provide relief, discontinue use and consult a doctor."

(ii) "Avoid contact with the eyes."

(iii) "If you or your partner develop a rash or irritation, such as burning or itching, discontinue use. If symptoms persist, consult a doctor."

(d) * * *

(2) For products containing any ingredient identified in § 348.10(e). The labeling of the product contains the following information under the heading "Directions," followed by "or as directed by a doctor":

(i) *For products containing benzocaine identified in § 348.10(e)(1).* "Apply a small amount to head and shaft of penis before intercourse. Wash off after intercourse."

(ii) *For products containing lidocaine identified in § 348.10(e)(2).* "Apply 3 or more sprays, not to exceed 10, to head and shaft of penis before intercourse. Wash off after intercourse."

Dated: May 8, 1985.

Frank E. Young,

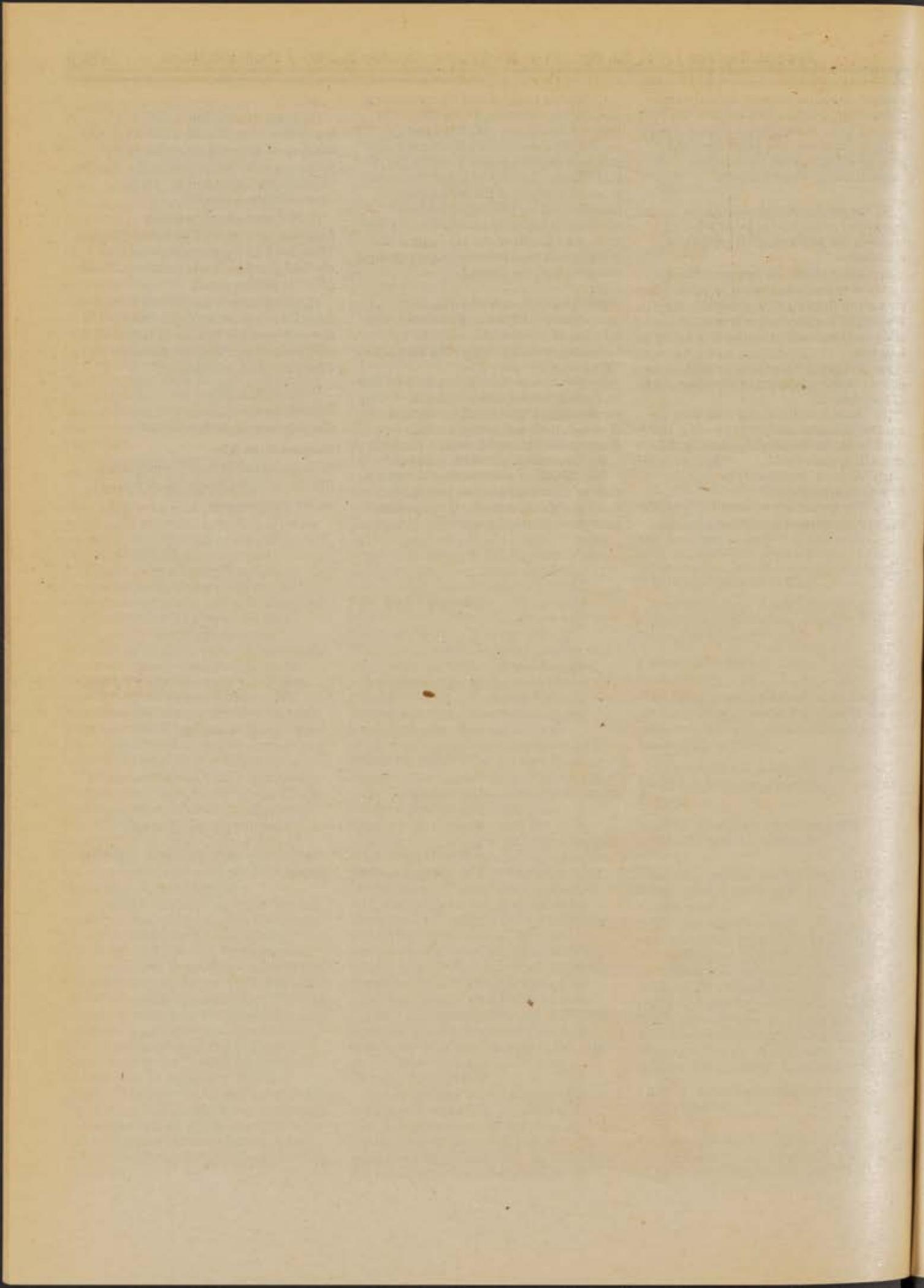
Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-23224 Filed 10-1-85; 8:45 am]

BILLING CODE 4160-01-M



Register Federal Register

Wednesday
October 2, 1985

Part III

Department of Labor

Occupational Safety and Health
Administration

29 CFR Part 1960
Basic Program Elements for Federal
Employee Occupational Safety and Health
Programs; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1960

Basic Program Elements for Federal Employee Occupational Safety and Health Programs

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends Subpart I of 29 CFR 1960 to revise the present method of recording injuries and illnesses occurring to Federal employees while they are on official time. It also revises several definitions at 29 CFR 1960.2. The effect of these revisions will be to eliminate duplicative recordkeeping and reporting requirements.

EFFECTIVE DATE: This final rule is effective on October 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Mr. John E. Plummer, Director, Office of Federal Agency Programs, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. (202-523-9329).

SUPPLEMENTARY INFORMATION:

The Federal Advisory Council on Occupational Safety and Health (FACOSH) and the FACOSH Standing Committee on Federal Occupational Safety and Health had input into changes recommended by the FACOSH Subcommittee on Federal Accident Reporting System.

The following definitions are deleted: "lost workday cases" at § 1960.2(1); "medical treatment" at § 1960.2(n); and "recordable occupational injuries or illnesses" at § 1960.2(o). The following definition is added: "categories of injuries/illnesses/fatalities" as § 1960.2(1); and three job titles are changed in § 1960.2(s). All other definitions in 1960.2(a) through (k); (m); (p) through (r); and (t) through (x) are unchanged.

Further revisions are being made to Subpart I in order to provide for the use of OWCP claims data. The new system utilizes existing occupational injury and illness information reported to OWCP on Forms CA-1, CA-2, and CA-6. The agency head, however, has a responsibility to "keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action" as required by section 19(a)(3) of the Occupational Safety and Health Act of 1970.

Subpart I, Recordkeeping and Reporting Requirements, 29 CFR 1960.66

through 1960.74, is reprinted in its entirety so this document may replace Subpart I in the "Basic Program Elements for Federal Employee Occupational Safety and Health Programs: Final Rule" published in the Federal Register on October 21, 1980 as 29 CFR Part 1960, and amended by a revision of Subpart I published in the Federal Register on January 25, 1984.

Following is an explanation of the changes in Subpart I:

Section 1960.66(d). Reference to forms in §§ 1960.67 and 1960.69 is deleted because § 1960.68 is the only section which mentions a specific form by number.

Section 1960.66(e). The word "forms" is changed to "form" because the Department of Labor will provide only the recordkeeping Form 101, upon request.

Section 1960.66(f). The reference to transmittal of information on media processable by electronic processing equipment is deleted because it is no longer applicable.

Section 1960.67(a). The word "recordable" is deleted.

Section 1960.67(b). The reference to OSHA Form No. 200 is deleted because it has been replaced in the Federal sector only by a suggested format of a log which is included in the OSHA 2014 publication.

Section 1960.67(c). The present wording is changed to: "Any occupational injury, illness or fatality reported on Form CA-1, CA-2, or CA-6 to the employing establishment/agency shall be recorded on the log."

Section 1960.68. The word "recordable" is deleted from the second sentence. The last sentence is changed by adding "CA-6."

Section 1960.69(a). Reference to "OSHA publication 2014" is deleted.

Section 1960.70(a). Reporting employment accidents to the Office of Federal Agency Programs is changed to provide reporting to the Occupational Safety and Health Administration.

Section 1960.70(a)(2). Requirement for reporting is changed from ". . . hospitalization of five or more employees" to ". . . inpatient hospitalization of five or more people, agency and nonagency people included."

Section 1960.70(b). The second sentence is deleted. The summary report required by new section 1960.70(c) will provide full information on fatal and catastrophic accident investigations.

Section 1960.70(c). This new paragraph will provide the Office of Federal Agency Programs with complete details on all fatal and catastrophic accidents.

Section 1960.71(b). Time period of "45 days" in the third sentence is changed to "six months".

Section 1960.71(f). Deleted. Inspectors have access right to records in § 1960.26(a)(1) so this section was redundant.

Section 1960.72. Change made to show records are available to the Secretary of Health and Human Services, or authorized representative, instead of National Institute for Occupational Safety and Health.

Section 1960.74(a)(2). Change clarifies current annual report requirements.

The revision is procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

These amendments affect only recordkeeping and reporting requirements of Federal agencies with respect to occupational injuries and illnesses and were developed through consultation with representatives of Federal agencies and of Federal employees. Therefore, it is not necessary to publish them for notice and comment pursuant to 5 U.S.C. 553(b). Further, these amendments eliminate duplicative recordkeeping and reporting requirements and create no new responsibilities.

List of Subjects in 29 CFR Part 1960

Government employees, Law enforcement, Occupational safety and health, and Reporting and recordkeeping requirements.

Authority: This document was prepared under the direction of Patrick R. Tyson, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third and Constitution Avenue, NW, Washington, DC 20210.

Accordingly, pursuant to Sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 9-83 (48 FR 35736), and Executive Order 12196, Part 1960 of Title 29 of the Code of

Federal Regulations, is hereby amended as set forth below.

Signed at Washington, DC this 25th day of September 1985.

Patrick R. Tyson,
Acting Assistant Secretary.

PART 1960—[AMENDED]

Part 1960 of 29 CFR is amended as follows:

1. The authority citation for Part 1960 is revised to read as follows:

Authority: Sec. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673); Secretary of Labor's Order No. 9-83 (48 FR 35736); Executive Order 12196; Subpart I issued under sec. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673); Secretary of Labor's Order No. 9-83 (48 FR 35736); Executive Order 12196.

Subpart A—General

1a. By revising paragraphs (l) and (s) and by deleting and reserving paragraphs (n) and (o) of § 1960.2 as follows:

§ 1960.2 Definitions.

(l) *Categories of injuries/illnesses/fatalities*—(1) *Injury (Traumatic)*. A wound or other condition of the body caused by external force, including stress or strain. The injury is identifiable as to time and place of occurrence and member or function of the body affected, and is caused by a specific event or incident or series of events or incidents within a single day or work shift.

(2) *Illness/Disease (Occupational)*. A physiological harm or loss of capacity produced by systemic infection; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc.; or other continued and repeated exposures to conditions of the work environment over a long period of time. For practical purposes, an occupational illness/disease is any reported condition which does not meet the definition of injury (traumatic).

(3) *Fatality*. Death resulting from an injury (traumatic) or illness/disease (occupational).

(4) *Lost Time Case*. A nonfatal injury (traumatic) that causes disability for work beyond the day or shift if occurred; or a nonfatal illness/disease (occupational) that causes disability at any time.

(5) *No-Lost Time Case*. A nonfatal injury (traumatic) or illness/disease (occupational) that does not meet the definition of Lost Time Case.

(6) *Catastrophe*. An accident resulting in five or more agency and/or

nonagency people being hospitalized for inpatient care.

(n)-(o) [Reserved]

(s) The term "Safety and Health Specialist" means a person or persons meeting the Office of Personnel Management standards for such occupations, which include but are not limited to:

Safety and Occupational Health Manager/
Specialist GS-018
Safety Engineer GS-903
Fire Prevention Engineer GS-804
Industrial Hygienist GS-690
Fire Protection and Prevention Specialist/
Marshal GS-081
Health Physicist GS-1306
Occupational Medicine Physician GS-602
Occupational Health Nurse GS-610
Safety Technician GS-019
Physical Science Technician GS-1311
Environmental Health Technician GS-699
Air Safety Investigation Officer GS-1815
Aviation Safety Specialist GS-1825
Chemist GS-1320
Health Technician GS-645
Highway Safety Manager GS-2125

or equally qualified military, agency, or nongovernment personnel. The agency head shall be responsible for determination and certification of equally qualified personnel.

2. By revising Subpart I of Part 1960 to read as follows:

Subpart I—Recordkeeping and Reporting Requirements

Sec.

- 1960.66 Purpose, scope and general provisions.
1960.67 Record of log of occupational injuries and illnesses.
1960.68 Supplementary record of occupational injuries and illnesses.
1960.69 Annual Summaries of Federal Occupational Injuries and illnesses.
1960.70 Reporting of serious accidents.
1960.71 Location and utilization of records and reports.
1960.72 Access to records by Secretary.
1960.73 Retention of records.
1960.74 Agency annual reports.
1960.75-1960.77 [Reserved].

Authority: Secs. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673); Secretary of Labor's Order No. 9-83 (48 FR 35736); Executive Order 12196.

Subpart I—Recordkeeping and Reporting Requirements

§ 1960.66 Purpose, scope and general provisions.

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data,

for proper evaluation and necessary corrective action and to assist the Secretary in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The term "incident" as hereinafter used in this subpart shall include all occupational injuries and illnesses.

(b) In order to perform his duties under Section 19 of the Act and Executive Order 12196, particularly with respect to providing the President with current information about the Federal agency safety and health program, it is necessary that the Secretary be promptly informed of serious incidents involving agency employees as provided in § 1960.70. Assistance to agencies in the investigation of such incidents is available pursuant to the provisions of Executive Order 12196 and this subpart.

(c) Each agency shall utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities.

(d) The Department of Labor shall provide Federal agencies with the OSHA Form 101, when requested, to meet the recordkeeping specified in § 1960.68.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the form provided by the Department of Labor.

(f) [Reserved.]

(g) Information concerning occupational injuries and illnesses or accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy shall be recorded on separate forms. Such records shall not be submitted to the Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

§ 1960.67 Record or log of occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all occupational injuries and illnesses for each establishment. Except as provided in § 1960.71 (b) and (c), the log is to be maintained at the establishment.

(b) Within six working days after receiving information on an occupational injury or illness, appropriate information concerning such

injury or illness shall be entered on the record or log. For this purpose, the format printed in OSHA 2014 will provide the information required.

(c) Any occupational injury, illness or fatality reported on a Form CA-1, CA-2, or CA-6 to the employing establishment/agency shall be recorded on the log.

§ 1960.68 Supplementary record of occupational injuries and illnesses.

In addition to the record or log of occupational injuries and illnesses provided under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that an occupational injury or illness has occurred. For this purpose, OSHA Form No. 101, or OWCP Forms CA-1, CA-2 and CA-6 shall be completed in the detail required by the forms and the instructions therein.

§ 1960.69 Annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a fiscal year basis, shall compile an annual summary of occupational injuries and illnesses as prescribed. The summaries shall be based on the record or log of occupational injuries and illnesses maintained pursuant to § 1960.67.

(b) At the agency's option, and consistent with the Privacy Act considerations and applicable bargaining agreements, the last page of the record or log of occupational injuries and illnesses may be posted as the Annual Summary of Federal Occupational Injuries and Illnesses.

(c) Each agency shall furnish the Department of Labor with a copy of its summary upon request of the Secretary.

§ 1960.70 Reporting of serious accidents.

(a) Within 48 hours after the occurrence of an employment accident, the head of the Federal agency shall report by telephone or telegraph to the Occupational Safety and Health Administration:

(1) Any occupational accident which is fatal to one or more employees;

(2) Any occupational accident which results in the inpatient hospitalization of five or more people, agency and nonagency people included.

(3) Any occupational illness which results in death;

(4) Any occupational accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees.

Accidents not immediately reportable, but which result in death within six

months of the date of the accident, shall be reported within 48 hours of the time the employer became aware of the death.

(b) The report shall relate the circumstances of the accident, names of individuals involved, any actions taken by the agency, the number of fatalities, and/or injuries and illnesses and the extent of any injuries.

(c) Agencies shall provide the Office of Federal Agency Programs with a summary report of each fatal and catastrophic accident investigation. The summaries shall address the date/time of accident, agency/establishment name and location, personnel categories (employee, public, etc.) and consequences, description of operation and the accident, causal factors, applicable standards and their effectiveness and agency corrective/preventive actions.

§ 1960.71 Locations and utilization of records and reports.

(a) The provisions of the section, dealing with the availability of information compiled pursuant to this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to Subpart D of this part.

(b) The log and supplementary records required by §§ 1960.67 and 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of these records. These records shall be completed and as current as possible; in no case shall more than six months elapse between the recording of an illness or injury occurring in an establishment and the availability of records reflecting that injury or illness at that establishment.

(c)(1) For agencies engaged in activities such as agriculture, construction, transportation, communication, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies

thereof, may be maintained at a place to which employees report each day.

(2) For personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the log and supplementary records, or copies thereof, may be maintained at the base from which personnel operate to carry out their activities.

(d) Each Federal agency shall post a copy of its agency annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.69, at such establishment, not later than 45 calendar days after the close of the fiscal year or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(e) The head of each agency shall ensure access to establishment logs and annual summaries by the establishment's Occupational Safety and Health Committees, employees, former employees and employee representatives.

§ 1960.72 Access to records by Secretary.

The records required to be maintained under the provisions of this subpart shall also be available and made accessible to the Secretary of Labor, Secretary of Health and Human Services and their authorized representative.

§ 1960.73 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the fiscal year to which they relate, and any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards

§ 1960.74 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by January 1 of each year a report describing the agency occupational safety and health program of the previous fiscal year and objectives for the current year. The

report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) Guidelines for agency annual reports to OSHA are prescribed in OSHA publication 2014. The Secretary shall notify agencies by January 1 of any changes to the guidelines for the subsequent year's report.

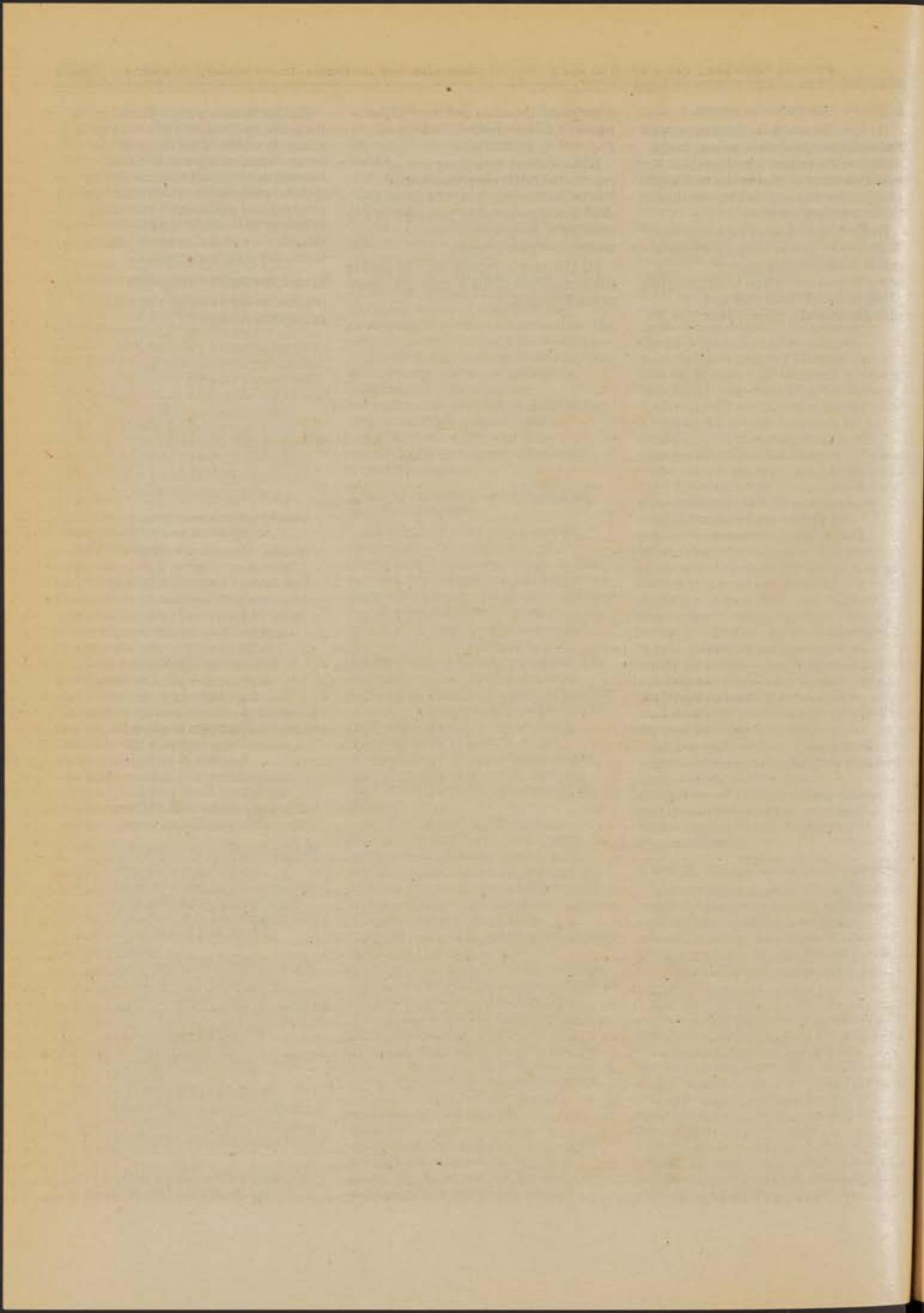
(3) The agency reports shall be used in the preparation of the Secretary's report to the President.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe or unhealthful working conditions, and recommendations for improving their performance.

§§ 1960.75-1960.77 [Reserved]

[FR Doc. 85-23450 Filed 10-1-84 8:45 am]

BILLING CODE 4510-26-M



federal register

Wednesday
October 2, 1985

Part IV

Environmental Protection Agency

40 CFR Part 228

Ocean Dumping; Designation of Sites;
Proposed Rules

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 228
[LOW-FRL-2904-3]
**Ocean Dumping; Proposed
Designation of Sites**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate four existing dredged material disposal sites located offshore of the mouth of the Columbia River, Oregon-Washington, as EPA approved ocean dumping sites for the dumping of dredged material removed from the entrance channel to the Columbia River and other small harbors bordering the lower river. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of this material.

DATE: Comments must be received on or before November 18, 1985.

ADDRESSES: Send comments to: Paul Pan, Chief, Environmental Analysis Branch (WH-556M), EPA, Washington, DC 20460.

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC
EPA Region X, 1200 Sixth Avenue, Seattle, Washington
U.S. Army Corps of Engineers Library, Portland District, 319 Southwest Pine Street, Portland, Oregon

FOR FURTHER INFORMATION CONTACT: Paul Pan, (202) 755-9231.

SUPPLEMENTARY INFORMATION:
A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by promulgation in Part 228. A list of "Approved Interim

and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was last extended on August 24, 1984 (49 FR 33647 et seq.). That list established these sites as interim sites.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. (39 FR 16186, May 7, 1974, and 39 FR 37119, October 21, 1974).

EPA has prepared a draft and final EIS entitled "Environmental Impact Statement (EIS) for the Mouth of Columbia River Dredged Material Disposal Site Designation." On October 15, 1982, a notice of availability of the draft EIS for public review and comment was published in the *Federal Register* (47 FR 46135). The public comment period on this draft EIS closed November 29, 1982. Twelve reviewers submitted comments on the draft EIS, which the Agency assessed and responded to in the final EIS. Editorial or factual corrections required by the comments were incorporated in the text and noted in the Agency's response. Comments which could not be appropriately treated as text changes were addressed point by point in the final EIS, following the letters of comment.

On April 29, 1983, a notice of availability of the final EIS for public review and comment was published in the *Federal Register* (48 FR 19465). The public comment period on the final EIS closed May 30, 1983. One comment was received on the final EIS which requested a consistency determination under the Coastal Zone Management Act. The states of Washington and Oregon have concurred with EPA's consistency determination. Anyone desiring a copy of the EIS may obtain one from the address given above.

EPA has initiated Section 7 consultation under the Endangered Species Act with the Fish and Wildlife Service and National Marine Fisheries Service.

The EIS discusses the need for the action, examines ocean disposal site

alternatives to the proposed action, and presents the information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use. The EIS is based on one of a series of disposal site environmental studies conducted by EPA and the Corps of Engineers. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Proposed Site Designation

All four sites are located between one and six nautical miles (nmi) from shore near the Columbia River at water depths ranging from 18 to 40 meters. Currently approximately six million cubic yards is dredged annually to maintain the 15-meter channel depths. These ocean sites receive the material dredged from the channel.

Because of the severity of weather conditions in the region, dredging can be conducted only from mid-April to mid-October. The four sites available for dredged material disposal would allow full advantage of the short dredging season and enable greater flexibility for site selection and use when considering the weather conditions, sediment accumulation, vessel traffic and number of hopper dredges operating at the mouth of the river.

The sites are named, A, B, E, and F for identification. Site A is located approximately three nautical miles from shore and occupies an area of about 0.27 square nautical miles. Corner coordinates are as follows:

46°13'03" N., 124°06'17" W.;
46°12'50" N., 124°05'55" W.;
46°12'13" N., 124°06'43" W.;
46°12'26" N., 124°07'05" W.

Site B is located approximately 5.8 nautical miles from shore and occupies an area of about 0.25 square nautical miles. Corner coordinates are as follows:

46°14'37" N., 124°10'34" W.;
46°13'53" N., 124°10'01" W.;
46°13'43" N., 124°10'26" W.;
46°14'28" N., 124°10'59" W.

Site E is located approximately one nautical mile from shore and occupies an area of about 0.08 square nautical miles. Corner coordinates are as follows:

46°15'43" N., 124°05'21" W.;
46°15'36" N., 124°05'11" W.;
46°15'11" N., 124°05'53" W.;
46°15'18" N., 124°06'03" W.

Site F is located approximately five nautical miles from shore and occupies

an area of about 0.08 square nautical miles. Corner coordinates are as follows:

46°12'12" N., 124°09'00" W.;
46°12'00" N., 124°08'42" W.;
46°11'48" N., 124°09'00" W.;
46°12'00" N., 124°09'18" W.

D. Regulatory Requirements.

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The existing sites, as discussed below under the 11 specific factors, are acceptable under these five general criteria except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting sites off the Continental Shelf instead of those proposed in this action. In addition, the increased transit distance and time required for disposal farther offshore would further reduce the effective dredging season already restricted by weather conditions. Historical use of the existing sites has not resulted in significant damage to living resources of the ocean or to other uses of the marine environment.

The characteristics of the existing sites are reviewed below in terms of the 11 factors.

1. *Geographical position, depth of water, bottom topography and distance from coast.* (40 CFR 228.6(a)(1))
Geographical positions and distances from the coast for each existing site are given above. Water depths of sites range from 18 to 40 meters. The bottom topography of the nearshore mouth of the Columbia River region is characterized by a northward trending tidal delta and a mound within site B composed of previously disposed dredged material.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* (40 FR 228.6(a)(2))

Breeding, spawning, nursery, and/or passage activities of commercially important finfish and shellfish species all occur on a seasonal basis close to the MCR. The spawning season of the dungeness crab is from December to April. With a few crab larvae evident in the plankton after March, the probability that dredged material disposal at MCR will interfere with larval survival is small. Similarly, there is small likelihood of interference with the larval and juvenile crab populations on the ocean floor. Due to the mobility of finfish, it is unlikely that disposal operations will interfere with the migrations of commercially important anadromous species.

Twenty years of dumping at the sites has not caused significant or irreversible impacts on living resources. The effects of disposal on demersal fish are apparent temporary decreases in abundance, numbers of species, mean size, and a change in food preference; deposition at the sites in prior years revealed no apparent lasting effect on the diversity and number of finfish. The feeding, breeding, and migratory activities of marine mammals are not significantly affected by dredged material disposal in the area.

3. *Location in relation to beaches and other amenity areas.* (40 CFR 228.6(a)(3))
All of the interim sites are close to shore, but only sediment dumped at site E is likely to reach adjacent beaches. Sediments with median diameters of 0.18 mm (e.g., dredged sediments from the entrance channel) may be transported as bedload during winter storms. However, net sediment transport from sites, A, B, and F is northward and generally parallel to the isobaths, at rates of 0.25 nmi/yr. Therefore, sediments dumped at sites, A, B, or F are not likely to be transported onto adjacent beaches. Dredged material released at site E is dispersed, and no sediment accumulation has been detected. Dredged sediments are transported in a northeastward direction onto Peacock Spit, parallel to the beach, while a portion may be transported eastward into the estuary. The material is predominantly clean sand which is suitable for beach nourishment; consequently, transport of dredged materials from site E should have beneficial effects on local beaches. Furthermore, Washington State Parks Department has requested preferential use of site E to retard erosion of the coastal beaches.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* (40 CFR 228.6(a)(4))
Dredged sediments

from the main entrance and from entrance channels to other small harbors west of Astoria Bridge are the only materials presently dumped at the sites. Dredged materials are 95 to 98 percent sand and comply with the requirements of § 227.13(b) of the Ocean Dumping Regulations. Sediments are transported by a hopper dredge equipped with a subsurface release mechanism and are not packaged in any manner. Disposal volumes average six million cubic yards during each six-month dredging season. The interim sites are close to the dredging sites, and their use will minimize transport time and facilitate a coordinated controlled dumping schedule.

In 1979 approximately 95 percent of the dredged material disposed was released at site E. Other sites can be used to control shoaling caused by transport of sediment from site E into the estuary. The quality of dredged material to be disposed at each site will be determined based upon the physical characteristics of the material and its potential for impact.

Future dredged material volumes may exceed present volumes if the navigational safety of the entrance channel necessitates expanded dredging efforts or if other dredged material is disposed at the site. Any materials disposed at the sites must be within the capacity of the sites and must comply with EPA's dredged material criteria in § 227.13 of the Ocean Dumping Regulations.

5. *Feasibility of surveillance and monitoring.* (40 CFR Sec. 228.6(a)(5))

The U.S. Coast Guard is not currently carrying out surveillance at the interim sites. However, due to the proximity of the sites to shore, surveillance would not be difficult. Monitoring is not a problem because the sites are close to shore and in shallow water. Prior to and during annual dredging, the Corps of Engineers surveys the entrance channel and bottom topography within the site boundaries and identifies shoaling or mounding areas.

Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the site is used. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

6. *Dispersion, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* (40 CFR Sec. 228.6(a)(6))
Dredged material is primarily medium to fine-grained sand, thus rapid settling of the released sediments occurs with slight horizontal

mixing or vertical stratification. Rapid settling precludes persistent changes in the post disposal suspended sediment concentration. Large waves and tidal currents at site E may result in a significantly greater horizontal dispersion of released sediments relative to sites A, B, and F.

Previous studies have demonstrated the relative immobility of dredged sediments dumped at sites A, B, and F. Large percentages of the dredged sediments released at these sites will remain within the boundaries of the sites; smaller proportions of dredged material move slowly (0.25 nmi/yr.) northwards. Dredged materials dumped at site E during summer are eroded during the following winter. Previous studies have indicated a probable northeasterly transport of sediments onto Peacock Spit and adjacent beaches, although portions of the material dumped at site E may move eastward into the estuary.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* (40 CFR Sec. 228.6(a)(7)) Studies indicate that disposal of dredged material at the interim sites causes only minor impacts: temporary localized mounding, slight changes in sediment texture, and temporary disturbance of benthic infauna and demersal finfish assemblages. Clean sands dredged from the high-energy entrance channel have not produced any changes in water or sediment quality at the disposal sites.

Although there has been no significant mounding at any site, sediment has accumulated within site B at a shoaling rate of approximately 3 meters in 20 years. Present water depths range from 22 to 36 meters; therefore, shoaling does not currently present a problem to navigation. Mounds of accumulated dredged sediments at site B tend to spread laterally and flatten under the influence of bottom current and wave-induced turbulence.

Disturbances to infauna are caused by direct burial of sessile or slow-moving organisms. Substrate disturbances cause temporary (one to two months) changes in infaunal biomass and diversity. Other benthic species are motile or able to withstand temporary burial. Localized and temporary changes in finfish abundances may result from changes in fish food abundances. Effects on the biota are neither cumulative nor irreversible.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* (40 CFR 228.6(a)(8)) Extensive shipping,

fishing, and recreational activities, in addition to scientific investigations, take place in the vicinity of the interim sites. Minor interferences with these activities may occur; however, dredging personnel can shift disposal operations to another site or temporarily suspend dredging during periods of conflict. Mineral extraction, desalination, and aquaculture activities do not presently occur in the vicinity of MCR. However, a black sand mining operation is planned for a nearshore area 4 nmi north of the North Jetty. Dredged material disposal at site E could increase the sand overburden at the mining site, thus increasing mining costs.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* (40 CFR 228.6(a)(9)) Investigations suggest that the disposal of clean sands, dredged from the entrance channel, will have minimal adverse impacts on the water quality or ecology at the sites.

The mouth of the Columbia River is a dynamic, high-energy environment; and water quality parameters (concentrations of dissolved nutrients, trace metals, dissolved oxygen, pH, or turbidity) are influenced by river discharge volumes, tidal cycles, and biological activity.

The distribution of nearshore planktonic communities is both temporally and spatially variable. Phytoplankton communities consist of a diverse assemblage of diatoms and dinoflagellates, with seasonally variable productivities and standing crop. Zooplankton are dominated by calanoid copepods, gammarid amphipods, cumaceans, and mysids. Smelt, anchovy, right eye flounder, and codfish, which are part of the ichthyoplankton community at certain stages of their life cycle, are dominant.

Releases of dredged material do not produce a persistent turbidity plume, thus decreased light transmission with a concomitant decrease in phytoplankton primary productivity is not expected to occur. In addition, no detectable changes in dissolved nutrients or trace metal concentrations accompany disposal; therefore, no significant adverse impacts on phytoplankton productivity are expected.

Benthic assemblages at MCR are abundant, diverse and adapted by sediment type and depth. Polychaetes, crustaceans, and molluscs are the dominant benthic organisms. These benthic organisms could be affected by dredged material disposal, by temporary burial and slight changes in sediment texture. Disposal-related turbidity impacts are improbable because post-

disposal, suspended particulate concentrations are not significantly different from pre-disposal concentrations. Subsequent to disposal activities, the sites are repopulated by benthic organisms which either burrow up through the substrate or migrate into the site from adjacent areas. Therefore, effects of dredged material disposal are temporary and do not extend beyond the boundaries of the disposal sites.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* (40 CFR Sec. 228.6(a)(10)) Previous surveys at the interim sites did not detect the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* (40 CFR Sec. 228.6(a)(11)) The Washington State Department of Archaeology is compiling an inventory of cultural and historic resources for the mouth of the Columbia River. Although density of known shipwrecks is high, information about the exact location, historical value, and assessability of individual wrecks must be compiled. Previous dredged material disposal has reduced the potential for locating or recovering cultural features of historical importance at the interim sites.

By letter of December 15, 1982, the State Office of Archaeology acknowledged that the EIS adequately considered any potential impact on cultural resources, and the precautions to be taken to avoid or mitigate anticipated impacts to identified or unidentified cultural resources are adequate.

E. Proposed Action

The EIS concludes that the existing sites may appropriately be designated for continuing use. The existing sites are compatible with the criteria used for site selection; designating sites other than the existing sites offers no clear economic advantage or environmental benefit; the existing sites have been historically used without apparent significant adverse environmental effects.

Based on the information reported in the EIS, EPA proposes to designate the four existing mouth of the Columbia River dredged material disposal sites as EPA approved ocean dumping sites for continuing use for the ocean disposal of dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the four existing mouth of the Columbia River dredged

material disposal sites as EPA Approved Ocean Dumping Sites is being published as proposed rulemaking. Management authority of these sites will be delegated to the Regional Administrator of EPA Region X. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact

Analysis. This action will not result in an annual effect on the economy of \$100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228.

Water pollution control.

Dated: September 19, 1985.

Henry Longest II.

Acting Assistant Administrator for Water.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing paragraph (a)(1)(ii)(E) for the five Mouth of Columbia River, Oregon, Dredged Material Disposal Sites, and adding paragraphs (b) (27), (28), (29), and (30) as four ocean dumping sites for Region X, to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * *

(b) * * *

(27) Mouth of Columbia River Dredged Material.

Site A—Region X.

Location: 46°13'03" N., 124°06'17" W.;
46°12'50" N., 124°05'55" W.; 46°12'13" N.,
124°06'43" W.; 46°12'26" N., 124°07'05" W.

Size: 0.27 square nautical miles.

Depth: Ranges from 18–40 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(28) Mouth of Columbia River Dredged Material.

Site B—Region X.

Location: 46°14'37" N., 124°10'34" W.;

46°13'53" N., 124°10'01" W.; 46°13'43" N.,

124°10'28" W.; 46°14'28" N., 124°10'59" W.

Size: 0.25 square nautical miles.

Depth: Ranges from 18–40 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(29) Mouth of Columbia River Dredged Material.

Site E—Region X.

Location: 46°15'43" N., 124°05'21" W.;

46°15'36" N., 124°05'11" W.; 46°15'11" N.,

124°05'53" W.; 46°15'18" N., 124°06'03" W.

Size: 0.08 square nautical miles.

Depth: Ranges from 18–40 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

(30) Mouth of Columbia River Dredged Material.

Site F—Region X.

Location: 46°12'12" N., 124°09'00" W.;

46°12'00" N., 124°08'42" W.; 46°11'48" N.,

124°09'00" W.; 46°12'00" N., 124°09'18" W.

Size: 0.08 square nautical miles.

Depth: Ranges from 18–40 meters.

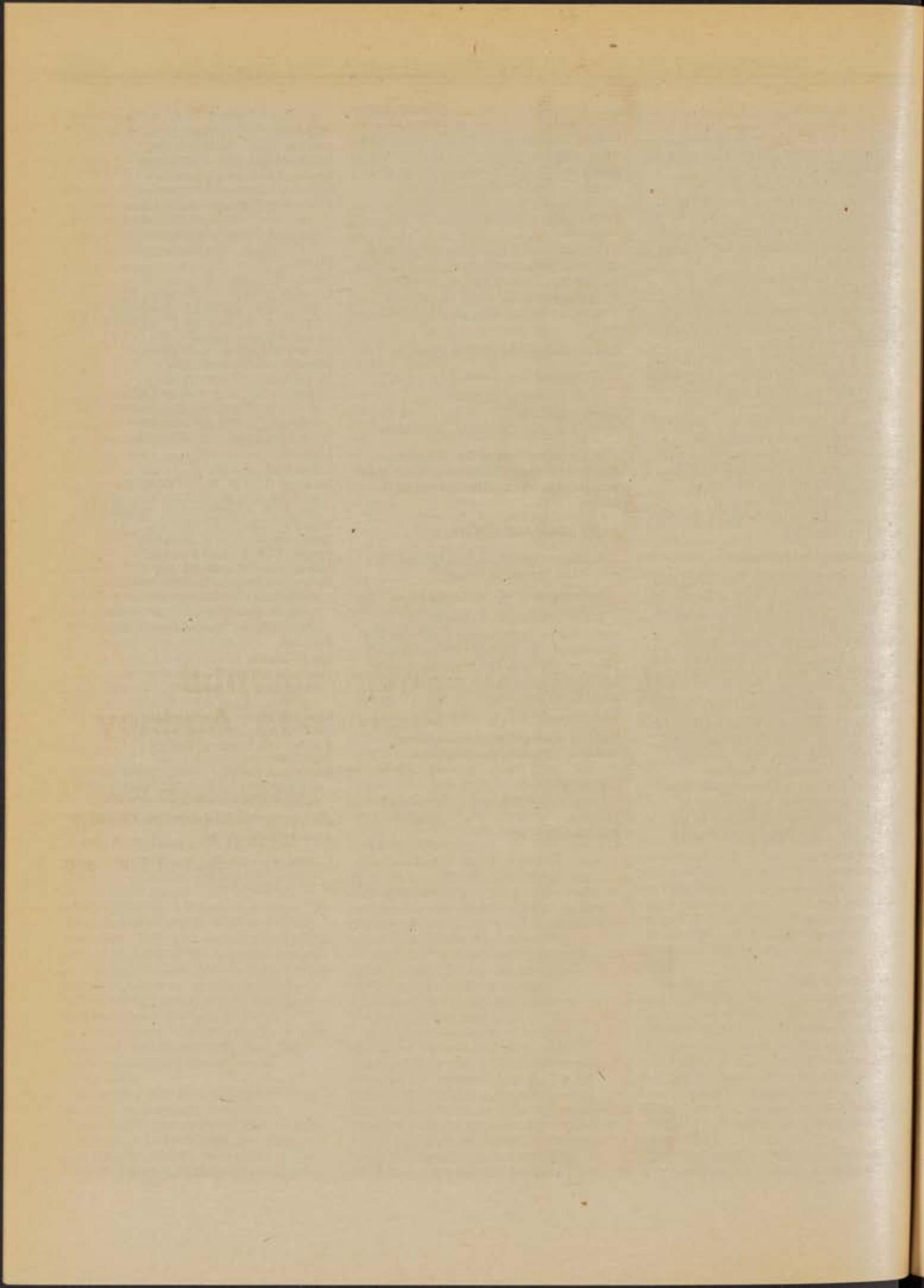
Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Columbia River entrance channel and adjacent areas.

[FR Doc. 85-23381 Filed 10-1-85; 8:45 am]

BILLING CODE 5660-50-M



Federal Register

Wednesday
October 2, 1985

Part V

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New
Stationary Sources; Addition of Quality
Assurance and Control Procedures to
Reference Methods; Proposed Rule and
Notice of Public Hearing

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 60
[AD-FRL-2897-2]
**Standards of Performance for New
Stationary Sources; Appendix A—
Addition of Quality Assurance and
Quality Control Procedures to
Methods 5A, 5D, 6A, 6B, and 20;
Proposal of Revisions**
AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule and notice of
public hearing.

SUMMARY: The purpose of this rule is to add quality control (QC) and quality assurance (QA) procedures to five methods already published in 40 CFR Part 60. These QC and QA procedural additions include field calibration checks of the sample volume meters for Methods 5A and 5D, addition of a temperature monitor for Method 5A, analytical audits for methods 6A and 6B, and specific procedural clarifications to Method 20. The additions primarily incorporate changes made to other methods in 40 CFR Part 60 in earlier Federal Register notices (49 FR 26522 and 48 FR 55670). The intended effect is to provide procedures for verifying and improving the reliability of data produced by these test methods.

There are additional changes being proposed for Method 20 to allow the measurement of CO₂ in lieu of O₂ measurements. The additions to Method 20 to allow CO₂ measurement include specifications for instruments monitoring and calculations for correcting pollutant measurement to specific O₂ conditions using CO₂ data. The intended effect of this procedural change is to increase the flexibility of the method.

A public hearing, if requested, will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before December 13, 1985.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 23, 1985, a public hearing will be held on November 13, 1985 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mr. Peter R. Westlin at (919) 541-2237 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 23, 1985.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number A-85-09, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. Peter Westlin, Emission Measurement Branch (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

Docket. Docket No. A-85-09, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Peter R. Westlin, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: The EPA published revisions to Methods 4 and 5 on December 14, 1983 (48 FR 55670), providing a means for the tester to check the dry gas volume meter calibration on the test site. These QC procedures were included as recommendations, but were not required. The amendments being proposed incorporate these QC procedures into Methods 5A and 5D.

A second change is being proposed for Method 5A regarding the filter temperature monitor. The filter temperature during sampling with Method 5A is critical to proper sample collection. The revision specifies that the temperature sensor be located in the sample gas stream immediately downstream of the filter.

The EPA published revisions to Method 6 on June 27, 1984 (49 FR 26522), to include analytical audit procedures to assure the quality of the analytical results. The proposal specifies the completion of these audits for Methods 6A and 6B when the methods are used for compliance determinations. Method 6A revisions specify completion of the

audits for each application of the method. Method 6B revisions describe a periodic scheduling of the audits and both revisions refer to Method 6 for the audit procedures.

Method 20 is the NO_x emissions measurement method applicable to stationary gas turbine testing. It is an instrument-based method for the measurement of NO_x and O₂ for reporting NO_x emissions in concentration units corrected to specific O₂ conditions. The revisions being proposed are made in response to requests from several users of Method 20 to allow measurement of CO₂ in addition to or in lieu of O₂ measurement. This approach is feasible and may add quality control capabilities to the procedures using fuel specific F factors. The addition of CO₂ measurement is being proposed with several clarification to several sections in Method 20.

The Administrator requests comments on the applicability of these and other QC and QA procedures.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a regulatory impact analysis. This proposed regulation is not major because it would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be major. The QA and QC procedures proposed will add little, if any, time or expense to the length or cost of the field test or sample analyses. The economic analysis of the proposed standards' effect on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order.)

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on small business entities because the additional testing costs associated with the changes are not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Petroleum.

Dated: September 23, 1985.

Lee M. Thomas,
Administrator.

PART 60—[AMENDED]

It is proposed to amend 40 CFR Part 60, Appendix A, as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 111, 114, 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7414, 7601(a)].

2. In Method 5A, by revising Section 2.1.4 as follows:

2.1.4 *Filter Heating System.* Any heating (or cooling) system capable of maintaining a sample gas temperature at the exit end of the filter holder during sampling at 42 ± 10 °C (108 ± 18 °F). Install a temperature gauge at the exit side of the filter holder so that the sensing tip of the temperature gauge is in direct contact with the sample gas and the sample gas temperature can be regulated and monitored during sampling. The temperature gauge shall comply with the calibration specifications defined in Section 5. The tester may use systems other than the one shown in APD-0581.

3. In Method 5A, by adding a new Section 4.4 as follows:

4.4 A quality control (QC) check of the volume metering system at the field site is suggested before collecting the sample. Use the procedure defined in Method 5, Section 4.4.

4. In Method 5D, by adding Section 4.7 to Section 4 as follows:

4.7 *Quality Control.* A QC check of the volume metering system at the field site is suggested before collecting the sample. Use the procedure defined in Section 4.4 of Method 5.

5. In Method 6A, by adding Section 4.4 as follows:

4.4 *Quality Assurance (QA) Audit Samples.* Only when this method is used for compliance determinations, obtain an audit sample set as directed in Section 3.3.6 of Method 6. Analyze the audit samples, and report the results as directed in Section 4.4 of Method 6. Acceptance criteria for the audit results are the same as in Method 6.

6. In Method 6A, by revising Section 7.5 to Section 7 as follows:

7.5 *Sample Analysis.* Analysis of the peroxide solution is the same as described in Section 4.3. Only when making compliance determinations, conduct an audit of the SO₂ analysis procedure as described in Section 4.4.

7. In Method 6B, by adding Section 4.4 as follows:

4.4 *QA Audit Samples.* Only when this method is used for compliance determinations, obtain an audit sample set as directed in Section 3.3.6 of Method 6. Analyze

the audit samples at least once for every 30 days of sample collection, and report the results as directed in Section 4.4 of Method 6. The analyst performing the sample analyses shall perform the audit analyses. If more than one analyst performed the sample analyses during the 30-day sampling period, each analyst shall perform the audit analyses and all audit results shall be reported. Acceptance criteria for the audit results are the same as in Method 6.

8. In Method 6B, by revising Section 7 as follows:

7. *Emission Rate Procedure*
The emission rate procedure is the same as described in Method 6A, Section 7, except that the timer is needed and is operated as described in this method. Only when this method is used for compliance determinations, perform the QA audit analyses as described in Section 4.4.

9. In Method 20, by revising the title as follows:

Method 20—Determination of Nitrogen Oxides, Sulfur Dioxide, and Diluent Emissions from Stationary Gas Turbines

10. In Method 20, by revising Section 1.1 as follows:

1.1 *Applicability.* This method is applicable for the determination of nitrogen oxides (NO_x), sulfur dioxide (SO₂), and a diluent gas, either oxygen (O₂) or carbon dioxide (CO₂), emissions from stationary gas turbines. For the NO_x and diluent concentration determinations, this method includes: (1) measurement system design criteria; (2) analyzer performance specifications and performance test procedures; and (3) procedures for emission testing.

11. In Method 20, Section 1.2, by replacing "O₂" where it appears with "diluent".

12. In Method 20, by adding new Sections 2.1.4 and 2.1.5 as follows:

2.1.4 *CO₂ Analyzer.* That portion of the system that senses CO₂ and generates an output proportional to the gas concentration.

2.1.5 *Data Recorder.* That portion of the measurement system that provides a permanent record of the analyzer(s) output. The data recorder may include automatic data reduction capabilities.

13. In Method 20, Section 2.7, by replacing "continuous monitoring system" with "measurement system".

14. In Method 20, Sections 3.2, 3.4, 4.1, and 4.1.5, by replacing "O₂" where it appears with "diluent".

15. In Method 20, Section 4.1.11, by replacing "Data Output" with "Data Recorder".

16. In Method 20, by revising Section 4.1.9 as follows:

4.1.9 *Diluent Gas Analyzer.* An analyzer to determine the percent O₂ or CO₂ concentration of the sample gas.

17. In Method 20, by revising Section 4.4 and adding new Sections 4.4.1 and 4.4.2 as follows:

4.4 Diluent Calibration Gases.

4.4.1 For O₂ calibration gases, use purified air at 20.9 percent O₂ as the high-level O₂ gas. Use a gas concentration between 11 and 15 percent O₂ in nitrogen for the mid-level gas, and use purified nitrogen for the zero gas.

4.4.2 For CO₂ calibration gases, use a gas concentration between 8 and 12 percent CO₂ in air for the high-level calibration gas. Use a gas concentration between 2 and 5 percent CO₂ in air for the mid-level calibration gas, and use purified air (<100 ppm CO₂) as the zero level calibration gas.

18. In Method 20, Section 5.1, by replacing "O₂" where it appears with "O₂ or CO₂".

19. In Method 20, Sections 5.2, 5.3, 5.3.2, and 5.4, by replacing "O₂" where it appears with "diluent".

20. In Method 20, by revising Section 6.1.2 as follows:

6.1.2 A preliminary O₂ or CO₂ traverse is made for the purpose of selecting sampling points of low O₂ or high CO₂ concentrations, as appropriate for the measurement system. Conduct this test at the turbine operating condition that is the lowest percentage of peak load operation included in the test program. Follow the procedure below, or use an alternative procedure subject to the approval of the Administrator.

21. In Method 20, Sections 6.1.2.2 and 6.1.2.3, by replacing "O₂" where it appears with "diluent".

22. In Method 20, by revising Section 6.1.2.4 as follows:

6.1.2.4 *Selection of Emission Test Sampling Points.* Select the eight sampling points at which the lowest O₂ concentrations or highest CO₂ concentrations were obtained. Sample at each of these selected points during each run at the different turbine load conditions. More than eight points may be used, if desired, providing that the points selected as described above are included.

23. In Method 20, Sections 6.2, 6.2.2, 6.2.3, and 6.3, by replacing "O₂" where it appears with "diluent".

24. In Method 20, by revising Section 7 as follows:

7. Emission Calculations

7.1 *Moisture Correction.* Measurement data used in most of these calibrations must be on a dry basis. If measurements must be corrected to dry conditions, use the following equation:

$$C_d = \frac{C_w}{1 - B_w} \quad \text{Eq. 20-1}$$

where:

C_d = Gas concentration adjusted to dry conditions, ppm or percent.

C_w = Gas concentration measured under moist sample conditions, ppm or percent.

B_{m_2} = Moisture content of sample gas as measured with Method 4, reference method, or other approved method, percent/100.

7.2 CO₂ Correction Factor. If pollutant concentrations are to be corrected to 15 percent O₂ and CO₂ concentration is measured in lieu of O₂ concentration measurement, a CO₂ correction factor is needed. Calculate the CO₂ correction factor as follows:

7.2.1 Calculate the fuel-specific F_0 value for the fuel burned during the test using values obtained from Method 19, Section 5.2., and the following equation.

$$F_0 = \frac{0.209 F_d}{F_c} \quad \text{Eq. 20-2}$$

where:

F_d = Fuel factor based on the ratio of oxygen volume to the ultimate CO₂ volume produced by the fuel at zero percent excess air, dimensionless.

0.209 = Fraction of air that is oxygen, percent/100.

F_c = Ratio of the volume of dry effluent gas to the gross calorific value of the fuel from Method 19, dsm^3/J ($\text{dscf}/10^6 \text{ Btu}$).

F_r = Ratio of the volume of carbon dioxide produced to the gross calorific value of the fuel from Method 19, dsm^3/J ($\text{dscf}/10^6 \text{ Btu}$).

7.2.2 Calculate the CO₂ correction factor for correcting measurement data to 15 percent oxygen, as follows:

$$^x\text{CO}_2 = \frac{5.9}{F_0} \quad \text{Eq. 20-3}$$

where:

$^x\text{CO}_2$ = CO₂ correction factor, percent.
5.9 = 20.9 percent O₂ - 15 percent O₂, the defined O₂ correction value, percent.

7.3 Correction of Pollutant Concentrations to 15 Percent O₂. Calculate the NO_x and SO₂ gas concentrations adjusted to 15 percent O₂ using Equation 20-4 or 20-5, as appropriate. The correction to 15 percent O₂ is very sensitive to the accuracy of the O₂ or CO₂ concentration measurement. At the level of the analyzer drift specified in Section 3, the O₂ or CO₂ correction can exceed 5 percent at levels expected in gas turbine exhaust gases.

Therefore, O₂ or CO₂ analyzer stability and careful calibration are necessary.

7.3.1 Correction of pollutant concentration using O₂ concentration data:

$$C_{adj} = C_d \frac{5.9}{20.9 - \%O_2} \quad \text{Eq. 20-4}$$

where:

C_{adj} = Pollutant concentration corrected to 15 percent O₂, ppm.

C_d = Pollutant concentration measured, dry basis, ppm.

$\%O_2$ = Percent O₂ measured, dry basis, percent.

7.3.2 Correction of pollutant concentration using CO₂ concentration data:

$$C_{adj} = C_d \frac{^x\text{CO}_2}{\%CO_2} \quad \text{Eq. 20-5}$$

where:

$\%CO_2$ = Percent CO₂ measured, dry basis, percent.

7.4 Average Adjusted NO_x Concentration. Calculate the average adjusted NO_x concentration by summing the adjusted values for each sample point and dividing by the number of points for each run.

7.5 NO_x and SO₂ Emission Rate Calculations. The emission rates for NO_x and SO₂ in units of pollutant mass per quantity of heat input can be calculated using the pollutant and diluent concentrations and fuel-specific F factors based on the fuel combustion characteristics. The measured concentrations of pollutant in units of parts per million by volume (ppm) must be converted to mass per unit volume concentration units for these calculations. Use the following table for such conversions:

CONVERSION FACTORS FOR CONCENTRATION

From	To	Multiply by
g/sm ³	ng/sm ³	10 ⁹
mg/sm ³	ng/sm ³	10 ⁶
lb/scf	ng/sm ³	1.602 × 10 ¹⁰
ppm (SO ₂)	ng/sm ³	2.660 × 10 ⁶
ppm (NO _x)	ng/sm ³	1.912 × 10 ⁶
ppm (SO ₂)	lb/scf	1.660 × 10 ⁻¹¹
ppm (NO _x)	lb/scf	1.194 × 10 ⁻¹¹

7.5.1 Calculation of Emission Rate Using Oxygen Correction. Both the O₂

concentration and the pollutant concentration must be on a dry basis. Calculate the pollutant emission rate, as follows:

$$E = C_d F_d \frac{20.9}{20.9 - \%O_2} \quad \text{Eq. 20-6}$$

where:

E = Mass emission rate of pollutant, ng/J ($\text{lb}/10^6 \text{ Btu}$).

7.5.2 Calculation of Emission Rate Using Carbon Dioxide Correction. The CO₂ concentration and the pollutant concentration may be on either a dry basis or a wet basis, but both concentrations must be on the same basis for the calculation. Calculate the pollutant emission rate using Equation 20-7 or 20-8:

$$E = C_w F_r \frac{100}{\%CO_2} \quad \text{Eq. 20-7}$$

$$E = C_w F_c \frac{100}{\%CO_{2w}} \quad \text{Eq. 20-8}$$

where:

C_w = Pollutant concentration measured on a moist sample basis, ng/sm³ (lb/scf).

$\%CO_{2w}$ = Percent CO₂ measured on a moist sample basis, percent.

25. In Method 20, by adding Section 8.3 to Section 8 as follows:

8.3 Shigehara, R.T., R.M. Neulicht, and W.S. Smith. Validating Orsat Analysis Data from Fossil Fuel-Fired Units. Emission Measurement Branch, Emission Standards and Engineering Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. June 1975.

26. In Method 20, by replacing Figure 20-1 with new Figure 20-1 in Method 20.

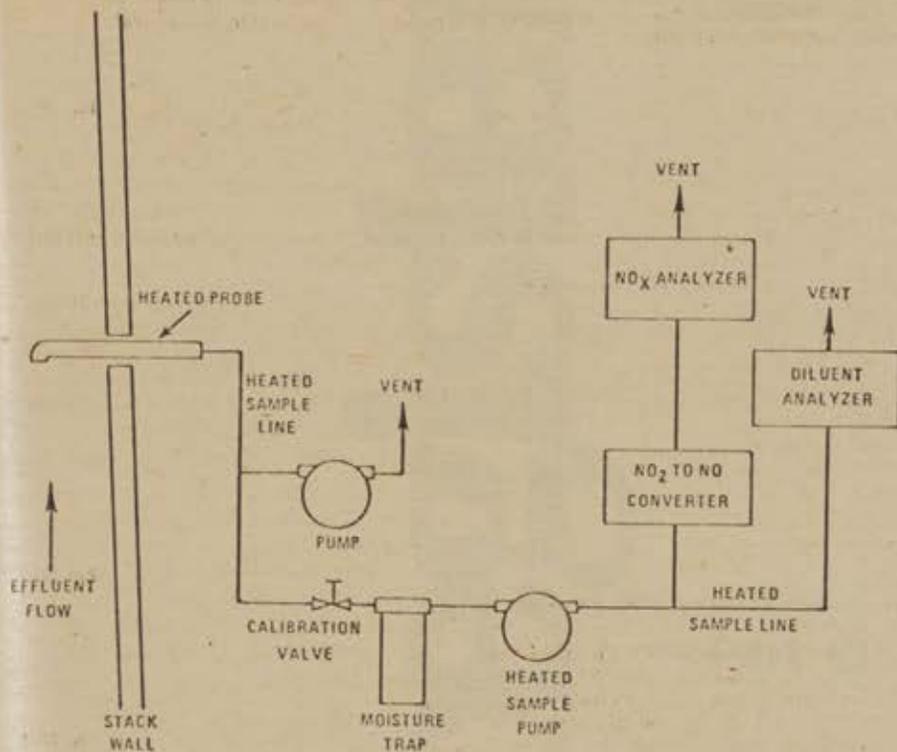
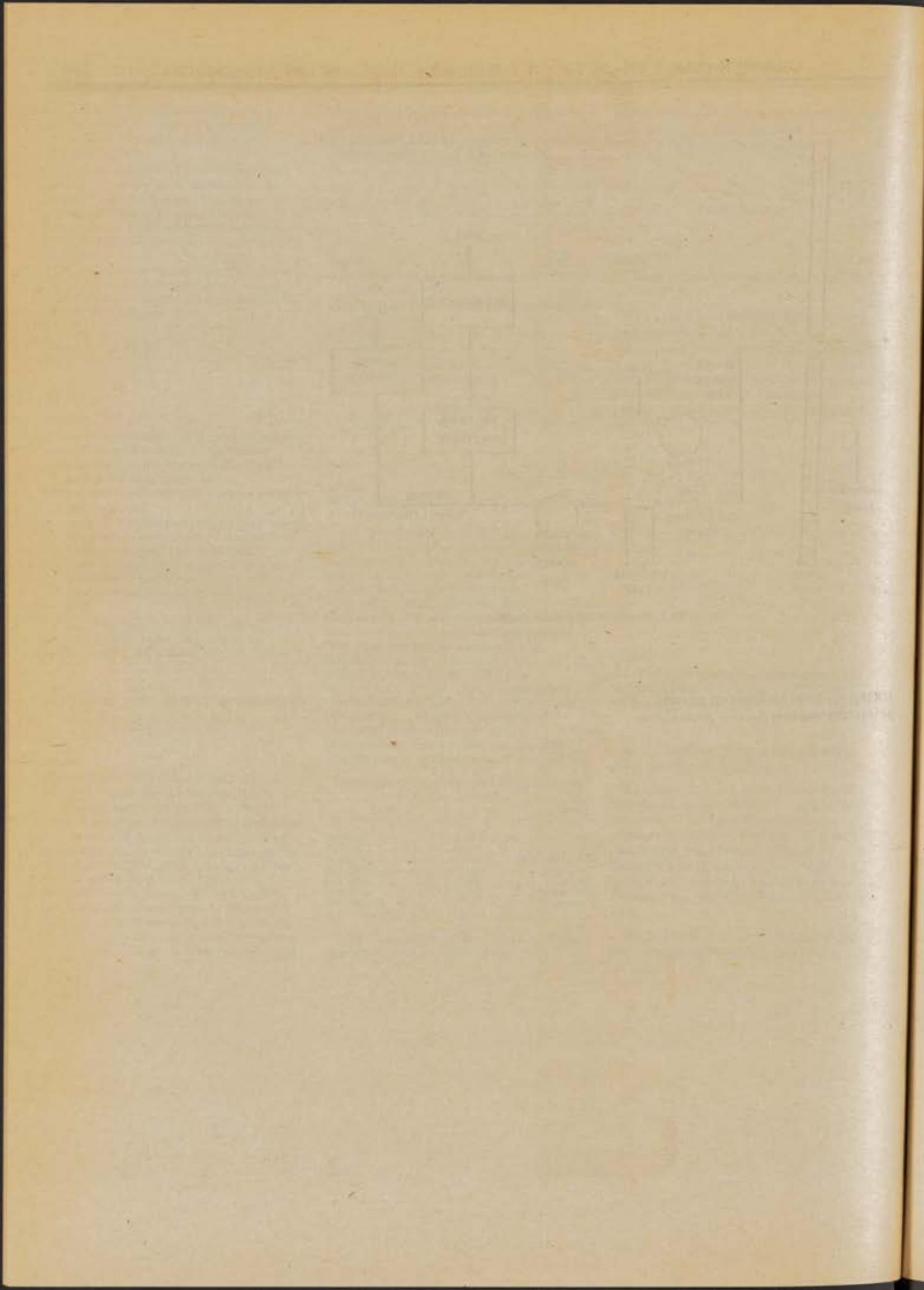


Figure 20.1. Measurement system design.



Environmental Protection Agency

Wednesday
October 2, 1985

Part VI

**Environmental
Protection Agency**

**Assessment of Ethylene Oxide As a
Potentially Toxic Air Pollutant; Notice**

**ENVIRONMENTAL PROTECTION
AGENCY**
[ADL-FRL-2859-2]
**Assessment of Ethylene Oxide as a
Potentially Toxic Air Pollutant**
AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to List Ethylene Oxide Under Section 112 of the Clean Air Act (CAA) and Solicitation of Information.

SUMMARY: This notice describes the results of EPA's preliminary assessment of ethylene oxide as a potentially toxic air pollutant. Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add ethylene oxide to the list of hazardous air pollutants for which it intends to establish emission standards under section 112(b)(1)(A) of the CAA. The EPA will decide whether to add ethylene oxide to the list only after studying possible techniques that might be used to control emissions of ethylene oxide and after further assessing the public health risks and benefits. The EPA will add ethylene oxide to the list only if emission standards are warranted.

Through this notice, the Agency is also soliciting information on the potential carcinogenicity of ethylene oxide, the potential for non-carcinogenic effects of ethylene oxide exposure, the potential for atmospheric degradation and transformation, monitoring techniques, and the sources and emissions of ethylene oxide. This notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of ethylene oxide, nor does it have any effect on the regulation of ethylene oxide as a volatile organic compound in order to attain the national ambient air quality standards (NAAQS) for ozone.

ADDRESSES: Submit comments (duplicate copies are preferred) by December 2, 1985 to: Central Docket Section (A-130), Environmental Protection Agency, ATTN: Docket No. A-85-10, 401 M Street, SW, Washington, DC 20460. The Central Docket Section is located at the offices of the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW, Washington, DC. The docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

Availability of related information: The Health Assessment Document (HAD) for ethylene oxide (EPA 600/8-84-009F,

May 1985) is available in limited quantities through ORD Publications—CERI-FRN, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45258 ((513) 684-7562 commercial/684-7562 FTSO. for further information on the availability of the final document contact Ms. Diane Ray, U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office (MD/52), Research Triangle Park, North Carolina 27711 ((919) 541-3637 commercial/629-3637 FTS).

The Source assessment document for ethylene oxide, "Sources of Ethylene Oxide Emissions," may be obtained from the Environmental Research Library (MD-35), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 ((919) 541-2777/629-2777 FTS). For further information contact Mr. Robert Rosensteel ((919) 541-5617 commercial/629-5617 FTS).

FOR FURTHER INFORMATION CONTACT: Robert Schell, Pollutant Assessment Branch (MD-12,) Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park NC 27711 (telephone: (919)-541-5645 commercial/629-5645 FTS).

SUPPLEMENTARY INFORMATION: Ethylene oxide is a man-made chemical compound that is released to the ambient air during production, during its use as a chemical intermediate in the formulation of glycols and ethoxylates, and during its use as a sterilizer/fumigator. Ethylene oxide is one of the top 50 organic chemicals in terms of annual production, with over two million metric tons produced in the United States in 1983. Over 80 percent of the ethylene oxide produced annually is used in the production of ethylene glycol, glycol ether and ethanolamine. Ethylene oxide is also used as a very effective, low temperature sterilizing agent in the health care and medical supplies industry as well as in agriculture, museums and libraries. Significant public health benefits are derived from the use of ethylene oxide as a sterilizing agent.

Because of potential adverse health effects associated with ethylene oxide exposure, EPA initiated a review to determine the risks to public health from exposure to ethylene oxide in the ambient air. As an early step in this review, a comprehensive HAD prepared that summarized the scientific literature on health effects of ethylene oxide exposure. The April 1984 draft HAD was reviewed at a public meeting of the Environmental Health Committee of the Science Advisory Board (SAB) on October 3, 1984. The SAB is an

independent group of recognized scientists and technical experts that provide scientific advice to the Administrator. The SAB concurred with the major findings of the draft HAD, including the finding that there is sufficient evidence from the positive animal data to conclude that ethylene oxide should be considered as a probable human carcinogen. A transcript of the SAB meeting is available for inspection and copying at the U.S. Environmental Protection Agency, Committee Management staff (contact Janet Workcuff), A-101, Room 2515, 401 M Street, SW, Washington, DC 20460 (telephone: (202)-382-5036 commercial/382-5036 FTS).

Sources and Emissions

A preliminary study has identified three major source categories. These are production and on-site use, ethoxylate production and sterilizer/fumigator use. Of these, existing controls and emissions are best understood for production facilities and on-site use in the production of ethylene glycol, glycol ethers and ethanolamine. Ethylene oxide sterilizers of varying capacity appear to be routinely used in many different locations across the United States. Information of ethylene oxide released from use in the production of ethoxylates in the detergent industry and sterilizer/fumigator use in the health, food and agricultural industry is not as well characterized in terms of amounts used, locations of use and procedures for use and disposal.

Current information indicates that emissions from sterilizer/fumigator facilities generally are not well controlled. One method of controlling air emissions of ethylene oxide from major sterilizer facilities is by dissolving it in water and discharging to the sewer, ultimately arriving at publicly-owned treatment works (POTWs). When dissolved in water, ethylene glycol is produced; however, the HAD reports that the reaction half-life (ethylene oxide to ethylene glycol) can be as long as 14 days, depending on the acidity of the water used. Thus, the amount of ethylene oxide available for release to the ambient air at POTWs can vary greatly. The estimated emissions associated with the sterilizer/fumigator sources include emissions from POTWs as well as emissions released directly to the air. Current estimated ethylene oxide annual emissions associated with each general source category are presented in Table 1.

TABLE 1.—SUMMARY OF ETHYLENE OXIDE EMISSIONS

Source category	Estimated No. of sources	Estimated emissions (Mg/yr)
Production/Captive Use.....	15	1,500
Ethylene Production.....	50	200
Medical Supplies Manufacture.....	230	2,050
Other Sterilizer/Fumigator.....	>7,000	1,200
Other (Combustion Products, POTWs, etc.).....	NA	NA

¹ Not available.

Ethylene oxide has also been reported to be a component of automobile exhaust and cigarette smoke. However, it is not possible to quantify the emissions from automobile exhaust, cigarette smoke or POTWs at this time.

Health Effects

The HAD summarizes a number of adverse health effects associated with ethylene oxide exposure. Toxicity data suggest that ethylene oxide is readily absorbed via the respiratory and gastrointestinal tracts and several studies have shown that ethylene oxide is widely distributed in various tissues (liver, kidney, lung, testes, brain, spleen and intestinal mucosa) following inhalation exposure. Respiratory, ocular, dermal, systemic and neurological effects in humans have been associated with acute and subchronic exposure to ethylene oxide.

For regulatory purposes, the effect of greatest emphasis, both because of the seriousness of the effect and because of the strength of the health evidence, is cancer. Ethylene oxide has been shown to be carcinogenic in animals by the inhalation route. Three epidemiological studies have shown a significant association between ethylene oxide exposure and the occurrence of cancer in humans. While these studies are not definitive, they do constitute limited evidence for human carcinogenicity under both the International Agency for Research on Cancer (IARC) and the EPA classification schemes for the evaluation of carcinogenic risk to humans. The HAD also reports that ethylene oxide is highly mutagenic and can react with mammalian DNA to cause heritable mutations.

The HAD concludes that the level of carcinogenic evidence available, i.e., positive animal chronic bioassays and limited human evidence, would place ethylene oxide into IARC Group 2A and EPA Group B1 or B2, meaning that ethylene oxide is probably carcinogenic in humans. The best estimate of the upper bound incremental unit risk estimate for ethylene oxide is $1.0 \times 10^{-4} (\mu\text{g}/\text{m}^3)^{-1}$, meaning that if a person were continuously exposed to 1

microgram per cubic meter ($\mu\text{g}/\text{m}^3$) of ethylene oxide for 70 years, the upper limit increased probability of getting lung cancer is 1 chance in 10,000.

The HAD documents that ethylene oxide is capable of producing developmental toxicity, i.e., structural defects, *in utero* death, growth retardation, and infertility in laboratory animals. The levels needed to produce these effects approach or equal the levels needed to produce maternal toxicity (in rats 150 parts per million (ppm) for 2 weeks). Ethylene oxide exposure as low as 50 ppm (7 hours/day, 5 days a week for 2 years) has been shown to cause testicular degeneration and poor semen quality in monkeys. The effects of ethylene oxide on human reproduction have not been studied in depth, although at least one occupational study indicates that ethylene oxide may be associated with spontaneous abortion in pregnant women. At the present time there is no generally accepted method of extrapolating high dose reproductive effects to the low concentrations generally encountered by the public in the ambient air.

Regarding other effects, the HAD documents that tearing and irritation of the nasal mucosa have been reported at concentrations of approximately 2,200 ppm for an unstated length of exposure and that at approximately 11,000 ppm, irritation was elicited in 10 seconds. In one case of accidental subchronic exposure to an estimated concentration of >700 ppm for approximately two months, functional neuropathy was observed, including fatigability and weakness in the extremities. In a follow-up study on these same workers, it was found that bilateral cataracts were diagnosed 2½ to 3½ years following exposure. An analysis of the ethylene oxide concentrations associated with non-carcinogenic health effects reveals that these concentrations are well above any levels expected to exist in the ambient air.

Public Exposure

The HAD indicates that ethylene oxide has not been measured in the ambient air. Reliable ambient air monitoring methodology for its measurement is not currently available. Although there are methods available to quantify exposures in the work place, the detection limit is too high for concentrations expected in the ambient air. The EPA has performed dispersion modeling to estimate the maximum concentrations to which people may be exposed near ethylene oxide emission sources. The Human Exposure Model (HEM) combines meteorological data

and 1980 population census data, which allows calculation of population impacts in the United States.

A major factor influencing the concentrations of a pollutant to which people may be exposed is atmospheric residence time. Data are not currently available to conclusively determine the atmospheric reactivity of ethylene oxide. Nevertheless, the limited data available suggest that ethylene oxide can exist in the ambient air for at least several hours, a sufficient length of time for significant human exposure to occur. The maximum annual average concentration of ethylene oxide predicted by modeling was 0.01 ppm (18.8 $\mu\text{g}/\text{m}^3$). In order to estimate short-term concentrations to which people might be exposed, a different model was used that estimated that 15-minute averages can be as high as 3 ppm (5000 $\mu\text{g}/\text{m}^3$) and 8-hour concentrations as high as 0.5 ppm (900 $\mu\text{g}/\text{m}^3$).

Risk Assessment

In order to assess the incremental cancer risks of human exposure to ethylene oxide, the dispersion modeling results from the HEM were used to derive two estimates of risk. First, an estimate of the incremental lifetime cancer risk to the highest annual average concentration to which any individual is estimated to be exposed for all sources modeled is calculated. This measure is the maximum individual risk. Second, the excess cancer cases per year that could be associated with exposures from all sources in the analysis is estimated. This measure is the aggregate risk estimate.

Preliminary cancer risk estimates indicate the maximum individual risk to be about 1.9×10^{-3} , with an aggregate risk of approximately 58 cancer cases per year associated with estimated ethylene oxide emissions from all sources (Table 2). This assessment used a 95% upper limit incremental unit risk number of 1.0×10^{-4} , preliminary source information and the HEM.

TABLE 2.—EXPOSURE/RISK ASSESSMENT

Source category	Maximum individual lifetime risk	Aggregate risk additional cancers/year
Production/Captive Use.....	1.9×10^{-3}	1.2
Ethylene Production.....	3.1×10^{-3}	0.4
Medical Supplies Manufacture.....	2.7×10^{-4}	8.9
Other Sterilizer/Fumigator.....	4.1×10^{-4}	47
Total.....		58

An analysis of the ethylene oxide concentrations associated with noncarcinogenic health effects reveals that these concentrations are well above

any levels expected to exist in the ambient air. The duration of exposure associated with non-carcinogenic health effects is not directly comparable with the averaging times used by the dispersion models; however, the modeled concentration of 3 ppm for 15 minutes is well below the 11,000 ppm for 10 seconds associated with irritation of the nasal mucosa. In addition, the 0.5 ppm for 8 hours and the modeled annual average of 0.01 ppm are below the estimated 700 ppm for approximately 2 months associated with functional neuropathy and cataracts in occupationally exposed personnel. The results of the preliminary risk assessment show the increased cancer risks associated with exposure to ethylene oxide in the ambient air are sufficient to warrant further study of ethylene oxide. Although the Agency considers all health information in coming to decisions on the need to continue study of potentially toxic air pollutants, the cancer risk associated with ethylene oxide in the ambient air has been most important in determining the need for further study.

There are a number of assumptions underlying risk estimates that can yield either over or underestimates of the risk posed by ethylene oxide. Further study and assessment will not likely narrow the uncertainties associated with some of the inputs to the risk assessment or yield an improvement in some of these assumptions (e.g., the carcinogenic potency of a chemical estimated through the use of a mathematical model for extrapolating high-exposure animal studies to the much lower concentrations present in the ambient air). There are other inputs to the risk estimates which are very preliminary at the current stage of assessment and which will be substantially refined through further study. The primary example of this is the source information: number and types of sources, their locations, emission rates, stack parameters, variability of emissions, etc. Current source information is based on engineering estimates, data obtained under section 114 of the CAA and other readily available information in the literature. This information, in many cases, will be improved through plant visits and source tests. The Agency has concluded that the preliminary risk estimates presented here are sufficient to warrant further study for possible regulation. The Agency will improve these estimates, particularly with respect to emission and exposure, before making a final decision on whether to add the pollutant to the list under section 112.

Statement of Intent

Section 112(b)(1)(A) of the CAA defines hazardous air pollutants as air pollutants that contribute to mortality or serious irreversible, or incapacitating reversible, illness. Section 112(b)(1)(A) of the CAA provides that the Administrator shall maintain "... a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section." In deciding whether to establish such emission standards, EPA considers both public health risks and the feasibility and reasonableness of control techniques (e.g., 49 FR 23522; 23498; 23558 (June 6, 1984) (emission standards for benzene)).

Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add ethylene oxide to the section 112(b)(1)(A) list. The EPA will decide whether to add ethylene oxide to the list only after studying possible techniques that might be used to control emissions of ethylene oxide and after further improving the assessment of public health risks. The EPA will add ethylene oxide to the list if emission standards are warranted. The EPA will publish this decision in the **Federal Register**.

If standards are not warranted under section 112 of the CAA, the Agency will consider other options as described in EPA's report "A Strategy to Reduce Public Health Risks from Air Toxics," June 1985. For example, in that strategy EPA described other approaches for dealing with routine releases of toxic air pollutants from stationary sources such as working with State and local air pollution control agencies to address problems that do not warrant Federal regulatory action but which account for elevated risks in some areas.

Standards Development Process

The following discussion has been prepared to provide the reader with an explanation of the standards development process and the timing of the process. The standards development process involves two phases, each taking about two years. The first phase is the identification and assessment of the emission sources and the need and ability to control those sources. The second phase involves Agency decision-making and public review prior to a final action.

During the first phase EPA identifies the sources that are significant emitters of the pollutant and the specific emission points within each source EPA then determines the quantity of pollutant emitted, the alternative control systems available, and their cost and

effectiveness in reducing emissions and associated public health risks. A set of alternative regulations is developed and the environmental, economic, energy, and public health risks are evaluated for each alternative.

The first phase requires investigation of the many different ways in which a candidate pollutant can be emitted and controlled. As indicated earlier, ethylene oxide is emitted during production, during its use as a chemical intermediate in the formulation of glycols and othoxylates and during its use as a sterilizer/fumigator. Within a source category, there is wide variation in design, capacity and process. This variation affects the emission rates and the cost and availability of controls for the pollutant. Assessment of source emissions and controls is further complicated by the fact that some emissions (e.g., fugitive leaks) are not necessarily contained in stacks or ducts, and emission test programs are technically difficult and costly. In developing the standards for ethylene oxide, EPA will consider the beneficial uses of ethylene oxide, particularly as a sterilant, and the ability of sources to comply with the Food and Drug Administration's Good Manufacturing Practice Regulations which require sterilization of medical devices.

The decision-making and review phase involves a series of EPA internal and external activities. Prior to publication of proposed rules, the Agency reviews all the technical, cost and exposure/risk data and makes decisions on the level of standards. The data and conclusions are reviewed publicly by an independent technical advisory committee. The comment period is open a minimum of two months and a public hearing is held, if requested. Following the comment period, Agency technical staff review the comments and resolve technical issues, an activity that often requires obtaining and analyzing new data.

Call for Information

The EPA seeks relevant information, including but not limited to the following:

1. Are there any adverse health effects other than those presented in the HAD associated with exposure to ethylene oxide via the ambient air and if so, at what concentrations and exposure times are these effects observed?
2. Are there any available ambient air monitoring techniques for ethylene oxide?
3. Are there sources other than those listed in Table 1 that are likely to emit ethylene oxide into the air?

4. What are the locations, emission rates and current control equipment for ethylene oxide sources?

5. What is the quantity of ethylene oxide being emitted from each ethylene oxide source category, including automobile exhaust and POTWs.

People with information to submit should either provide this information by December 2, 1985 or notify the Agency by December 2, 1985 that they will be providing this information. Information should be submitted in duplicate to the Central Docket Section (A-130), Environmental Protection Agency, ATTN: Docket No. A-85-10, 401 M Street, SW, Washington, DC 20460.

Miscellaneous

On January 2, 1985 (50 FR 64) the Occupational Safety and Health Administration (OSHA) published a final occupational standard for ethylene oxide that established a permissible exposure limit of 1 ppm determined as an 8-hour time-weighted average concentration. Employers must initiate certain compliance procedures when an "action level" of 0.5 ppm for an 8-hour time-weighted average is reached. The basis for this action was human and animal data indicating to OSHA that ethylene oxide presents a carcinogenic, mutagenic, genotoxic, reproductive, neurologic and sensitization hazard to workers.

Ethylene oxide is also regulated as a hazardous material by the Department of Transportation and is required to have approved labeling under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). In 1978, a Notice of Rebuttable Presumption Against Registration (RPAR) was issued under FIFRA. The FIFRA review process is still underway, but could lead to

restriction of the use of ethylene oxide as a fumigant.

Ethylene oxide is subject to reporting requirements under the Toxic Substances Control Act, is regulated as a hazardous waste under the Resource Conservation and Recovery Act (RCRA) and is listed as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act. Under RCRA, the Agency is investigating the hazard of wastes resulting from the manufacture of ethylene oxide and ethylene glycol. Although no final decision on whether to list under RCRA has been made, engineering analyses and industry questionnaires to identify toxicants and concentrations in waste streams have been completed.

Ethylene oxide is listed as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 101(14). The statutory reportable quantity (RQ) for ethylene oxide is one pound and was established when CERCLA was signed into law on December 11, 1980. The RQ, which was proposed on May 25, 1983 (see 48 FR 23584), was 100 pounds. However, ethylene oxide is being assessed for potential carcinogenicity and/or chronic toxicity. Until this assessment is complete, the statutory one pound RQ applies.

Pursuant to CERCLA section 103(a), any person in charge of a vessel or an offshore or onshore facility shall, as soon as he has knowledge of any release (other than a Federally-permitted release or normal application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the RQ determined as a quantity released in any 24-hour period or less, immediately

notify the National Response Center (NRC) ((800) 424-8802; in the Washington, DC metropolitan area at (202) 426-2675).

Since ethylene oxide is already listed specifically by CERCLA authority as a hazardous substance which requires reporting of any release equaling or exceeding an RQ to all media, this notice under authority of the CAA section 112 poses no additional reporting burden on the regulated community, the government or the public. However, all parties are given notice in this rulemaking that such a requirement for reporting exists under the authority of CERCLA. For additional information on CERCLA hazardous substance reporting, refer to 48 FR, No. 102, P. 23552 (May 25, 1983).

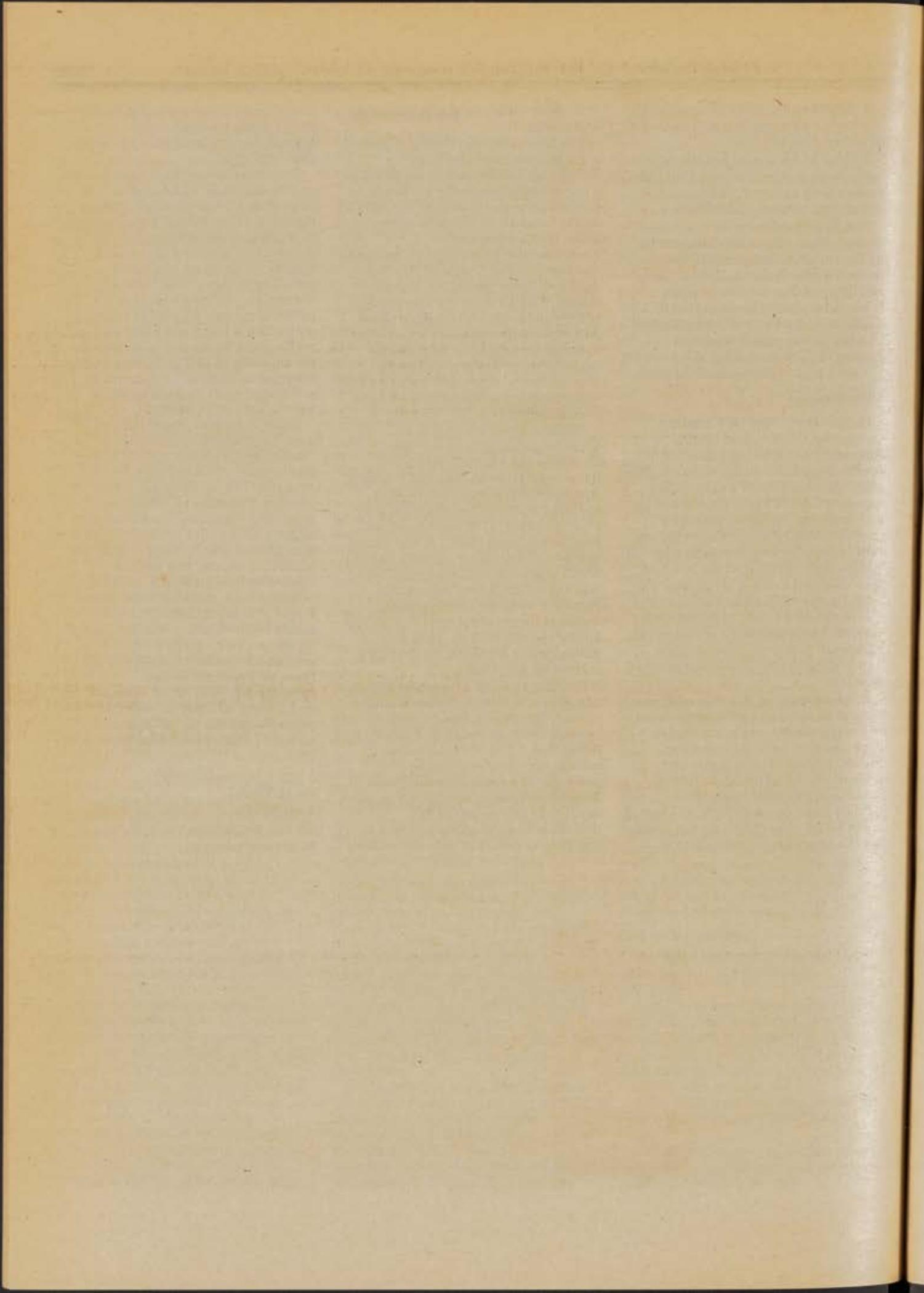
Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additional regulatory requirements on States or sources. This proposal was submitted to the Office of Management and Budget (OMB) for review. Any written comments from OMB and any EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980.

Dated: September 17, 1985.

Lee M. Thomas,
Administrator.

[FR Doc. 85-23492 Filed 10-2-85; 8:45 am]

BILLING CODE 6560-50-M



federal register

Wednesday
October 2, 1985

Part VII

**Environmental
Protection Agency**

40 CFR Part 261

Mining Waste Exclusion; Proposed Rule

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 261
[SWH-FRL 2871-7]
Mining Waste Exclusion
AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 21, 1980, Congress enacted Pub. L. 96-482 which included various amendments to the Resource Conservation and Recovery Act (RCRA). Section 7 of these revisions (the "Bevill Amendment") excluded "solid waste from the extraction, beneficiation, and processing of ores and minerals" from regulation under Subtitle C of RCRA pending completion of studies called for in Sections 8002 (f) and (p) of RCRA. On November 19, 1980, EPA amended its regulations to reflect this exclusion (45 FR 76618). In the preamble to that rulemaking, EPA tentatively interpreted the exclusion to encompass "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals" (45 FR 76619). Today's proposed rulemaking, if promulgated as a final rule, would eliminate from the mining waste exclusion many wastes from processing ores and minerals (other than phosphogypsum, bauxite refining muds, primary metal smelting slags, and slag from elemental phosphorus reduction) and would relist six smelting wastes previously listed as hazardous. EPA believes that this revised interpretation more accurately represents the intent of Congress when it enacted the mining waste exclusion and best serves the policy objectives of RCRA.

DATE: EPA will accept public comments on this proposal until December 2, 1985.

The Agency will hold a public hearing on November 14, 1985; see "SUPPLEMENTARY INFORMATION" section for details.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-565A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The public docket for this proposal is available in Room S212 at the above address for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. The public hearing is in Washington, DC at the Department of Health and Human Services, North Auditorium, 330 Independence Avenue SW. Attendees should use the "C" Street entrance.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline at (800) 424-9346 or 382-3000. For technical information contact Dr. Dexter Hinckley, U.S. Environmental Protection Agency, Office of Solid Waste (WH-565), 401 M St. SW., Washington, DC 20460. (202) 382-2791.

SUPPLEMENTARY INFORMATION:

- Preamble Outline
- I. History of Mining Waste Exclusion
- II. Analysis of Options Available
- III. Proposed Relisting of Smelting Wastes
 - A. General
 - B. Wastewater Treatment Sludges
 - C. Wastes That Are Recycled
- IV. Analysis of Economic Effects of the Proposed Reinterpretation
 - A. Scope and Coverage of Economic Analysis
 - B. Methodology and Data Gathering for the Ten-Sector Study
 - C. Costs of Compliance for Ten Major Sectors
 - D. Economic Impacts for the Ten Major Sectors
 - E. Screening Study Conclusions for 21 Other Metal Sectors
- V. Public Participation
- VI. Regulatory Flexibility Analysis
- VII. Effect on State Authorizations
- VIII. Compliance with Executive Order 12291
- IX. Paperwork Reduction Act
- X. List of Subjects in 40 CFR Part 261

I. History of Mining Waste Exclusion

In Section 8002(f) of the Resource Conservation and Recovery Act (ACRA) of October 21, 1976, Congress instructed the Administrator to conduct, in consultation with the Secretary of the Interior, "a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources."

On December 18, 1978 (43 FR 58,946), EPA proposed regulations for hazardous waste management under Subtitle C of RCRA. These proposed regulations, among other things, had fewer requirements for a universe of so-called "special waste" that are generated in large volumes, were thought to pose less of a hazard than other hazardous wastes, and were not thought to be amenable to the control techniques proposed for hazardous waste treatment, storage and disposal facilities. EPA identified waste materials from the "extraction, beneficiation, and processing of ores and minerals" as special wastes under the proposed regulations.

On May 19, 1980 and July 16, 1980, EPA listed as hazardous eight waste streams from primary metal smelters. Also on May 19, 1980, when it

promulgated the final hazardous waste management regulations, EPA stated that a "special waste" category was unnecessary because: (1) the EP toxicity and corrosivity characteristics of hazardous waste had been narrowed, thus excluding most "special wastes" from control, and (2) the Agency intended to promulgate tailored standards for land disposal, as needed, in future regulations.

On October 21, 1980, Congress enacted Pub. L. 96-482 which included various amendments to RCRA. Section 8002 was amended to include subsection (p), which requires the Administrator to study the adverse effects on human health and the environment, if any, of the disposal and utilization of "solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore." Section 7 of these amendments (the "Bevill Amendment") amended Section 3001 of RCRA to exclude these wastes from regulation under Subtitle C of RCRA pending completion of the studies called for in Sections 8002(f) and (p).

On November 19, 1980, EPA published an interim final amendment to its hazardous waste regulations to reflect the mining waste exclusion. The regulatory language incorporating the exclusion is identical to the statutory language (except the phrase "including coal" was added). In the preamble to the amended regulation, however, EPA tentatively interpreted the exclusion to include "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals" (emphasis added). (45 FR 76118, 76619).

For consistency with this interpretation in the November 19, 1980 amendment, the Agency also amended 40 CFR Part 261 to suspend the listings of specific waste streams associated with smelting as hazardous wastes (46 FR 4614, January 16, 1981 and 46 FR 27473, May 20, 1981). These waste streams are associated with the primary copper, lead, zinc, aluminum, and ferroalloy industries (see Table 1).

In the November 19, 1980 notice, EPA made it clear that it intended to reconsider ("over the next 90 days") its interpretation of the exclusion:

The Agency fully intends to consider the appropriate scope of the statutory exclusion and may well take rulemaking action to lessen the scope of the exclusion. . . . In particular, EPA questions whether Congress actually intended to exclude . . . wastes generated in the smelting, refining, and other processing of ores and minerals that are further removed from the mining and beneficiation of such ores and minerals.

TABLE 1.—SMELTER WASTES LISTED AS HAZARDOUS

Industry	EPA hazardous waste No.	Hazardous waste	Hazard code
Primary copper	K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.	(T)
Primary lead	K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.	(T)
Primary zinc	K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.	(T)
	K067	Electrolytic anode slimes/sludges from primary zinc production.	(T)
	K068	Cadmium plant leach residue (iron oxide) from primary zinc production.	(T)
Primary aluminum	K088	Spent potliners from primary aluminum reduction.	(T)
Ferroalloys	K090	Emission control dust or sludge from ferrochromium-silicon production.	(T)
	K091	Emission control dust or sludge from ferrochromium production.	(T)

In the November 19, 1990 notice, EPA indicated that any subsequent action to narrow the scope of the exclusion would be a formal rulemaking: "... the Agency, in subsequent rulemaking action, may further narrow the exclusion. If EPA narrows the scope of the exclusion . . . in future rulemaking, those who generate, transport, store, treat or dispose of wastes affected by such a change will have six months to prepare for compliance with the regulations."

Each of the commenters representing the mining industry who addressed EPA's interpretation of the exclusion agreed that all smelting and refining wastes were covered by the Bevill Amendment. The commenters relied primarily on Rep. Williams' remarks during floor debate in which he quoted a National Academy of Sciences report stating that slag wastes generated by the smelting of copper are "basically inert and weather slowly." However, in its comments, the Bureau of Mines in the Department of the Interior stated that it believed the exclusion was meant to cover "the overburden, waste rock, and mill tailings from mining or milling," but not "solid wastes from refining or further beneficiation carried out as a discrete process."

Since Congress enacted the mining waste exclusion and EPA published its interpretation of the exclusion in 1980, EPA and State regulatory agencies have had to make dozens of individual determinations as to whether a given waste is a mining waste and therefore excluded from Subtitle C requirements. It has been particularly difficult to determine what operations constitute "processing of ores and minerals." As a general rule, EPA has interpreted this phrase to include any operation which further refines or purifies the product being mined (often a metal). Combining

the product with another material (e.g., alloying) and fabrication (any sort of shaping that does not cause a change in chemical composition) is not considered "processing of ores and minerals." However, applying this approach, it is still often unclear whether a waste qualifies for the exclusion. For instance, EPA has said that wastes produced by refining copper from 98 to 99 percent purity are excluded. Yet, copper with 98 percent purity can be marketed as a finished product for certain purposes; it does not conform to the usual definitions of "ore" or "mineral."

These determinations of exclusionary status have created a number of inequities among industry segments. For instance, wastes from primary lead smelters are excluded from regulation by EPA's current interpretation of the mining waste exclusion, but similar wastes from secondary lead smelters are subject to full hazardous waste regulation because the smelter input is scrap, not an ore or mineral. In another example, sulfuric acid which is derived from naturally occurring sulfur in certain ores and is removed by acid plants at copper, lead, and zinc smelters is currently excluded. However, spent acids from other industries are regulated as hazardous.

Because of the uncertainties associated with determining the scope of the mining waste exclusion, EPA and State regulatory agencies have had to expend considerable time and resources on lengthy investigations to determine the exact sources of wastes, whether the input to an operation is an ore/mineral or scrap metal (or some combination of both), and the extent to which waste is recycled to production processes. Rather than continue to make these detailed determinations on a case-by-case basis, it has long been thought that some general clarification of the scope of the

mining waste exclusion was necessary. More importantly, as explained in more detail below, it has become increasingly clear that EPA current interpretation does not best serve the Congress's objective in enacting the Bevill Amendment. Instead it has had the effect of excluding a broad range of wastes, many of which are hazardous, and are often generated many steps beyond the initial extraction and beneficiation of ores and minerals.

II. Analysis of Options Available

EPA evaluated three options before preparing this proposal:

(1) Retain the current interpretation and conduct a Section 8002 study on processing wastes that are currently excluded, but are not part of the current Section 8002 study of mining waste.

(2) Narrow the exclusion to include only large volume wastes from processing ores.

(3) Narrow the exclusion to include only large volume wastes from processing *metallic* ores.

In consulting various sources, we have found no standard, accepted definitions, i.e., "plain meanings," for the terms of the exclusion, particularly "processing." Therefore, we reviewed the legislative history of the mining waste exclusion for guidance. In evaluating the options, we relied on the following indications of Congressional intent:

- During the discussion of the mining waste exclusion on the House floor, Rep. Williams of Montana quoted a National Academy of Sciences report stating that slag wastes generated by the smelting of copper are "basically inert and weather slowly. The slag produced 2,500 years ago at King Solomon's mines north of Eliat, Israel has not changed perceptibly over time." 126 *Cong. Rec. H. 1104* (daily ed. February 20, 1980). Rep. Williams went on to say that such wastes should not be subject to RCRA. His statements were unchallenged in subsequent debate on the amendment. In addition, in his "Extension of Remarks" in the Congressional Record, Rep. Bevill, the amendment's sponsor, stated that "the list of waste materials in the amendment * * * (should) be read broadly, to incorporate the waste products generated in the real world." 126 *Cong. Rec. E 4957* (daily ed. November 17, 1980).

- The legislative history of the Bevill Amendment indicates that EPA's regulatory concept of a "special waste" should be used as a guide in discerning Congressional intent. The Conference Committee Report states that the 1980 RCRA amendments suspend regulation of "a category designated as special

wastes" in regulations proposed by the Agency under Subtitle C on December 18, 1978. S. Rep. No. 90-1010, 96th Cong. 2d Sess. 32 (1980) (Conference Committee Report). In addition, Rep. Santini stated that he believed the amendment would "defer regulation of 'special waste' until after EPA studies the need to do so." 126 Cong. Rec. H 1089 (daily ed. February 20, 1980).

• In the preamble to the 1978 regulations, EPA explained that it intended to treat special wastes differently because they were generally thought to be high volume, low toxicity materials, and not amenable to management under the proposed standards for hazardous waste treatment, storage, and disposal facilities. While EPA listed several smelting wastes as hazardous wastes, only a few listed smelting wastes were included in the "special waste" category. Section 250.46-3 of the 1978 proposal, which was titled "Phosphate rock mining, beneficiation, and processing waste," listed "slag . . . from elemental phosphorus production" as one of the wastes subject to special waste regulations.¹

• In the legislative history accompanying the 1984 amendments to RCRA, the Senate Committee on Environment and Public Works stated:

Solid wastes from mining and mineral beneficiation and processing are primarily waste rock from the extraction process and crushed rock, commonly called tailings, produced from concentrating steps such as grinding, crushing, sorting, sizing, classification, washing, dewatering, amalgamation, gravity treatment, flotation, agglomeration and cyanidation. The 1980 amendments covered wastes from the initial stages of mineral processing, where concentrations of minerals of value are greatly increased through physical means, before applying secondary processes. Smelter slag might also be included. Massive volumes of this waste ore are produced annually by mining and mineral processing facilities—roughly estimated by the American Mining Congress (AMC) to be approximately 1.75 billion tons in a typical year, which is clearly significantly greater in volume than the solid waste generated by all other industries combined. These wastes were considered "special wastes" under the 1978 proposed regulations as being of large volume and relatively low hazard.

Each of the options is evaluated below in light of these indications of Congressional intent:

¹ Although the process for obtaining elemental phosphorus from phosphate is called phosphorus reduction, rather than smelting, both processes have the same purpose (i.e., separating the desired element from the ore) and comparable wastes (e.g., slag).

Option 1—Retain current interpretation and conduct a Section 8002 study on wastes that are currently excluded, but are not part of the current Section 8002 mining waste study.

EPA believes that this option does not reflect either the special waste concept or the intent of Congress as described above. This option would entail studying many low volume wastes, some of them hazardous, generated by facilities processing ores. It would dilute resources available for studies on large volume wastes of interest to Congress.

Option 2—Narrow the exclusion to include only large volume wastes from processing ores.

This interpretation is most consistent with Congressional intent because it leaves large volume processing wastes (i.e., phosphogypsum from phosphoric acid plants, slag from primary smelting of metallic ores or phosphorous reduction, and muds from bauxite refining) within the exclusion, deferring their possible regulation under Subtitle C until completion of studies required for the Report to Congress on mining waste. Annual phosphogypsum disposal is approximately 47 million metric tons; slag disposal from primary metal smelters is over 4 million metric tons; slag from phosphorous reduction is over 3 million metric tons; and mud from bauxite refining is about 2 million metric tons. By limiting the mining waste exclusion to these high volume wastes, this option takes into account the references in the legislative history to high volume, relatively low toxicity wastes, i.e., "special wastes." In fact, this approach constitutes the most rigorous application of the special waste concept.

Option 3—Narrow exclusion to include only large volume wastes from processing metallic ores.

This option represents the narrowest possible reinterpretation of the mining waste exclusion, but it reflects only Rep. Williams's specific remarks about slag from copper smelting in Israel. It would maintain the excluded status of red and brown muds (2 million metric tons/year) produced by refining bauxite ore. However, a very large volume processing waste, the 47 million metric tons of phosphogypsum produced each year by phosphoric acid plants, would no longer be within the exclusion. This option also would remove another large volume waste from the exclusion: slag produced by the facilities extracting elemental phosphorus from phosphate ore, because phosphorus is not a metal.

Based on the above analysis of Congressional intent, EPA believes that it was incorrect in interpreting the

mining waste exclusion as encompassing all wastes from primary smelting and refining. Therefore, EPA is proposing to reinterpret the mining waste exclusion so that red and brown muds, phosphogypsum, and primary processing slags are the only processing wastes that remain excluded from regulation under Subtitle C of RCRA. All other wastes from processing ores and minerals would be subject to Subtitle C regulation if the wastes are hazardous.

EPA is aware that there are a large number of wastes that could arguably be viewed as wastes from the "processing" of minerals or ores. However, we believe the term "processing" must be interpreted in light of the criteria outlined above. Based on these criteria, we conclude that not all such wastes are properly excluded from regulation under the mining waste exclusion primarily because they do not meet the "special waste" criteria, i.e., high volume, relatively low toxicity. For instance, as mentioned earlier, the listings of certain smelting wastes as hazardous waste were suspended after the Bevill Amendment was enacted even though the rulemaking records for these listings show they are hazardous and these listings were not challenged.

In addition, many of the wastes excluded by EPA's 1980 interpretation of the mining waste exclusion are not high volume wastes.² The processing wastes we are proposing for retention within the exclusion range in volume from 2 to 47 million metric tons per year. These volumes are comparable to the other special waste categories proposed December 18, 1978. See 43 FR 58992. For example, utility waste was estimated at 66 million metric tons per year and cement kiln dust at 12 million metric tons per year. The volumes of wastes that would be removed from the exclusion as a consequence of the reinterpretation are substantially smaller in volume than the wastes that would remain within the exclusion. In fact, these waste volumes are generally smaller than the volumes already subject to Subtitle C regulation in other (non-mining) industrial sectors.

EPA requests public comment on the proposed reinterpretation of the mining waste exclusion. Commenters should

² Based on the various indications of Congressional intent described in the text, EPA believes it is reasonable to rely primarily on volumes of waste generated to determine which wastes should have been excluded by the Bevill Amendment. However, it may well be appropriate to consider additional factors in making regulatory decisions regarding waste with hazard characteristics similar to those of the high volume wastes covered by the Bevill Amendment.

identify any other processing wastes that meet the "special waste" criteria and therefore should remain within the mining waste exclusion.

III. Proposed Relisting of Smelting Wastes

A. General

EPA proposes to relist as hazardous six wastes (Table 2) associated with smelting operations that were removed from the listing regulations after the Bevill Amendment was enacted.³ As explained previously, EPA believes this proposed interpretation more accurately represents the intent of Congress when it enacted the mining waste exclusion; therefore, we also believe it is appropriate to propose to relist those wastes that were suspended because they fell under our 1980 interpretation of the wastes subject to the exclusion. While we are requesting comment on the revised interpretation, we are not requesting comment (except as specified below) on the specific basis for the proposed relisting of these wastes as hazardous. (See Preambles to May 19,

1980 (45 FR 33113-115) and July 16, 1980 (45 FR 47834) Federal Register notices and background documents to these specific listings for EPA's basis in listing these wastes as hazardous.) Since it was EPA's interpretation of the Bevill Amendment, not a reevaluation of their hazard, that provided the sole basis for removing them from the regulations, it is the interpretation of that provision that should determine whether these wastes should again be listed. In fact, when these wastes were removed from the hazardous waste list, we specifically indicated that if our interpretation was modified to no longer include the smelting and refining wastes, we would add these wastes to the hazardous waste list without reproposal. See 40 FR 4614, January 16, 1981 and 46 FR 27473, May 20, 1981. If any person disagrees with the listing of these wastes based on additional information about their hazard, i.e., information which does not appear in the rulemaking record for the 1980 listings, they should explain the specific basis for their objections and provide additional information.

with excess lime may well immobilize the metals so that they do not exhibit EP toxicity (as well as any of the other characteristics). EPA is proposing to restore the listing of these three wastes for a number of reasons.

First, these wastes are not being proposed for relisting because they exhibit any of the hazardous waste characteristics; rather, these wastes are being proposed for relisting after considering the listing criteria in 40 CFR 261.11(a)(3) (i.e., concentration of toxic constituents in the wastes, ability of the toxicants to migrate from the waste, degree to which the toxic constituents bioaccumulate in ecosystems, plausible types of improper management, volumes of wastes generated, etc.). These criteria were the basis for the original listing. We therefore, believe it inappropriate to now designate these wastes as non-hazardous based solely on the EP toxicity characteristic. Second, EPA does not have information documenting the extent to which the nonferrous plants use excess lime to treat these wastewaters so some of these wastes may exhibit EP toxicity. Further, plants wishing to recycle (resmelt) wastewater treatment sludges may choose to use different chemical precipitants (or not to use excess lime) because use of excess lime may cause metal precipitants to become contaminated with calcium compounds and thus may not be readily extractable; on this last point, the Agency solicits comment and data on the extent that the chemical precipitation technology using 10 percent excess lime would discourage the recycling of any of these wastes.

The Agency, therefore, proposes to restore the listing of these three wastes. Nevertheless, the Agency specifically solicits comment and data on these wastes to determine whether or not they should continue to be listed (based on the original listing criteria) if the wastes are generated through the use of chemical precipitation and sedimentation using excess lime. In particular, we request the following information for each of the wastestreams:

- Total concentration of the listed constituents (i.e., cadmium and lead) on a representative number of samples;
- EP toxicity test results of the listed constituents on a representative number of samples;
- Total concentration and EP toxicity test results for the EP toxic metals (i.e., arsenic, chromium, and silver) and nickel on a representative number of samples;

TABLE 2.—SMELTER WASTES PROPOSED FOR RELISTING

Industry	EPA hazardous waste No.	Hazardous waste	Hazard code
Primary copper	K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.	(T)
Primary lead	K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.	(T)
Primary zinc	K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.	(T)
Primary aluminum	K068	Spent potliners from primary aluminum reduction.	(T)
Ferrous alloys	K090	Emission control dust or sludge from ferrochromium-silicon production.	(T)
	K091	Emission control dust or sludge from ferrochromium production.	(T)

B. Wastewater Treatment Sludges

EPA recently promulgated effluent limitations guidelines and standards for the nonferrous metals manufacturing sector. See 40 CFR Part 421. This regulation, among other things, identifies precipitation and sedimentation using excess lime as one technology to be used as part of the Best Available Technology (BAT) for removing metals from nonferrous smelting and refining wastewaters (in some cases a second precipitation step could be conducted using sulfide as the precipitant). See 49 FR 8742, March 8, 1984. The Agency assumed (for costing purposes) that sludges generated as a result of lime precipitation would not be hazardous

under Subtitle C of RCRA if an excess of 10 percent additional lime is used; the basis for this conclusion was that these wastes are not likely to exhibit any of the characteristics of hazardous waste, including the extraction procedure (EP) toxicity characteristic.

In this proposed rule, EPA is proposing to restore the listing of three specific wastewater treatment sludges—namely, EPA Hazardous Waste Nos. K064, K065, K066—which are not likely to exhibit any of the characteristics of hazardous waste if they are generated as the result of excess lime addition (10 percent) to wastewater. See 49 FR 8742. Although chemical precipitation of wastewater

materials. See Section III. C. for more detailed discussion.

³ Two of the residues listed previously are not being relisted based on our reevaluation of these

• Multiple extraction testing for all of the EP toxic metals and nickel on a representative number of samples;⁴

• Techniques used in managing these wastes (i.e., unlined piles, lined surface impoundments); in providing this information, commenters should be as specific as possible;

• Volume of waste generated;

• Ground-water monitoring data (if available);

• Percentage of wastewaters treated with 10 percent excess lime which is the basis for BAT guidelines for nonferrous smelting and refining wastewaters;

• Percentage of wastestreams treated using other precipitants;

• The amount of excess lime as a percentage of dry sludge.

Based on this information, we may conclude that the wastewater treatment sludges generated using 10 percent excess lime are in fact non-hazardous and therefore may narrow the scope of the listing accordingly.

C. Wastes That Are Recycled

1. Introduction

EPA recently promulgated a rule which, among other things, specifies which materials are solid and hazardous wastes when they are recycled. See 50 FR 614, January 4, 1985. (This rulemaking also specified general and specific management standards for most types of hazardous waste recycling activities.) A large percentage of the wastes that would be relisted under this proposal are land disposed. These include 69 percent of the acid plant blowdown from primary copper production, 97 percent of the sludge from treatment of wastewaters and/or acid plant blowdown from primary zinc production, 72 percent of the spent potliners from primary aluminum production, and 100 percent of the emission control dust/sludges from ferrochromium-silicon and ferrochromium production. However, three of the wastes are primarily recycled by being reclaimed. These include 100 percent of the surface impoundment solids from primary lead production; 100 percent of the electrolytic anode slimes/sludges from primary zinc production; and 100 percent of the cadmium leach residue treatment sludge from primary zinc production, (see Table 3).

⁴ The Agency has developed and is using the multiple extraction procedure (MEP) in evaluating certain delisting petitions to evaluate the long-term stability of wastes. The Agency believes it appropriate to also use it in evaluating listing decisions. See the public docket for this proposed rule which describes the methodology.

TABLE 3.—GENERATION OF HAZARDOUS WASTES IN THE PRIMARY NONFERROUS SMELTING AND REFINING INDUSTRIES

EPA Number (when listed) and hazardous waste	Tons/yr 1984	Immediately recycled (percent)	Recycle after storage (percent)	Land disposal (percent)
Primary copper—K064: Acid plant blowdown slurry/sludge	32,864	0	31	69
Primary lead—K065:				
Surface impoundment solids	46,193	50	50	
Air pollution control dusts	82,350	100		
Total	128,541			
Primary zinc and ZnO ₂ :				
K066: Wastewater treatment sludge	32,380	3	0	97
K067: Electrolytic anode slimes	N/A	57	43	
K068:				
Cadmium plant leach residue	N/A	12	88	
Saleable leach residue	2,400	87	13	0
Non-saleable leach residue	31,400	53	0	47
Clinker	54,000	0	17	83
Furnace residue	180,000	0	13	87
Total	297,780			
Primary aluminum—K088:				
Spent potliners	130,000	3	25	72
Wet sludges	92,750	1	7	92
Pot slimes	11,911	19	0	81
Shot blast dusts	11,300	1	0	99
Total	245,966			
Primary titanium and TiO ₂ :				
Chloride process sludges ¹	350,000		10	90
Sulfate process sludges	100,000		100	0
Metal sludges	5,000			100
Total	455,000			
Ferrometals:				
K090: Fe/Cr/Si emission control dust	3,300			100
K091:				
Fe/Cr emission control dust	6,500			100
Other dusts, sludges, and residues	180,200			
Total	190,000			
Magnesium, zirconium/hafnium—Dusts, sludges and other residues	22,000			

¹ 72 percent sold.

² Another 2,000,000 tons/year of chloride process acids are disposed of by deep well injection.

³ Sold as product.

Source: "Hazardous Waste Management Costs in Selected Primary Smelting and Refining Industries" (June 1985) and "Overview of Solid Waste Generation, Management, and Chemical Characteristics" for aluminum, copper, zinc, ferrometals, titanium dioxide, zinc oxide, and zirconium/hafnium sectors. (Published as draft reports by PEI and Radian in 1984.)

In the January 4, 1985 rulemaking, we indicated that certain materials being reclaimed⁵ are solid wastes only when they are listed as hazardous waste. We also indicated that materials being reclaimed can be listed as solid wastes; however, in doing so, a number of factors must be considered which would demonstrate whether the material is handled as a commodity or a waste. In evaluating these three residues, we believe that the surface impoundment solids from primary lead production are solid wastes and therefore should be relisted, while the electrolytic anode slimes/sludge and cadmium plant leach residue from primary zinc production are not solid wastes and should not be relisted.

⁵ A material is reclaimed if it is processed to recover a usable product or if it is regenerated. See 40 CFR 261.1(c)(4); see also preamble discussion in 50 FR at 633, January 4, 1985.

2. EPA's Basis for Listing/Not Listing Surface Impoundment Solids from Primary Lead Production, and Electrolytic Anode Slimes/Sludges, and Cadmium Plant Leach Residue from Primary Zinc Production

As described above, the January 4 rules define which materials are solid and hazardous wastes when they are recycled. Among other things, the rules indicate that all spent materials⁶ (whether they are listed or exhibit one or more of the hazardous waste characteristics) are defined as solid wastes when they are reclaimed.⁷

⁶ A spent material is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. See 40 CFR 261.1(c)(1); see also preamble discussion in 50 FR at 624, January 4, 1985.

⁷ Based on our initial survey, 28 percent of the spent potliners are recycled by being reclaimed. It could be argued that this percentage is significant and, thus, these materials are more product-like than waste-like and should not be listed. However,

Continued

Sludges and by-products, however, are only defined as solid wastes when they are reclaimed if they are specifically listed.⁹⁻⁹ We limited the definition to listed sludges and by-products to avoid including sludges and by-products that are routinely processed to recover usable products as part of on-going production operations. Nevertheless, sludges and by-products that are routinely reclaimed can be listed and thus be solid wastes if they are more waste-like than product-like. EPA will make this determination on a material-by-material basis considering: (1) How frequently the material is recycled on an industry-wide basis, (2) whether the material is replacing a raw material and the degree to which it is similar in composition to the raw material, (3) the relation of the recovery practice to the principal activity of the facility, and (4) whether the secondary material is managed in a way designed to minimize loss. See 50 FR at 641. In addition, the length of time materials are accumulated before being reclaimed is relevant since prolonged storage without recycling suggests that materials will not in fact be recycled, or are only of marginal recycling potential. See 50 FR at 635.

EPA has evaluated the three materials that are routinely reclaimed and, based on the information gathered, we believe the surface impoundment solids from primary lead production should be considered solid wastes and thus regulated as hazardous wastes, whereas the electrolytic anode slimes/sludges and cadmium plant leach residue from primary zinc production should not be considered solid and hazardous wastes. These conclusions are explained below.

since spent potliners are defined as a spent material and since all spent materials are defined as wastes when they are reclaimed, these materials (whether or not they are listed) would be defined as solid wastes. In addition, it should be noted that the Agency has found that the principal purpose of recycling spent potliners is hazardous waste treatment, not cryolite recovery. Thus spent potliners are not considered to be recycled for regulatory purposes. 49 FR 6746, March 8, 1984 and 50 FR at 639641, January 4, 1985.

⁹ Under the recycling rules, the surface impoundment solids at lead smelting facilities would be defined as a sludge while the electrolytic anode slimes/sludges and cadmium plant leach residue from zinc production would be defined as by-products.

⁹ Non-listed sludges and by-products would be defined as solid wastes if they are accumulated speculatively. A material is accumulated speculatively if it is accumulating before being recycled unless a person can demonstrate that the material has recycling potential and can feasibly be recycled, and during a one-year calendar period, the amount of material recycled or transferred to a different site for recycling is at least 75 percent of the amount accumulated at the beginning of the year.

3. Surface Impoundment Solids Contained in and Dredged From Surface Impoundments at Primary Lead Smelting Facilities

This waste is generated by primary lead smelting plants when the solid particulates from wastewater/slurries (that are generated at various steps in the smelting process) are allowed to settle in surface impoundments. Based upon EPA's survey of approximately 50 percent of the industry, all of this material is recycled by being reclaimed. However, at least half of this material is recycled only after it is stored for long periods of time, up to several years. In addition, and more importantly, these sludges are not stored in a way commensurate with designation as products; rather, they are stored in an insecure fashion without any significant attempt to minimize loss. These sludges are stored in surface impoundments; surface impoundments containing secondary materials (as well as hazardous wastes) pose a particular threat to ground water and have always been one of the chief concerns of the hazardous waste management program. Further, the materials are constantly in the presence of liquids, creating the situation most conducive to forming leachate. Since most impoundments are unlined, and many are underlain by permeable soils, the potential for downward seepage of contaminated fluids into ground water is high.¹⁰ In addition, due to declining lead demands, there is a strong potential that these sludges may not be recycled.

Furthermore, in granting variances from classification as a solid waste, one of the factors the Agency will consider is the extent to which handling of the material (before being reclaimed) is designed to minimize loss. See 40 CFR 260.31(a)(4); 260.31(b)(3); and 260.31(c)(5). Where the materials are stored in open unlined piles, unlined impoundments, or leaking tanks and drums, it is less likely a variance will be granted (*i.e.*, the more carefully a material is handled, the more it is commodity-like. (See 50 FR at 654-655.)) We, therefore, believe that although most, if not all, of this material may eventually be reclaimed, it is managed in a waste-like manner and therefore should be listed as a solid waste.

¹⁰ See U.S. EPA, Report to Congress, Surface Impoundments and Their Effect on Ground Water Quality in the United States—A Preliminary Survey, EPA § 7019-76-004 (1976), and U.S. EPA, The Prevalence of Subsurface Migration of Hazardous Chemical Substances at Selected Industrial Waste Disposal Sites, EPA/5301 SE 6341 (October 1977). See also substantial portions of the legislative history of the 1984 Amendments to RCRA.

4. Electrolytic Anode Slimes/Sludges and Cadmium Plant Leach Residue (Iron Oxide) From Primary Zinc Production

The electrolytic anode slimes/sludges are generated from the cleaning of electrolytic cells (*i.e.*, they consist of gangue material that is passed through earlier process steps, but is not plated out or electrolyzed in the electrolysis step), while the cadmium plant leach residue is generated from leaching of process dusts with a high cadmium content. Like the surface impoundment solids discussed previously, all of these residues are recycled by being reclaimed. However, these materials are handled much more carefully than the surface impoundment solids. In particular, based on data recently submitted by the American Mining Congress (AMC),¹¹ these facilities (based on a survey of 100 percent of the production facilities) recycle 100 percent of these residues, and a large percentage are recycled immediately without storage. If the material is stored prior to recycling, it is stored for a maximum of 30 days; where there is storage, it occurs in devices that minimize loss of those residues (*i.e.*, in metal hoppers, concrete basins, etc.) Furthermore most of these materials are recycled on-site, thus minimizing any loss during transportation. Therefore, we believe these materials are more commodity-like than waste-like and, therefore, are not proposing to relist them as solid and hazardous wastes. (It should be noted that these materials may still be solid and hazardous wastes if they are accumulated speculatively.)

IV. Analysis of Economic Effects of the Proposed Reinterpretation

The Agency conducted cost and economic impact studies to analyze the potential impact of this reinterpretation and to determine whether the proposed regulation is a major rulemaking (under Executive Order 12291) or would cause significant impacts on small business (pursuant to the Regulatory Flexibility Act). Although EPA determined that the proposal is not a "major" rule, detailed impact studies were performed for a substantial portion of the potentially affected industry sectors.

This section of the preamble is a summary of the cost and impact analyses documented in U.S. EPA, *Hazardous Waste Management Costs in Selected Primary Smelting and Refining Industries* (hereafter referred to as the Cost Document), *Economic Impact*

¹¹ See letter from James R. Walpole to Matthew A. Straus dated August 5, 1985, in the public docket for this rulemaking.

Analysis of Proposed Reinterpretation of Solid Waste Exemption for the Primary Smelting and Refining Industry (two volumes, hereafter referred to as the Economic Impact Report), and *Overview of Solid Waste Generation, Management, and Chemical Characteristics* (hereafter referred to as the Technical Studies). These documents are available in the public docket for this rulemaking.

A. Scope and Coverage of Economic Analysis

The Agency's economic impact analysis was conducted in two parts. The first part consisted of a detailed compliance cost and economic impact analysis covering ten major primary metal smelting and refining sectors containing a total of 110 operating facilities producing 97 percent of total U.S. nonferrous and ferroalloy product tonnage in 1983. These ten sectors include all of the large volume sectors with previously listed smelting wastes (aluminum, copper, lead, zinc, and ferroalloys) as well as a broad sampling of five additional nonferrous metal industries shown by previous studies to generate potentially hazardous wastes (magnesium, titanium metal, titanium dioxide, zinc oxide, and zirconium/hafnium). According to U.S. Bureau of Mines and EPA survey data, the remaining three percent of nonferrous production is contributed by 21 metals sectors (400 facilities) not covered in the detailed impact assessment.

The second part of EPA's impact analysis involved a much less detailed screening study of these 21 sectors to isolate those sectors most likely to be significantly affected. Based on this screening, EPA believes that the major part of the total national cost impacts are accounted for by the 97 percent of the total production covered in our detailed analysis, and that the impact patterns in the covered sectors will generally be similar in the additional sectors.

B. Methodology and Data Gathering for the Ten-Sector Study

EPA first conducted a series of technical survey and sampling studies covering ten major ore-processing industries to determine the volume of wastes generated, identify those wastes which could be hazardous because they exhibit one of the characteristics defined in 40 CFR 261.2, estimate the volume of these hazardous wastes, and delineate the practices currently used to manage these wastes. The major findings are summarized in Table 3 above. Based on the technical survey and sampling results, a plant-by-plant

waste management assessment was then made for all 110 facilities in the sectors studied, utilizing plant survey data from over 80 individual facilities and waste sampling results from 50 facilities.

Where data were incomplete for surveyed plants or absent entirely for non-surveyed facilities, the types and quantities of hazardous and non-hazardous waste, current waste management practices, and production relationships were estimated from survey data at similar processing facilities. In the absence of site-specific information, EPA erred on the conservative side by assuming that all non-surveyed facilities did produce hazardous waste streams comparable in quantity and type to those found in the sample survey for other facilities with similar products.

EPA then estimated waste management costs for both current baseline practices (observed or assumed) and RCRA Subtitle C requirements at each of the 110 individual facilities. The difference between current baseline costs and total RCRA compliance costs is the incremental compliance cost for this regulation, providing the basis for evaluating economic impacts.

In selecting RCRA Subtitle C compliance practices for facilities, EPA assumed that companies would adopt a least-cost, conventional waste management option consistent with technical considerations relating to the facility's current practices and waste characteristics. All RCRA compliance options involving surface impoundments or landfills were based on a double synthetic liner technology consistent with the requirements of the Hazardous and Solid Waste Amendments of 1984. The analysis did not consider in-plant process changes, innovative recycling activities, or by-product options that might reduce compliance costs or turn net compliance costs into net savings.

The Agency estimated incremental compliance costs for storing, treating, transporting, and disposing of a waste stream. Costs include initial capital investment, annual operation and maintenance (O&M), capital investment for waste facility closure, and annual O&M costs for postclosure maintenance for a period of 30 years. Compliance costs were converted to an annualized cost form to provide the uniform annual cost that would be equivalent to the incurred cost stream. Initial investment costs were amortized over a 20-year lifetime, using the companies' weighted average cost of capital.

As part of the economic analysis, EPA also assembled extensive historical information on plant capacity and production levels, investment, prices, and financial conditions in order to base the impacts on more accurate projections. Where possible, EPA collected financial information for individual metals (for example, primary aluminum and primary copper). In some cases, lack of data forced consolidation of the financial characteristics of several metal subcategories (for example, lead with zinc and zirconium/hafnium with titanium).

Historical data from 1978 to 1983 were then used to estimate projected metal prices. In estimating rates of return, investment levels, production, and operating income, EPA used data from the three-year span of 1979 to 1981, on the assumption that this period provided the best indication of the performance of these plants under expected future conditions, and that 1982 and 1983 data reflected an atypically severe period of economic recession.

The plant closure methodology focuses only on specific plants having annualized compliance costs greater than one percent of sales. Previous Agency studies in support of effluent guidelines regulations under the Clean Water Act have shown few impacts with compliance costs below this level, but show occasional impacts when costs are more than one percent of sales. For plants with costs above this level, EPA then employed two plant closure tests: a net present value test and a liquidity test. The net present value test focuses on long-term profitability, with the viability of the plant being judged by a comparison of the net present value of its cash flow to its liquidation value. The liquidity test addresses short-term viability and focuses on affordability during the first few years of compliance. The closure analysis also assumes zero pass-through of compliance costs; that is, to avoid overlooking potential closures, plants are assumed to absorb all of the compliance costs as a direct increase in production costs (decrease in profit).

C. Costs of Compliance for Ten Major Sectors

EPA identified 67 manufacturing facilities (out of 110) in the ten sectors that will likely incur increased costs to comply with this regulation. Based on its industry survey, EPA concluded that certain facilities were not generating hazardous wastes, while others were either utilizing immediate recycling or were probably already in compliance with current RCRA management

requirements. Table 4 summarizes EPA's compliance cost estimates for each sector. For the ten sectors studied, we estimate total investment costs for

compliance at about \$57 million, and total annualized costs to be about \$20 million.

TABLE 4.—SUMMARY OF ANNUALIZED COMPLIANCE COSTS

Subcategory	Number of plants			Annualized compliance costs (000's dollars)		
	Total	Incurring costs	Range	Median	Average	Total
Primary aluminum	29	19	8-718	78	158	3,002
Primary copper	20	11	2-63	43	37	402
Primary lead	6	4	2-82	50	46	185
Primary zinc	5	4	15-1,270	44	343	1,372
Primary zinc oxide	3	2	13-1,711	862	862	1,724
Ferrous alloys	29	13	1-444	128	184	2,398
Primary magnesium and primary zirconium/hafnium ¹	5	4	31-656	173	258	1,033
Primary titanium	6	5	16-311	35	97	484
Primary titanium dioxide	9	8	327-2,454	1,145	1,211	9,687
Industry total	* 110	* 67	1-2,454		303	20,287

¹ The Primary magnesium and primary zirconium/hafnium subcategories are merged to preserve confidentiality.

² Some plants produce more than one type of metal; therefore, the total is not the sum of all the numbers listed.

Source: "Waste Management Costs in Selected Primary Smelting and Refining Industries" (June, 1985), and "Economic Impact Analysis of Proposed Reinterpretation of Solid Waste Exemption for the Primary Smelting and Refining Industry" (June 1985).

Annualized compliance costs vary considerably, both among sectors and among individual facilities within each sector. The most extremely affected sector, titanium dioxide, faces expected total annual compliance costs of over \$9 million (almost half of the total costs for all ten sectors), with an average per facility cost of \$1.2 million per year. This contrasts, for example, with total compliance costs for the primary lead sector of \$185,000 per year (\$46,000 per year per facility).

Within individual industries, there are typically one or several plants with no projected compliance costs, either because of the non-hazardous character of the wastes or because of recycling or other management programs already in place. For plants incurring cost within a given sector, it is typical for some to

face only a few thousand dollars per year and others in the same sector to face several hundred thousand dollars or more per year in incremental compliance costs.

D. Economic Impacts for the Ten Major Sectors

Based on the compliance cost estimates and other economic variables for individual facilities in each of the ten sectors, EPA assessed several categories of possible economic impacts, including effects on production costs and prices, international trade, total investment requirements, profit (return on investment), and potential for plant closures and job losses. General effects are summarized in Table 5, while plant closures and employment losses are discussed below in relation to Table 6.

TABLE 5.—Summary of Economic Impacts

Industry subcategory	Total number of plants	Number of plants incurring costs	Average percent change in return on investment	Average percent increase in production cost	Average percent price change	Average investment cost as a percent of capital expenditures
Primary aluminum	29	19	-1.47	0.10	0.09	1.26
Primary copper	20	11	-1.35	0.03	0.03	1.36
Primary lead	6	4	-0.60	0.08	0.07	4.14
Primary zinc	5	4	-10.25	1.48	1.20	74.75
Primary zinc oxide	3	2	-30.79	6.02	4.99	116.50
Ferrous alloys	29	13	-20.91	0.67	0.65	21.61
Primary magnesium and primary zirconium/hafnium ¹	5	4	-2.07	0.37	0.31	2.90
Primary titanium	6	5	-1.65	0.41	0.32	2.44
Primary titanium dioxide	9	8	-29.30	1.79	1.88	34.53
Industry	* 110	* 67	-4.80	0.35	0.33	5.54

¹ The primary magnesium and primary zirconium/hafnium subcategories are merged to preserve confidentiality.

² Some plants produce more than one type of metal; therefore, the total is not the sum of all the numbers listed.

Source: "Economic Impact Analysis of Proposed Reinterpretation of Solid Waste Exemption for the Primary Smelting and Refining Industry" (June, 1985).

Production Costs and Prices

As indicated in Table 5, we estimate that the average increases in production costs and prices would be small to moderate (less than two percent) in all subcategories except primary zinc oxide (where we would expect a six percent increase in cost of production and almost five percent increase in prices). On average, however, the annualized cost of this rule amounts to less than 0.4 percent of current production costs or current prices.

Because of these generally low effects on prices (even the maximum effects), the study did not explore any further the possible effects on international trade. However, price pressures for basic commodities of the size indicated here are not likely to affect international market positions.

These results assess both the maximum impact on production costs and the maximum impact on prices. To assess production costs, we assumed zero pass-through of compliance costs to market prices, whereas to assess price changes we assumed a 100 percent passthrough of compliance costs. Therefore, these effects should be regarded as mutually exclusive estimates for purposes of presenting extreme possibilities.

Capital Investment and Rates of Return

The Agency projects the average investment cost as a percent of normal capital expenditures to range from nominal (one to four percent) in about half the sectors to very large (75 to 118 percent) in the zinc and zinc oxide sectors. This result may be partly due to the abnormally depressed state of capital expenditures in the 1979-81 base period for some of these sectors. Non-growth or declining sectors generally can be expected to show very high ratios in this column due to low base capital investment figures. These estimates were also based on the extreme assumption of zero pass-through of costs to prices, a worst-case assumption that also tends to increase these ratios.

Similar reasoning may in part explain the estimates regarding rates of return on investment. In general, results here fall into two categories: five sectors with maximum impacts on profit of about two percent or less, and four groups with compliance costs in the range of 10 to 31 percent of profits. In part, these high percentages are due to higher than average RCRA compliance costs (because of relatively large hazardous waste volumes compared to other sectors) and in part they are due to

lower than average baseline rates of return.

Plant Closures and Employment Losses

Based on its analysis, EPA concluded that one plant in the ferroalloy subcategory may close as a result of this

reinterpretation (Table 6). If realized, this closure would involve a loss of about 80 jobs at the closed facility. The potential production loss associated with closure represents approximately three percent of the total ferroalloy capacity.

TABLE 6.—SUMMARY OF PLANT CLOSURE ANALYSIS

Sector	Number of plants				Potential employment loss
	Total	Incurring costs	Falling screen	Potential closures	
Primary aluminum	29	19	0	0	0
Primary copper	20	11	0	0	0
Primary lead	6	4	0	0	0
Primary zinc	5	4	1	0	0
Primary zinc oxide	3	2	1	0	0
Ferroalloys	29	13	3	1	80
Primary magnesium and zirconium/hafnium	5	4	0	0	0
Primary titanium	6	5	0	0	0
Primary titanium dioxide	9	8	4	0	0
Industrial total	110	67	9	1	80

Source: "Economic Impact Analysis of Proposed Reinterpretation of Solid Waste Exemption for the Primary Smelting and Refining Industry" (June, 1985).

E. Screening Study Conclusions for 21 Other Metal Sectors

In addition to the ten sectors surveyed in detail for this rulemaking, EPA also conducted a more general screening study of the 21 remaining primary metal processing sectors. These 21 sectors include about 400 facilities that together produce just under 200,000 metric tons of metal per year. Of these 400 facilities, 309 (over three-fourths) are primary refiners of gold and/or silver. Few of these 400 facilities produce more than 5,000 tons of metal production per year, and the majority produce under 100 tons each.

The Agency's methodology for evaluating these sectors included a literature review, evaluation of EPA file data from previous EPA nonferrous industry surveys, and a general comparative cost analysis for average facilities in each sector based on current product cost. Where necessary, conservative waste generation parameters derived from our ten-sector survey analysis were employed to estimate a maximum RCRA impact for specific sectors. These extreme case assumptions included a proxy waste generation rate of one ton of hazardous waste per ton of metal production and an incremental waste management (compliance) cost of \$200 per ton of hazardous waste.

Results of this screening analysis suggest that, at most, five out of the 21 sectors could potentially incur moderate-to-significant impacts from this regulation. These five sectors—tungsten, vanadium, rare-earth metals, columbium, and mercury—could incur incremental RCRA compliance costs in

the range of one to six percent of total production costs under the extreme costing assumptions used for this analysis. Even at these maximum cost levels, EPA's plant closure analysis projects that plant closures would be highly unlikely for tungsten, rare-earth metals or mercury. For columbium and vanadium, it is not possible to rule out possible closures on the basis of the Agency's screening analysis; however, no closures can be projected from this analysis.

More definitive impact conclusions for any of these five sectors would require more detailed survey data for individual facilities on waste generation, waste characteristics (especially EP toxicity), and waste management practices (including current or potential recycling and by-product recovery opportunities).

EPA would appreciate further comment regarding the technical operation and possible RCRA impacts for facilities in any of the 31 sectors identified in the primary nonferrous metals industry. In particular, current data on total waste generation, physical and chemical properties of significant wastestreams, current management practices, and recycling or other by-product use of process residuals is requested for facilities producing primary tungsten, vanadium, rare-earth metals, columbium, and mercury.

V. Public Participation

Requests to participate in the public hearings should be directed on or before November 7, 1985 to Ms. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, (WH-562), U.S. Environmental Protection Agency, 401 M

Street, SW, Washington, DC 20460. The hearing will begin at 9:00 a.m. with registration beginning at 8:30 a.m. The hearings will end at 4:30 p.m., unless concluded earlier. Oral and written statements may be submitted at the public hearings. Persons who wish to make oral presentations must restrict these to 20 minutes, and are requested to provide written copies of their complete comments for inclusion in the official record.

VI. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96-354), which amends the Administrative Procedures Act, requires Federal regulatory agencies to consider "small entities" throughout the regulatory process. The RFA requires an initial screening analysis to be performed to determine whether a substantial number of small entities will be significantly affected by a regulation. If so, regulatory alternatives that eliminate or mitigate the impacts must be considered.

This section presents the results of the Agency's small business screening analysis, based on a review of industry plant ownership patterns and estimated compliance costs. Based on this analysis, EPA has determined that there will not be a significant impact on a substantial number of small businesses.

In the nonferrous metals smelting and refining industry, the Small Business Administration (SBA) defines small entities based on employment levels. For most primary metal sectors, the employment criterion is fewer than 750; however, a higher threshold of 1,000 is used for some sectors. Based on the appropriate definition, for each sector, the Agency screened all 110 facilities in the ten sectors that were studied in detail and determined that, among these, only the ferroalloy sector contained facilities owned by small business enterprises. However, none of the ferroalloy facilities owned by small businesses were among those projected to incur costs due to this reinterpretation.

The remaining 400 nonferrous facilities not covered in our detailed impact analysis were also subjected to this detailed small business ownership screening. It appears that there are small business facilities in the primary silver and gold refining sectors; however, this sector is not expected to incur significant cost effects. Facilities in all of the remaining sectors all appear to be owned by large businesses or conglomerates and therefore would not be subject to the Regulatory Flexibility Act.

VII. Effect on State Authorizations

This proposal, if promulgated, will not be automatically effective in authorized States since the requirements will not be imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Thus, this reinterpretation will be applicable only in those few States that do not have interim or final authorization to operate their own hazardous waste programs in lieu of the Federal program. In authorized States, the reinterpretation will not be applicable until the State revises its program to adopt equivalent requirements under State law.

40 CFR 261.21(e)(2) requires States that have final authorization to revise their programs to adopt equivalent standards within a year of promulgation of these standards if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)). Once EPA approves the revision, the State requirements become Subtitle C RCRA requirements in that State.

States that submit official applications for final authorization less than 12 months after promulgation of this reinterpretation may be approved without including an equivalent provision in the application. However, once authorized, a State must revise its program to include an equivalent provision within the time period discussed above. The process and schedule for revision of State programs is described in amendments to 40 CFR 271.21 published on May 22, 1984. (See 49 FR 21678)

VIII. Compliance With Executive Order 12291

Sections 2 and 3 of Executive Order 12291 (46 FR 13193; February 9, 1981) require that a regulatory agency determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation which is likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

Today's proposal will have none of the above effects. Therefore, the Agency is not conducting a Regulatory Impact Analysis. The proposal has been submitted to the Office of Management and Budget (OMB) for review as required by Section 6 of Executive Order 12291. Any comments from OMB to EPA and any response to those comments are available for viewing at the Office of Solid Waste Docket, Room S212, U.S.E.P.A., 401 M Street, SW., Washington, DC 20460.

IX. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Submit comments on these requirements to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW.; Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

X. List of Subjects in 40 CFR Part 261

Hazardous waste, Waste treatment and disposal, Recycling, Reporting and recordkeeping requirements.

Dated: September 27, 1985.

Lee M. Thomas,
Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

For the reasons set out in the preamble, it is proposed to amend 40 CFR Part 261 as follows:

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. Section 261.4, paragraph (b)(7), is revised as follows:

261.4 Exclusions.

(b) * * *

(7) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore. For purposes of this paragraph, solid waste from the processing of ores and minerals only includes muds from facilities refining bauxite, phosphogypsum from phosphoric acid plants, and slag from primary metal smelters and phosphorus reduction facilities.

3. In § 261.32, add after entries for "Iron and steel" and before entries for "Secondary lead," the following waste streams:

§ 261.32 Hazardous waste from specified sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazardous code
Primary copper: K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.	(T)
Primary lead: K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.	(T)
Primary zinc: K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.	(T)
Primary aluminum: K068	Spent potliners from primary aluminum reduction.	(T)
Ferrous alloys: K090	Emission control dust or sludge from ferrochromium/silicon production.	(T)
K091	Emission control dust or sludge from ferrochromium production.	(T)

4. In Appendix VII—Basis for Listing Hazardous Waste, add the following in the appropriate alphabetical and numerical sequence:

Appendix VII—Basis for Listing Hazardous Waste

EPA hazardous waste number	Hazardous constituents for which listed
K064	Lead, Cadmium
K065	Lead, Cadmium
K066	Lead, Cadmium
K088	Cyanide (Complexes)
K090	Chromium
K091	Chromium, Lead

[FR Doc. 85-23622 Filed 10-1-85; 8:45 am]

BILLING CODE 6560-50-M

Register Part Federal Register

Wednesday
October 2, 1985

Part VIII

Department of Transportation

Federal Highway Administration

49 CFR Part 386

**Rules of Practice for Motor Carrier
Safety and Hazardous Materials
Proceedings; Final Rule**

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 386

Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising the rules of practice and procedure for motor carrier safety and hazardous materials proceedings. The revision is necessary due to statutory and administrative changes and agency experience with Part 386. The statutory changes since the last rewrite of these regulations in 1977 are the Motor Carrier Safety Act of 1984, the Bus Regulatory Reform Act of 1982, the Motor Carrier Act of 1980 and the recodification of Title 49, United States Code, Transportation, in 1983. Further changes were required by the 1985 restructuring of the Bureau of Motor Carrier Safety (BMCS), which is now supervised by an Associate Administrator for Motor Carriers. The revision of the rules of practice and procedure incorporates these changes and offers a more flexible, efficient and better organized handling of motor carrier safety and hazardous materials proceedings.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Assistant Chief Counsel, Motor Carrier and Highway Safety Law Division, (202) 426-0834, Federal Highway Administration, Room 4224, 400 7th Street, SW., Washington DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:**Background**

In accord with its program to keep its regulations current, the FHWA has determined that the statutory changes resulting from the Motor Carrier Safety Act of 1984, the Bus Regulatory Reform Act of 1982, the Motor Carrier Act of 1980, and the recodification of Title 49, United States Code, Transportation, in 1983, the 1985 administrative restructuring of the BMCS and the agency's practical experience in dealing with the rules of practice and procedure since the last major rewrite of these regulations in 1977, require conforming amendments and other changes to the rules of practice and procedure in Part 386. A discussion of the affected

sections of regulations and the necessary changes follow.

Discussion of Changes*Subpart A—Scope of Rules; Definitions*

Except for new statutory authority citations, substitution of the term "administrative law judge" for the term "hearing office," updated definition of "motor carrier," and redefinition of "Associate Administrator," there are no changes to the sections in this subpart.

Subpart B—Commencement of Proceedings, Pleadings

Paragraph (a) of 386.11, Commencement of proceedings, on driver qualification proceedings, remains unchanged. Paragraph (b), on civil forfeiture proceedings, is revised to conform to the Motor Carrier Safety Act of 1984, Pub. L. 98-554, 98 Stat. 2832. Under section 213 of that Act, the respondent has 15 days, after service, to notify the claimant of intent to contest the notice and request a hearing. This is added at 386.11(b)(1)(v). For purposes of consistency and fairness, this provision is applicable to claims for hazardous materials violations as well as violations of the motor carrier safety regulations. Section 213(b)(3) of the Act permits the Department to require any violator to post a copy of the notice in such place or places and for such duration as the claimant determines appropriate to aid in enforcement. This is added at 386.11(b)(3). Paragraph (c) of 386.11 is renamed "Notice of investigation proceedings" instead of "All other proceedings," since it is the only other type of agency proceeding. Section 213(b)(1) of the Act requires that the claim letter fix a reasonable time for abatement of violations and specify actions to be taken in order to abate violations. This is added at 386.11(c)(1)(iv). The agency practice of sometimes combining civil forfeiture and notice of investigation proceedings is added at 386.11(c)(3).

Paragraphs (c), (d), and (e) are added to Section 386.12, Complaint, to implement section 212 of the Motor Carrier Safety Act of 1984. That section requires the Department to investigate complaints of a substantial violation that is occurring or has occurred within the preceding 60 days. The complainant is to be timely notified of the findings of the investigation. Also, the Department is not to disclose the names of complainants, unless necessary to prosecute a violation, and if so, then the Associate Administrator is to take every practical means within his authority to protect the complainant from retaliatory action.

In order to achieve greater clarity and ease of reference, former § 386.13, Petitions to review, replies, is divided into three new sections: 386.13, Petitions to review and request for hearing; Driver qualification proceedings; 386.14, Replies and request for hearing; Civil forfeiture proceedings; and 386.15, Replies and request for hearing; Notice of investigation proceedings. Driver qualification petitions to review and request for hearing (386.13) remains unchanged. Civil forfeiture replies and request for hearing (386.14) basically remains unchanged, except for two differences. Under section 213(b)(1) of the Motor Carrier Safety Act of 1984, the respondent must reply within 15 days after the claim letter is served. This is added at 386.14(a). The same time limit is made applicable to claims for violations of the hazardous materials regulations for purposes of consistency and fairness. Also, if the respondent fails to reply, then the claim letter becomes the final agency order in the proceeding 25 days after it is served. The 25-day period is prescribed in order to add to the 15-day answer period 5 days each for delivery by mail of the claim letter and the reply. Under the former § 386.13(d), if no reply was filed, the Associate Administrator could, on motion of any party, find the facts to be as alleged and issue a final order in the case. It is expected that this change will simplify and expedite proceedings without sacrificing fairness and due process. Notice of investigation replies and request for hearing (386.15) remains unchanged, being taken from former 386.13(c), "All other proceedings." Note that respondents still have 30 days in which to file a reply after service under this section. A basis for granting petitions to intervene is added to the section on interventions (386.17).

The remaining sections in subpart B remain essentially unchanged other than for redesignation.

Subpart C—Consent Order Procedure

Except for new statutory authority citations, there are no changes to the sections in this subpart.

Subpart D—General Rules and Hearings

Former § 386.38, Service, is redesignated 386.31 and revised to be consistent with the service requirements under the Federal Rules of Civil Procedure. Service is now allowed by personal delivery or by mail. Formerly, service by registered or certified mail, first class, postage prepaid, were the only required methods. Paragraph (b) requires a certificate of service to accompany all pleadings, motions and

documents, when they are tendered for filing, executed by the person making the delivery or mailing. The responsibilities in proceedings, formerly 386.38(g), are removed since they are already mentioned in FHWA delegation of authority regulations at 49 CFR 1.45, and Part 301.

Former § 386.31 is redesignated 386.32, and is expanded by adding paragraphs concerning date of entry of orders and compilation of time for delivery by mail.

Former § 386.36, Deposition and interrogatories, is removed and replaced with several new sections. Former § 386.49, Request for admissions, is redesignated § 386.44. The result is that § 386.37 through 386.47 contain substantially expanded rules of discovery patterned after the Federal Rules of Civil Procedure.

Former § 386.39, Appearances and rights of witnesses is redesignated § 386.50, and paragraph (a) is clarified by providing that a regular employee of a party who appears on behalf of the party may be required by the administrative law judge to show his or her authority to so appear.

Paragraph (c) of former § 386.44, Hearing officer (now redesignated as § 386.54), regarding powers reserved to the Associate Administrator, has proven to be unnecessary in actual practice. Therefore, this paragraph is deleted.

The other sections in subpart D remain unchanged in substance, but are renumbered.

Subpart E—Decision

Former § 386.55, publication of orders, is deleted because it was agency experience that publication did not achieve its intended purpose of warning carriers of disqualified drivers who might apply for positions for which they were disqualified. In its place is added new § 386.65, Failure to comply with final order, which states agency practice when a respondent does not comply with a final agency order directing compliance, or, where appropriate, pay a civil penalty. In these instances, the case may be referred to the Attorney General with a request that an action be brought in the appropriate United States District Court to enforce the terms of the compliance order or to collect the civil penalty.

New § 386.67, Appeal, is added to implement section 213(b)(8) of the Motor Carrier Safety Act of 1984. The Act permits any party adversely affected by a final order issued under 49 U.S.C. 521, to, within 30 days, petition for review of the order in the appropriate United States Court of Appeals. Review of the order is based on a determination of whether the Associate Administrator's

findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Associate Administrator shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the order of the Associate Administrator.

The other sections in Subpart E remain unchanged, but are renumbered.

Subpart F—Injunctions and Imminent Hazards

This subpart is new and is added to implement injunctive and imminent hazard provisions of the Hazardous Materials Transportation Act and the Motor Carrier Safety Act of 1984.

Section 386.71, Injunctions, implements section 111(a) of the Hazardous Materials Transportation Act and section 213(a) of the Motor Carrier Safety Act of 1984 which allow the Department to request the Attorney General to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages to prevent or stop violations of the hazardous materials regulations, or motor carrier safety regulations.

Section 386.72, Imminent hazard also implements statutory provisions. Imminent hazard orders are provided for in section 111(b) of the Hazardous Materials Transportation Act and section 213(b) of the Motor Carrier Safety Act of 1984. Paragraph (a) of § 386.72 implements the procedure as to hazardous materials. When a substantial likelihood of death, serious illness or severe personal injury will or may result from hazardous materials transportation by motor vehicle, the Department may bring, or request the Attorney General to bring, an action in the appropriate United States District Court for an order to eliminate or ameliorate the imminent hazard. Paragraph (b) of § 386.72 implements the procedure as to motor carrier safety imminent hazards other than hazardous materials transportation. This section gives the Director, Bureau of Motor Carrier Safety, or his or her delegate, authority to order a vehicle or employee out of service or order an employer to cease all or part of the employer's commercial motor vehicle operations. The order is to be tailored so that no restrictions shall be imposed beyond that required to abate the hazard.

Subsequent to the issuance of an imminent hazard order, opportunity for review is provided for not later than 10 days after the issuance of the order.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the changes being adopted in this document are procedural in nature and relate to the internal organization of the FHWA, the FHWA finds good cause to make the amendment final without prior notice and opportunity for comment and without a 30-day delay in effective date required by the Administration Procedures Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance.

It is anticipated that the economic impact of this rulemaking, if any, will be minimal since the amendments concern motor carrier safety and hazardous materials rules of internal practice and procedure. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Publication

Because these changes are numerous and issuance of them on a piecemeal basis would create confusion, 49 CFR Part 386 is being republished in its entirety.

For the reasons set out in the preamble, the Federal Highway Administration hereby amends Chapter III, Part 386 of Title 49, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

List of Subjects in 49 CFR Part 386

Administrative practice and procedure, Civil forfeiture, Driver qualification, Hazardous materials transportation, Hearings, Highways and roads, Motor carriers, Motor carrier safety.

Issued on: September 30, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

Part 386 of Title 49, Code of Federal Regulations, is revised to read as follows:

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS

Subpart A—Scope of Rules; Definitions

Sec.

386.1 Scope of rules in this part.

386.2 Definitions.

Subpart B—Commencement of Proceedings, Pleadings

386.11 Commencement of proceedings.

386.12 Complaint.

386.13 Petitions to review and request for hearing: Driver qualification proceedings.

386.14 Replies and request for hearing: Civil forfeiture proceedings.

386.15 Replies and request for hearing: Notice of investigation proceedings.

386.16 Action on petitions or replies.

386.17 Intervention.

Subpart C—Consent Order Procedure

386.21 Consent order.

386.22 Content of consent order.

Subpart D—General Rules and Hearings

386.31 Service.

386.32 Computation of time.

386.33 Extension of time.

386.34 Official notice.

386.35 Motions.

386.36 Motions to dismiss and motions for a more definite statement.

386.37 Discovery methods.

386.38 Scope of discovery.

386.39 Protective orders.

386.40 Supplementation of responses.

386.41 Stipulations regarding discovery.

386.42 Written interrogatories to parties.

386.43 Production of documents and other evidence; entry upon land for inspection and other purposes; and physical and mental examination.

386.44 Request for admissions.

386.45 Motion to compel discovery.

386.46 Depositions.

386.47 Use of depositions at hearings.

386.48 Medical records and physicians' reports.

386.49 Form of written evidence.

386.50 Appearances and rights of witnesses.

386.51 Amendment and withdrawal of pleadings.

386.52 Appeals from interlocutory rulings.

386.53 Subpoenas, witness fees.

386.54 Administrative law judge.

386.55 Prehearing conferences.

386.56 Hearings.

386.57 Proposed findings of fact, conclusions of law.

386.58 Burden of proof.

Subpart E—Decision

386.61 Decision.

386.62 Review of administrative law judge's decision.

386.63 Decision on review.

386.64 Reconsideration.

386.65 Failure to comply with final order.

386.66 Motions for rehearing or for modification.

386.67 Appeal.

386.67 Appeal.

Subpart F—Injunctions and Imminent Hazards

386.71 Injunctions.

386.72 Imminent hazard.

Authority: The Motor Carrier Safety Act of 1984, Pub. L. 98-554, 98 Stat. 2829 (49 U.S.C. 2501 *et seq.*); the recodification of Title 49, United States Code, Transportation, Pub. L. 97-449, 96 Stat. 2413 (49 U.S.C. 104(c)(2), 501 *et seq.*, 3101 *et seq.*); the Hazardous Materials Transportation Act, Pub. L. 93-633, 88 Stat. 2156 (49 U.S.C. 1801 *et seq.*); the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1121 (49 U.S.C. 10927, note) and the Motor Carrier Act of 1980, Pub. L. 97-424, 96 Stat. 2158 (49 U.S.C. 10927, note); 49 CFR 1.45, 1.48, Part 301.

Subpart A—Scope of Rules; Definitions

§ 386.1 Scope of rules in this part.

The rules in this part govern procedures in proceedings before the Associate Administrator authorized by the Motor Carrier Safety Act of 1984, Pub. L. 98-554, 98 Stat. 2829 (49 U.S.C. 2501 *et seq.*); the recodification of Title 49, United States Code, Transportation, Pub. L. 97-449, 96 Stat. 2413 (49 U.S.C. 104(c)(2), 501 *et seq.*, 3101 *et seq.*); the Hazardous Materials Transportation Act, Pub. L. 93-633, 88 Stat. 2156 (49 U.S.C. 1801 *et seq.*); the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1121 (49 U.S.C. 10927, note) and the Motor Carrier Act of 1980, Pub. L. 97-424, 96 Stat. 2158 (49 U.S.C. 10927, note). The purpose of the proceedings is to enable the Associate Administrator to determine whether any motor carrier, its agent, employee or other person subject to the jurisdiction of the FHWA under any of the above-mentioned Acts has failed to comply with any provision or requirement of those statutes or regulations issued under them and, if such a violation is found, to issue an appropriate order to compel compliance with the statute or regulation, assess a civil penalty, or both.

§ 386.2 Definitions.

"Administration" means the Federal Highway Administration.

"Administrative law judge" means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105.

"Associate Administrator" means the Associate Administrator for Motor Carriers of the Federal Highway

Administration or his delegate. Delegations are contained in Part 301 of this chapter.

"Civil forfeiture proceedings" means proceedings to collect civil penalties for violations under the Hazardous Materials Transportation Act, 49 U.S.C. 1809; 49 U.S.C. 3102; the Motor Carrier Safety Act of 1984, 49 U.S.C. 2501 *et seq.*; section 30 of the Motor Carrier Act of 1980, 49 U.S.C. 10927, note; or section 18 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10927, note.

"Claimant" means the representative of the Federal Highway Administration authorized to make claims.

"Driver qualification proceeding" means a proceeding commenced under 49 CFR 391.47 or by issuance of a letter of disqualification.

"Motor carrier" means a motor carrier, motor contract carrier, motor private carrier, or motor carrier of migrant workers as defined in 49 U.S.C. 3101 and 10102.

"Petitioner" means a party petitioning to overturn a determination in a driver qualification proceeding.

"Respondent" means a party against whom relief is sought or claim is made.

Subpart B—Commencement of Proceedings, Pleadings

§ 386.11 Commencement of proceedings.

(a) *Driver qualification proceedings.* These proceedings are commenced by the issuance of a determination by the Director, Bureau of Motor Carrier Safety, in a case arising under § 391.47 of this chapter or by the issuance of a letter of disqualification.

(1) Such determination and letters must be accompanied by the following:

- (i) A citation of the regulation under which the action is being taken;
- (ii) A copy of all documentary evidence relied on or considered in taking such action, or in the case of voluminous evidence a summary of such evidence;

- (iii) Notice to the driver and motor carrier involved in the case that they may petition for review of the action;

- (iv) Notice that a hearing will be granted if the Associate Administrator determines there are material factual issues in dispute;

- (v) Notice that failure to petition for review will constitute a waiver of the right to contest the action; and

- (vi) Notice that the burden of proof will be on the petitioner in cases arising under § 391.47 of this chapter.

(2) At any time before the close of hearing, upon application of a party, the letter or determination may be amended at the discretion of the administrative

law judge upon such terms as he approves.

(b) *Civil forfeitures.* These proceedings are commenced by the issuance of a claim letter.

(1) Each claim letter must contain the following:

(i) A statement of the provisions of law alleged to have been violated;

(ii) A brief statement of the facts constituting each violation;

(iii) Notice of the amount being claimed, and notice of the maximum amount authorized to be claimed under the statute;

(iv) The form in which and the place where the respondent may pay the claim; and

(v) Notice that the respondent may, within 15 days of service, notify the claimant that the respondent intends to contest the notice, and that if the notice is contested the respondent will be afforded an opportunity for a hearing.

(2) In addition to the information required by paragraph (b)(1) of this section, the letter may contain such other matters as the claimant deems appropriate.

(3) In proceedings for collection of civil penalties for violations of the motor carrier safety regulations under the Motor Carrier Safety Act of 1984, the claimant may require the respondent to post a copy of the claim letter in such place or places and for such duration as the claimant may determine appropriate to aid in the enforcement of the law and regulations.

(c) *Notice of investigation proceedings.* All other proceedings are commenced by issuance of a notice of investigation. The Associate Administrator may issue a notice of investigation on his own motion or upon a complaint filed pursuant to § 386.12.

(1) Each notice of investigation must include the following:

(i) A statement of the legal authority and jurisdiction for the institution of the proceedings;

(ii) The name and address of each motor carrier against whom relief is sought;

(iii) One or more clear, concise, and separately numbered paragraphs stating the facts alleged to constitute a violation of the law;

(iv) The relief demanded which, where practical, should be in the form of an order for the Associate Administrator's signature, and which shall fix a reasonable time for abatement of the violations and may specify actions to be taken in order to abate the violations;

(v) A statement that the rules in this part require a reply to be filed within 30

days of service of the notice of investigation, and

(vi) A certificate that the notice of investigation was served in accordance with § 386.31.

(2) At any time before the close of hearing or upon application of a party, the notice of investigation may be amended at the discretion of the administrative law judge upon such terms as he deems appropriate.

(3) A civil forfeiture proceeding may be combined with a notice of investigation in a single proceeding. In a combined civil forfeiture and notice of investigation proceeding the 30-day time limit for filing a reply as specified in paragraph (c)(1)(v) shall apply.

§ 386.12 Complaint.

(a) *Filing of a complaint.* Except as otherwise provided in paragraph (c) of this section, any person, State board, organization, or body politic may file a written complaint with the Associate Administrator, requesting the issuance of a notice of investigation under § 386.11(c). Each complaint must contain:

(1) The name and address of the party who files it, and a statement specifying the authority for a party (other than a natural person) to file the complaint;

(2) A statement of the interest of the party in the proceedings;

(3) The name and address of each motor carrier against whom relief is sought;

(4) The reasons why the party believes that a notice of investigation should be issued;

(5) A statement of any prior action which the party has taken to redress the violations of law alleged in the complaint and the results of that action; and

(6) The relief which the party believes the Administration should seek.

(b) *Action on paragraph (a) complaint.* Upon the filing of a complaint under paragraph (a) of this section, the Associate Administrator shall determine whether it states reasonable grounds for investigation and action by the Administration. If he determines that the complaint states such grounds, the Associate Administrator shall issue, or authorize the issuance of, a notice of investigation under § 386.11(c). If he determines that the complaint does not state reasonable grounds for investigation and action by the Administration, the Associate Administrator shall dismiss it.

(c) *Complaint of substantial violation.* Any person may file a written complaint with the Associate Administrator alleging that a substantial violation of any regulation issued under the Motor

Carrier Safety Act of 1984 is occurring or has occurred within the preceding 60 days. A substantial violation is one which could reasonably lead to, or has resulted in, serious personal injury or death. Each complaint must be signed by the complainant and must contain:

(1) The name, address, and telephone number of the person who files it;

(2) The name and address of the alleged violator and, with respect to each alleged violator, the specific provisions of the regulations that the complainant believes were violated; and

(3) A concise but complete statement of the facts relied upon to substantiate each allegation, including the date of each alleged violation.

(d) *Action on complaint of substantial violation.* Upon the filing of a complaint of a substantial violation under paragraph (c) of this section, the Associate Administrator shall determine whether it is nonfrivolous and meets the requirements of paragraph (c) of this section. If the Associate Administrator determines that the complaint is nonfrivolous and meets the requirements of paragraph (c), he/she shall investigate the complaint. The complainant shall be timely notified of findings resulting from such investigation. The Associate Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Associate Administrator determines that the complaint is frivolous or does not meet the requirements of paragraph (c), he/she shall dismiss the complaint and notify the complainant in writing of the reasons for such dismissal.

(e) Notwithstanding the provisions of section 552 of title 5, United States Code, the Associate Administrator shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Associate Administrator shall take every practical means within the Associate Administrator's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

§ 386.13 Petitions to review and request for hearing: Driver qualification proceedings.

(a) Within 60 days after service of the determination under § 391.47 of this chapter or the letter of disqualification, the driver or carrier may petition to review such action. Such petitions must be submitted to the Associate

Administrator and must contain the following:

- (1) Identification of what action the petitioner wants overturned;
- (2) Copies of all evidence upon which petitioner relies in the form set out in § 386.49;
- (3) All legal and other arguments which the petitioner wishes to make in support of his position;
- (4) A request for oral hearing, if one is desired, which must set forth material factual issues believed to be in dispute;
- (5) Certification that the reply has been filed in accordance with § 386.31; and

(6) Any other pertinent material.
 (b) Failure to submit a petition as specified in paragraph (a) of this section shall constitute a waiver of the right to petition for review of the determination or letter of disqualification. In these cases, the determination or disqualification issued automatically becomes the final decision of the Associate Administrator 30 days after the time to submit the reply or petition to review has expired, unless the Associate Administrator orders otherwise.

(c) If the petition does not request a hearing, the Associate Administrator may issue a final decision and order based on the evidence and arguments submitted.

§ 386.14 Replies and request for hearing: Civil forfeiture proceedings.

(a) *Time for reply.* The respondent must reply within 15 days after the claim letter is served, except as otherwise provided in § 386.11(c)(3).

(b) *Contents of reply.* The reply must contain the following:

- (1) An admission or denial of each allegation of the claim and a concise statement of facts constituting each defense;
- (2) If the respondent contests the claim, a request for a formal, trial-type administrative hearing or notice of intent to submit evidence without a formal hearing. A request for a hearing must contain a listing of all material factual issues believed to be in dispute. Failure to request a hearing within 15 days after the claim letter is served, except as otherwise provided in § 386.11(c)(3), shall constitute a waiver of any right to a hearing;

(3) A statement of whether the respondent wishes to discuss the terms of payment or settlement of the amount claimed; and

(4) Certification that the reply has been served in accordance with § 386.31.

(c) *Submission of evidence.* If a notice of intent to submit evidence without formal hearing is filed or if no hearing is

requested under paragraph (b)(2) of this section and the respondent contests the claim, all evidence must be served in written form no later than the 40th day following the service of the claim letter. Evidence must be submitted in the form specified in § 386.49.

(d) *Complainant's request for a hearing.* If the respondent files a notice of intent to submit evidence without formal hearing, the complainant may, within 15 days after that reply is filed, submit a request for a formal hearing. The request must include a listing of all factual issues believed to be in dispute.

(e) *Failure to reply.* If the respondent does not reply within the time provided in this section, the claim letter becomes the final agency order in the proceeding 25 days after it is served.

§ 386.15 Replies and request for hearing: Notice of investigation proceedings.

(a) Within 30 days after the notice of investigation is served, the respondent must file a reply. The reply must contain the following information:

(1) In cases where an allegation of the notice of investigation is contested:

(i) A concise statement of facts constituting each defense and a specific admission, denial or explanation of each allegation; and

(ii) A request for an oral hearing, if one is desired, which must set forth material factual issues believed to be in dispute, or, if one is not requested, any evidence and arguments in support of the respondent's position in the form specified in § 386.49.

(2) In cases where the respondent elects not to contest the allegations, the reply must so state. The respondent may also propose an appropriate order disposing of the proceedings or propose that the matter be terminated by entry of a consent order under Subpart C. A statement of election not to contest waives a hearing on the facts alleged in the notice of investigation and provides a record basis for a decision in the case.

(3) In all cases commenced by notice of investigation, the reply must contain a certification that it was served in accordance with § 386.31.

(b) When no reply is received to the notice of investigation, or respondent replies but does not request a hearing, the Associate Administrator may, on motion of any party, find the facts to be as alleged and issue a final order in the proceeding.

§ 386.16 Action on petitions or replies.

(a) *Replies not requesting an oral hearing.* If the reply submitted does not request an oral hearing, the Associate Administrator may issue a final decision

and order based on the evidence and arguments submitted.

(b) *Request for oral hearing.* If a request for an oral hearing has been filed, the Associate Administrator shall determine whether there are any material factual issues in dispute. If there are, he/she shall call the matter for a hearing. If there are none, he/she shall issue an order to that effect and set a time for submission of argument by the parties. Upon the submission of argument he/she shall decide the case.

(c) *Settlement of civil forfeitures.* (1) When the reply to a claim letter indicates that the respondent wishes to discuss payment, and negotiations produce an agreement, a settlement agreement shall be drawn and signed by the respondent and the Associate Administrator. Such settlement agreement must contain the following:

- (i) The statutory basis of the claim;
 - (ii) A brief statement of the violations;
 - (iii) The amount claimed and the amount paid;
 - (iv) The date, time, and place and form of payment; and
 - (v) A statement that the agreement is not binding upon the Associate Administrator until executed by him/her.
- (2) Any settlement agreement may contain a consent order.

(3) An executed settlement agreement is binding on the respondent and the claimant according to its terms. The respondent's consent to a settlement agreement that has not been executed by the Associate Administrator may not be withdrawn for a period of 30 days after it is executed by the respondent.

§ 386.17 Intervention.

After the matter is called for hearing and before the date set for the hearing to begin, any person may petition for leave to intervene. The petition is to be served on the administrative law judge. The petition must set forth the reasons why the petitioner alleges he/she is entitled to intervene. The petition must be served on all parties in accordance with § 386.31. Any party may file a response within 10 days of service of the petition. The administrative law judge shall then determine whether to permit or deny the petition. The petition will be allowed if the administrative law judge determines that the final decision could directly and adversely affect the petitioner or the class he/she represents, and if the petitioner may contribute materially to the disposition of the proceedings and his/her interest is not adequately represented by existing parties. Once admitted, a petitioner is a party for the purpose of all subsequent proceedings.

Subpart C—Consent Order Procedure**§ 386.21 Consent order.**

When a respondent has filed an election not to contest under § 386.15(a), or has agreed to settlement of a civil forfeiture, and at any time before the hearing is concluded, the parties may execute an appropriate agreement for disposing of the case by consent for the consideration of the Associate Administrator. The agreement is filed with the Associate Administrator who may (a) accept it, (b) reject it and direct that proceedings in the case continue, or (c) take such other action as he/she deems appropriate. If the Associate Administrator accepts the agreement, he/she shall enter an order in accordance with its terms.

§ 386.22 Content of consent order.

(a) Every agreement filed with the Associate Administrator under § 386.21 must contain:

(1) An order for the disposition of the case in a form suitable for the Associate Administrator's signature that has been signed by the respondent;

(2) An admission of all jurisdictional facts;

(3) A waiver of further procedural steps, of the requirement that the decision or order must contain findings of fact and conclusions of law, and of all right to seek judicial review or otherwise challenge or contest the validity of the order;

(4) Provisions that the notice of investigation or settlement agreement may be used to construe the terms of the order;

(5) Provisions that the order has the same force and effect, becomes final, and may be modified, altered, or set aside in the same manner as other orders issued under 49 U.S.C. 501 *et seq.*, 2501 *et seq.*, 3101 *et seq.*, and 10927, note; and

(6) Provisions that the agreement will not be part of the record in the proceeding unless and until the Associate Administrator executes it.

(b) An agreement filed with the Associate Administrator under § 386.21 may contain:

(1) A statement that it is executed for settlement purposes only and does not admit any violations of law alleged in the notice of investigation, and

(2) Provisions for the compromise of any claim for a civil forfeiture.

Subpart D—General Rules and Hearings**§ 386.31 Service.**

(a) All service required by these rules shall be by mail or by personal delivery.

Service by mail is complete upon mailing.

(b) A certificate of service shall accompany all pleadings, motions, and documents when they are tendered for filing, and shall consist of a certificate of personal delivery or a certificate of mailing, executed by the person making the personal delivery or mailing the document. The first pleading of the Government in a proceeding initiated under this part shall have attached to it a service list of persons to be served. This list shall be updated as necessary.

(c) Copies of all pleadings, motions, and documents must be served on the docket clerk and upon all parties to the proceedings by the person filing them, in the number of copies indicated on the Government's initial service list.

§ 386.32 Computation of time.

(a) Generally, in computing any time period set out in these rules or in an order issued hereunder, the time computation begins with the day following the act, event, or default. The last day of the period is included unless it is a Saturday, Sunday, or legal Federal holiday in which case the time period shall run to the end of the next day that is not a Saturday, Sunday, or legal Federal holiday. All Saturdays, Sundays, and legal Federal holidays except those falling on the last day of the period shall be computed.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an order, the date of entry shall be the date the order is served.

(c) *Computation of time for delivery by mail.* (1) Documents are not deemed filed until received by the docket clerk. However, when documents are filed by mail, 5 days shall be added to the prescribed period.

(2) Service of all documents is deemed effected at the time of mailing.

(3) Whenever a party has the right or is required to take some action within a prescribed period after the service of a pleading, notice, or other document upon said party, and the pleading, notice, or document is served upon said party by mail, 5 days shall be added to the prescribed period.

§ 386.33 Extension of time.

All requests for extensions of time shall be filed with the Associate Administrator or, if the matter has been called for a hearing, with the administrative law judge. All requests must state the reasons for the request. Only those requests showing good cause will be granted. No motion for continuance or postponement of a hearing date filed within 7 days of the

date set for a hearing will be granted unless it is accompanied by an affidavit showing that extraordinary circumstances warrant a continuance.

§ 386.34 Official notice.

The Associate Administrator or administrative law judge may take official notice of any fact not appearing in evidence if he/she notifies all parties he/she intends to do so. Any party objecting to the official notice shall file an objection within 10 days after service of the notice.

§ 386.35 Motions.

(a) *General.* An application for an order or ruling not otherwise covered by these rules shall be by motion. All motions filed prior to the calling of the matter for a hearing shall be to the Associate Administrator. All motions filed after the matter is called for hearing shall be to the administrative law judge.

(b) *Form.* Unless made during hearing, motions shall be made in writing, shall state with particularity the grounds for relief sought, and shall be accompanied by affidavits or other evidence relied upon.

(c) *Answers.* Except when a motion is filed during a hearing, any party may file an answer in support or opposition to a motion, accompanied by affidavits or other evidence relied upon. Such answers shall be served within 7 days after the motion is served or within such other time as the Associate Administrator or administrative law judge may set.

(d) *Argument.* Oral argument or briefs on a motion may be ordered by the Associate Administrator or the administrative law judge.

(e) *Disposition.* Motions may be ruled on immediately or at any other time specified by the administrative law judge or the Associate Administrator.

(f) *Suspension of time.* The pendency of a motion shall not affect any time limits set in these rules unless expressly ordered by the Associate Administrator or administrative law judge.

§ 386.36 Motions to dismiss and Motions for a more definite statement.

(a) Motions to dismiss must be made within the time set for reply or petition to review, except motions to dismiss for lack of jurisdiction, which may be made at any time.

(b) Motions for a more definite statement may be made in lieu of a reply. The motion must point out the defects complained of and the details desired. If the motion is granted, the pleading complained of must be

remedied within 15 days of the granting of the motion or it will be stricken. If the motion is denied, the party who requested the more definite statement must file his pleading within 10 days after the denial.

§ 386.37 Discovery methods.

Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; production of documents or other evidence for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the Associate Administrator or, in cases that have been called for a hearing, the administrative law judge orders otherwise, the frequency or sequence of these methods is not limited.

§ 386.38 Scope of discovery.

(a) Unless otherwise limited by order of the Associate Administrator or, in cases that have been called for a hearing, the administrative law judge, in accordance with these rules, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

(b) It is not ground for objection that information sought will not be admissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) A party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (a) of this section and prepared in anticipation of or for the hearing by or for another party's representative (including his or her attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his or her case and that he or she is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Associate Administrator or the administrative law judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

§ 386.39 Protective orders.

Upon motion by a party or other person from whom discovery is sought, and for good cause shown, the Associate Administrator or the administrative law judge, if one has been appointed, may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (a) The discovery not be had;
- (b) The discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (c) The discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
- (d) Certain matters not relevant may not be inquired into, or that the scope of discovery be limited to certain matters;
- (e) Discovery be conducted with no one present except persons designated by the Associate Administrator or the administrative law judge; or
- (f) A trade secret or other confidential research, development, or commercial information may not be disclosed or be disclosed only in a designated way.

§ 386.40 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

- (a) A party is under a duty to supplement timely his/her response with respect to any question directly addressed to:
 - (1) The identity and location of persons having knowledge of discoverable matters; and
 - (2) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he or she is expected to testify and the substance of his or her testimony.
- (b) A party is under a duty to amend timely a prior response if he or she later obtains information upon the basis of which:

- (1) He or she knows the response was incorrect when made; or
- (2) He or she knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(c) A duty to supplement responses may be imposed by order of the Associate Administrator or the administrative law judge or agreement of the parties.

§ 386.41 Stipulations regarding discovery.

Unless otherwise ordered, a written stipulation entered into by all the parties and filed with the Associate Administrator or the administrative law judge, if one has been appointed, may: (a) Provide that depositions be taken before any person, at any time or place, upon sufficient notice, and in any manner, and when so taken may be used like other depositions; and (b) modify the procedures provided by these rules for other methods of discovery.

§ 386.42 Written interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories to be answered in writing by the party served, or if the party served is a public or private corporation or a partnership or association or governmental agency, by any authorized officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be served on the Associate Administrator or, in cases that have been called to a hearing, on the administrative law judge, and upon all parties to the proceeding.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers and objections shall be signed by the person making them. The party upon whom the interrogatories were served shall serve a copy of the answer and objections upon all parties to the proceeding within 30 days after service of the interrogatories, or within such shortened or longer period as the Associate Administrator or the administrative law judge may allow.

(c) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Associate Administrator or administrative law judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

§ 386.43 Production of documents and other evidence; entry upon land for inspection and other purposes; and physical and mental examination.

(a) Any party may serve on any other party a request to:

- (1) Produce and permit the party making the request, or a person acting

on his or her behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, photographing, testing, or for other purposes as stated in paragraph (a)(1).

(3) Submit to a physical or mental examination by a physician.

(b) The request may be served on any party without leave of the Associate Administrator or administrative law judge.

(c) The request shall:

(1) Set forth the items to be inspected either by individual item or category;

(2) Describe each item or category with reasonable particularity;

(3) Specify a reasonable time, place, and manner of making the inspection and performing the related acts;

(4) Specify the time, place, manner, conditions, and scope of the physical or mental examination and the person or persons by whom it is to be made. A report of examining physician shall be made in accordance with Rule 35(b) of the Federal Rules of Civil Procedure, Title 28, U.S. Code, as amended.

(d) The party upon whom the request is served shall serve on the party submitting the request a written response within 30 days after service of the request.

(e) The response shall state, with respect to each item or category:

(1) That inspection and related activities will be permitted as requested; or

(2) That objection is made in whole or in part, in which case the reasons for objection shall be stated.

(f) A copy of each request for production and each written response shall be served on all parties and filed with the Associate Administrator or the administrative law judge, if one has been appointed.

§ 386.44 Request for admissions.

(a) *Request for admission.* (1) Any party may serve upon any other party a request for admission of any relevant matter or the authenticity of any relevant document. Copies of any document about which an admission is requested must accompany the request.

(2) Each matter for which an admission is requested shall be separately set forth and numbered. The matter is admitted unless within 15 days after service of the request, the party to whom the request is directed serves

upon the party requesting the admission a written answer signed by the party or his/her attorney.

(3) Each answer must specify whether the party admits or denies the matter. If the matter cannot be admitted or denied, the party shall set out in detail the reasons.

(4) A party may not issue a denial or fail to answer on the ground that he/she lacks knowledge unless he/she has made reasonable inquiry to ascertain information sufficient to allow him/her to admit or deny.

(5) A party may file an objection to a request for admission within 10 days after service. Such motion shall be filed with the administrative law judge if one has been appointed, otherwise it shall be filed with the Associate Administrator. An objection must explain in detail the reasons the party should not answer. A reply to the objection may be served by the party requesting the admission within 10 days after service of the objection. It is not sufficient ground for objection to claim that the matter about which an admission is requested presents an issue of fact for hearing.

(b) *Effect of admission.* Any matter admitted is conclusively established unless the Associate Administrator or administrative law judge permits withdrawal or amendment. Any admission under this rule is for the purpose of the pending action only and may not be used in any other proceeding.

(c) If a party refuses to admit a matter or the authenticity of a document which is later proved, the party requesting the admission may move for an award of expenses incurred in making the proof. Such a motion shall be granted unless there was a good reason for failure to admit.

§ 386.45 Motion to compel discovery.

(a) If a deponent fails to answer a question propounded or a party upon whom a request is made pursuant to §§ 386.42 through 386.44, or a party upon whom interrogatories are served fails to respond adequately or objects to the request, or any part thereof, or fails to permit inspection as requested, the discovering party may move the Associate Administrator or the administrative law judge, if one has been appointed, for an order compelling a response or inspection in accordance with the request.

(b) The motion shall set forth:

(1) The nature of the questions or request;

(2) The response or objections of the party upon whom the request was served; and

(3) Arguments in support of the motion.

(c) For purposes of this section, an evasive answer or incomplete answer or response shall be treated as a failure to answer or respond.

(d) In ruling on a motion made pursuant to this section, the Associate Administrator or the administrative law judge, if one has been appointed, may make and enter a protective order such as he or she is authorized to enter on a motion made pursuant to § 386.39(a).

§ 386.46 Depositions.

(a) *When, how, and by whom taken.* The deposition of any witness may be taken at any stage of the proceeding at reasonable times. Depositions may be taken by oral examination or upon written interrogatories before any person having power to administer oaths.

(b) *Application.* Any party desiring to take the deposition of a witness shall indicate to the witness and all other parties the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; the name and address of each witness; and the subject matter concerning which each such witness is expected to testify.

(c) *Notice.* Notice shall be given for the taking of a deposition, which shall be not less than 5 days written notice when the deposition is to be taken within the continental United States and not less than 20 days written notice when the deposition is to be taken elsewhere.

(d) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and any other party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing; read by or to, and subscribed by the witness; and certified by the person administering the oath. Thereafter, such officer shall seal the deposition in an envelope and mail the same by certified mail to the Associate Administrator or the administrative law judge, if one has been appointed. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and which would have been valid if the witness were personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof.

(e) *Motion to terminate or limit examination.* During the taking of a

deposition, a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the Associate Administrator or administrative law judge for a ruling on his or her objections to the deposition conduct or proceedings. The Associate Administrator or administrative law judge may then limit the scope or manner of the taking of the deposition.

§ 386.47 Use of deposition at hearings.

(a) *Generally.* At the hearing, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of expert witnesses, particularly the deposition of physicians, may be used by any party for any purpose, unless the Associate Administrator or administrative law judge rules that such use would be unfair or a violation of due process.

(3) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or duly authorized agent of a public or private organization, partnership, or association which is a party, may be used by any other party for any purpose.

(4) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds: (i) That the witness is dead; or (ii) that the witness is out of the United States or more than 100 miles from the place of hearing unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend to testify because of age, sickness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(5) If only part of a deposition is offered in evidence by a party, any other party may require him or her to

introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(b) *Objections to admissibility.* Except as provided in this paragraph, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(1) Objections to the competency of a witness or to the competency, relevancy or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form or written interrogatories are waived unless served in writing upon the party propounding them.

(c) *Effect of taking using depositions.* A party shall not be deemed to make a person his or her own witness for any purpose by taking his or her deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by any other party of a deposition as described in paragraph (a)(2) of this section. At the hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or by any other party.

§ 386.48 Medical records and physicians' reports.

In cases involving the physical qualifications of drivers, copies of all physicians' reports, test results, and other medical records that a party intends to rely upon shall be served on all other parties at least 30 days prior to the date set for a hearing. Except as waived by the Director, Bureau of Motor Carrier Safety, reports, test results and medical records not served under this rule shall be excluded from evidence at any hearing.

§ 386.49 Form of written evidence.

All written evidence shall be submitted in the following forms:

(a) An affidavit of a person having personal knowledge of the facts alleged, or

(b) Documentary evidence in the form of exhibits attached to an affidavit identifying the exhibit and giving its source.

§ 386.50 Appearances and rights of witnesses.

(a) Any party to a proceeding may appear and be heard in person or by attorney. A regular employee of a party who appears on behalf of the party may be required by the administrative law judge to show his or her authority to so appear.

(b) Any person submits data or evidence in a proceeding governed by this part may, upon timely request and payment of costs, procure a copy of any document submitted by him/her or of any transcript. Original documents, data or evidence may be retained upon permission of the administrative law judge or Associate Administrator upon substitution of copy therefor.

§ 386.51 Amendment and withdrawal of pleadings.

(a) Except in instances covered by other rules, anytime more than 15 days prior to the hearing, a party may amend his/her pleadings by serving the amended pleading on the Associate Administrator or the administrative law judge, if one has been appointed, and on all parties. Within 15 days prior to the hearing, an amendment shall be allowed only at the discretion of the Administrative law judge. When an amended pleading is filed, other parties may file a response and objection within 10 days.

(b) A party may withdraw his/her pleading only on approval of the administrative law judge or Associate Administrator.

§ 386.52 Appeals from interlocutory rulings.

Rulings of the administrative law judge may not be appealed to the Associate Administrator prior to his/her consideration of the entire proceeding except under exceptional circumstances and with the consent of the administrative law judge. In deciding whether to allow appeals, the administrative law judge shall determine whether the appeal is necessary to prevent undue prejudice to a party or to prevent substantial detriment to the public interest.

§ 386.53 Subpoenas, witness fees.

(a) Applications for the issuance of subpoenas must be submitted to the Associate Administrator, or in cases

that have been called for a hearing, to the administrative law judge. The application must show the general relevance and reasonable scope of the evidence sought. Any person served with a subpoena may, within 7 days after service, file a motion to quash or modify. The motion must be filed with the official who approved the subpoena. The filing of a motion shall stay the effect of the subpoena until a decision is reached.

(b) Witnesses shall be entitled to the same fees and mileage as are paid witnesses in the courts of the United States. The fees shall be paid by the party at whose instance the witness is subpoenaed or appears.

(c) Paragraph (a) of this section shall not apply to the Administrator or employees of the FHWA or to the production of documents in their custody. Applications for the attendance of such persons or the production of such documents at a hearing shall be made to the Associate Administrator or administrative law judge, if one is appointed, and shall set forth the need for such evidence and its relevancy.

§ 386.54 Administrative law judge.

(a) *Appointment.* After the matter is called for hearing, the Associate Administrator shall appoint an administrative law judge.

(b) *Power and duties.* Except as provided in paragraph (c) of this section, the administrative law judge has power to take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings. His/her powers include the following:

- (1) To administer oaths and affirmations;
- (2) To issue orders permitting inspection and examination of lands, buildings, equipment, and any other physical thing and the copying of any document;
- (3) To issue subpoenas for the attendance of witnesses and the production of evidence as authorized by law;
- (4) To rule on offers of proof and receive evidence;
- (5) To regulate the course of the hearing and the conduct of participants in it;
- (6) To consider and rule upon all procedural and other motions, except motions which, under this part, are made directly to the Associate Administrator;
- (7) To hold conferences for settlement, simplification of issues, or any other proper purpose;

- (8) To make and file decisions; and
- (9) To take any other action authorized by these rules and permitted by law.

§ 386.55 Prehearing conferences.

(a) *Convening.* At any time before the hearing begins, the administrative law judge, on his/her own motion or on motion by a party, may direct the parties or their counsel to participate with him/her in a prehearing conference to consider the following:

- (1) Simplification and clarification of the issues;
- (2) Necessity or desirability of amending pleadings;
- (3) Stipulations as to the facts and the contents and authenticity of documents;
- (4) Issuance of and responses to subpoenas;
- (5) Taking of depositions and the use of depositions in the proceedings;
- (6) Orders for discovery, inspection and examination of premises, production of documents and other physical objects, and responses to such orders;
- (7) Disclosure of the names and addresses of witnesses and the exchange of documents intended to be offered in evidence; and

(8) Any other matter that will tend to simplify the issues or expedite the proceedings.

(b) *Order.* The administrative law judge shall issue an order which recites the matters discussed, the agreements reached, and the rulings made at the prehearing conference. The order shall be served on the parties and filed in the record of the proceedings.

§ 386.56 Hearings.

(a) As soon as practicable after his/her appointment, the administrative law judge shall issue an order setting the date, time, and place for the hearing. The order shall be served on the parties and become a part of the record of the proceedings. The order may be amended for good cause shown.

(b) *Conduct of hearing.* The administrative law judge presides over the hearing. Hearings are open to the public unless the administrative law judge orders otherwise.

(c) *Evidence.* Except as otherwise provided in these rules and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the Federal Rules of Evidence shall be followed.

(d) *Information obtained by investigation.* Any document, physical exhibit, or other material obtained by the Administration in an investigation under its statutory authority may be disclosed by the Administration during the proceeding and may be offered in

evidence by counsel for the Administration.

(e) *Record.* The hearing shall be stenographically transcribed and reported. The transcript, exhibits, and other documents filed in the proceedings shall constitute the official record of the proceedings. A copy of the transcript and exhibits will be made available to any person upon payment of prescribed costs.

§ 386.57 Proposed findings of fact, conclusions of law.

The administrative law judge shall afford the parties reasonable opportunity to submit proposed findings of fact, conclusions of law, and supporting reasons therefor. If the administrative law judge orders written proposals and arguments, each proposed finding must include a citation to the specific portion of the record relied on to support it. Written submissions, if any, must be served within the time period set by the administrative law judge.

§ 386.58 Burden of proof.

(a) *Enforcement cases.* The burden of proof shall be on the Administration in enforcement cases.

(b) *Conflict of medical opinion.* The burden of proof in cases arising under § 391.47 of this chapter shall be on the party petitioning for review under § 386.13(a).

Subpart E—Decision

§ 386.61 Decision.

After receiving the proposed findings of fact, conclusions of law, and arguments of the parties, the administrative law judge shall issue a decision. If the proposed findings of fact, conclusions of law, and arguments were oral, he/she may issue an oral decision. The decision of the administrative law judge becomes the final decision of the Associate Administrator 45 days after it is served unless a petition or motion for review is filed under § 386.62. The decision shall be served on all parties and on the Associate Administrator.

§ 386.62 Review of administrative law judge's decision.

(a) All petitions to review must be accompanied by exceptions and briefs. Each petition must set out in detail objections to the initial decision and shall state whether such objections are related to alleged errors of law or fact. It shall also state the relief requested. Failure to object to any error in the initial decision shall waive the right to allege such error in subsequent proceedings.

(b) Reply briefs may be filed within 30 days after service of the appeal brief.

(c) No other briefs shall be permitted except upon request of the Associate Administrator.

(d) Copies of all briefs must be served on all parties.

(e) No oral argument will be permitted except on order of the Associate Administrator.

§ 386.63 Decision on review.

Upon review of a decision, the Associate Administrator may adopt, modify, or set aside the administrative law judge's findings of fact and conclusions of law. He/she may also remand proceedings to the administrative law judge with instructions for such further proceedings as he/she deems appropriate. If not remanded, the Associate Administrator shall issue a final order disposing of the proceedings, and serve it on all parties.

§ 386.64 Reconsideration.

Within 20 days after the Associate Administrator's final order is issued, any party may petition the Associate Administrator for reconsideration of his/her findings of fact, conclusions of law, or final order. The filing of a petition for reconsideration does not stay the effectiveness of the final order unless the Associate Administrator so orders.

§ 386.65 Failure to comply with final order.

* If, within 30 days of receipt of a final agency order issued under this part, the respondent does not submit in writing his/her acceptance of the terms of an order directing compliance, or, where appropriate, pay a civil penalty, or file an appeal under § 386.67, the case may be referred to the Attorney General with a request that an action be brought in the appropriate United States District Court to enforce the terms of a compliance order or collect the civil penalty.

§ 386.66 Motions for rehearing or for modification.

(a) No motion for rehearing or for modification of an order shall be entertained for 1 year following the date the Associate Administrator's order goes into effect. After 1 year, any party may file a motion with the Associate Administrator requesting a rehearing or modification of the order. The motion must contain the following:

(1) A copy of the order about which the change is requested;

(2) A statement of the changed circumstances justifying the request; and

(3) Copies of all evidence intended to be relied on by the party submitting the motion.

(b) Upon receipt of the motion, the Associate Administrator may make a decision denying the motion or modifying the order in whole or in part. He/she may also, prior to making his/her decision, order such other proceedings under these rules as he/she deems necessary and may request additional information from the party making the motion.

§ 386.67 Appeal.

Any aggrieved person, who, after a hearing, is adversely affected by a final order issued under 49 U.S.C. 521 may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Associate Administrator's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Associate Administrator shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the order of the Associate Administrator.

Subpart F—Injunctions and Imminent Hazards

§ 386.71 Injunctions.

Whenever it is determined that a person has engaged, or is about to engage, in any act or practice constituting a violation of section 3102 of title 49, United States Code, or the Motor Carrier Safety Act of 1984, or the Hazardous Materials Transportation Act, or any regulation or order issued under that section or those Acts for which the Federal Highway Administrator exercises enforcement responsibility, the Chief Counsel or the Assistant Chief Counsel for Motor Carrier and Highway Safety Law may request the United States Attorney General to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages,

as provided by section 213(c) of the Motor Carrier Safety Act of 1984 and section 111(a) of the Hazardous Materials Transportation Act (49 U.S.C. 507(c), 1810).

§ 386.72 Imminent hazard.

(a) Whenever it is determined that there is substantial likelihood that death, serious illness, or severe personal injury, will result from the transportation by motor vehicle of a particular hazardous material before a notice of investigation proceeding, or other administrative hearing or formal proceeding to abate the risk of harm can be completed, the Chief Counsel or the Assistant Chief Counsel for Motor Carrier and Highway Safety Law may bring, or request the United States Attorney General to bring, an action in the appropriate United States District Court for an order suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by section 111(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1810).

(b)(1) Whenever it is determined that a violation of 49 U.S.C. 3102 or the Motor Carrier Safety Act of 1984 or a regulation issued under such section or Act, or combination of such violations, poses an imminent hazard to safety, the Director, Bureau of Motor Carrier Safety, or his or her delegate, shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations as provided by section 213(b) of the Motor Carrier Safety Act of 1984 (49 U.S.C. 521(b)(5)). In making any such order, no restrictions shall be imposed on any employee or employer beyond that required to abate the hazard. In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

(2) Subsequent to the issuance of an order under paragraph (b)(1) of this section, opportunity for review shall be provided in accordance with 5 U.S.C. 554, except that such review shall occur not later than 10 days after issuance of such order, as provided by section 213(b) of the Motor Carrier Safety Act of 1984 (49 U.S.C. 521(b)(5)).

[FR Doc. 85-23638 Filed 10-1-85; 8:45 am]

BILLING CODE 4910-22-M

Presidential Executive Order Federal Register

Wednesday
October 2, 1985

Part IX

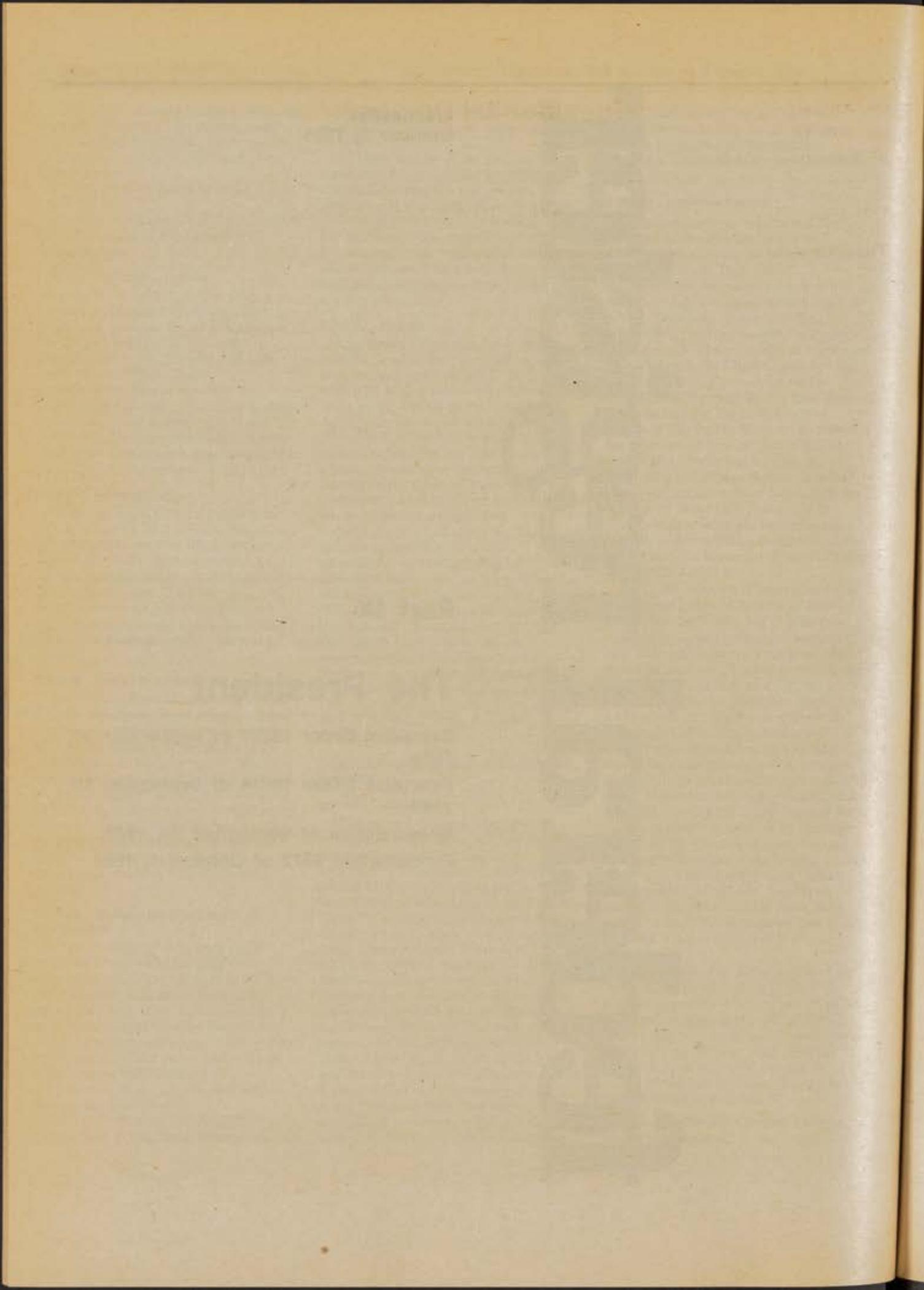
The President

Executive Order 12533 of September 30,
1985

Executive Order 12534 of September 30,
1985

Memorandum of September 30, 1985

Proclamation 5372 of October 1, 1985



Title 3—

Executive Order 12533 of September 30, 1985

The President

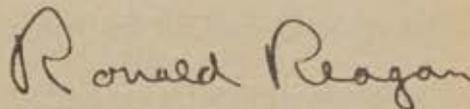
President's Advisory Committee on Mediation and Conciliation

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to extend the life of the President's Advisory Committee on Mediation and Conciliation and clarify the status of its members, it is hereby ordered that Executive Order No. 12462, as amended, is further amended as follows:

Section 1 is amended by deleting the word "twelve" and inserting in its place the word "thirteen" and by adding the following sentence at the end thereof:

"The members of the Committee other than the Chairman shall serve as representatives of labor and of management, and labor and management shall be equally represented among its members."

Section 4(b) is amended to read: "The Committee shall terminate on December 31, 1986, unless sooner extended."



THE WHITE HOUSE,
September 30, 1985.

Presidential Documents

Executive Order 12534 of September 30, 1985

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1987:

- (a) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration).
- (b) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).
- (c) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196 (Department of Labor).
- (d) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).
- (e) President's Committee on the Arts and the Humanities; Executive Order No. 12367 (National Endowment for the Arts).
- (f) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).
- (g) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services).
- (h) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).
- (i) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services).
- (j) President's Economic Policy Advisory Board; Executive Order No. 12296 (Office of Policy Development).
- (k) President's National Security Telecommunications Advisory Committee; Executive Order No. 12382, as amended (Department of Defense).
- (l) President's Export Council; Executive Order No. 12131 (Department of Commerce).

Sec. 2. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in Section 1 of this Order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

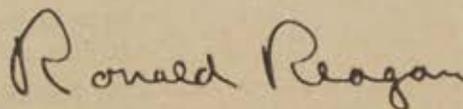
Sec. 3. The following Executive Orders, which established committees that have terminated or been abolished by statute or whose work is completed, are revoked:

- (a) Executive Order No. 12502, establishing the Chemical Warfare Review Commission.

- (b) Executive Order No. 12369, establishing the President's Private Sector Survey on Cost Control in the Federal Government.
- (c) Executive Order No. 12395, establishing the International Private Enterprise Task Force.
- (d) Executive Order No. 12433, establishing the National Bipartisan Commission on Central America.
- (e) Executive Order No. 12335, establishing the National Commission on Social Security Reform.
- (f) Executive Order No. 12332, establishing the National Productivity Advisory Committee.
- (g) Executive Order No. 12412, establishing the Peace Corps Advisory Council.
- (h) Executive Order No. 12426, establishing the President's Committee on Women's Business Ownership.
- (i) Executive Order No. 12499, establishing the President's Blue Ribbon Task Group on Nuclear Weapons Program Management.
- (j) Executive Order No. 12428, establishing the President's Commission on Industrial Competitiveness.
- (k) Executive Order No. 12400, establishing the President's Commission on Strategic Forces.
- (l) Executive Order No. 12439, establishing the President's Task Force on Food Assistance.
- (m) Executive Order No. 12421, establishing the Presidential Commission on the Conduct of United States-Japan Relations.
- (n) Executive Order No. 12401, establishing the Presidential Commission on Indian Reservation Economies.
- (o) Executive Order No. 12468, establishing the Presidential Advisory Council on the Peace Corps.

Sec. 4. Executive Order No. 12399 and Executive Order No. 12489 are superseded.

Sec. 5 This Order shall be effective September 30, 1985.



THE WHITE HOUSE,
September 30, 1985.

Presidential Documents

Memorandum of September 30, 1985

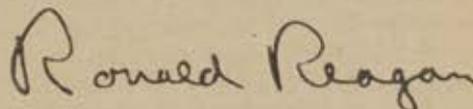
Annual Determination on Steel Industry Modernization

Memorandum for the United States Trade Representative

In accordance with Title VIII, Section 806 of the Trade and Tariff Act of 1984, you are hereby authorized and directed to report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate together with the report of the USITC my determination on the efforts undertaken by the domestic steel industry to modernize and maintain its international competitiveness. The Act requires the major companies of the steel industry to commit a substantial part of their net cash flow to investment of modern plant and equipment, and research and development; to maintain their international competitiveness in quality and cost, improve productivity, and control production costs; and to spend one percent or more of their net cash flow for worker retraining programs.

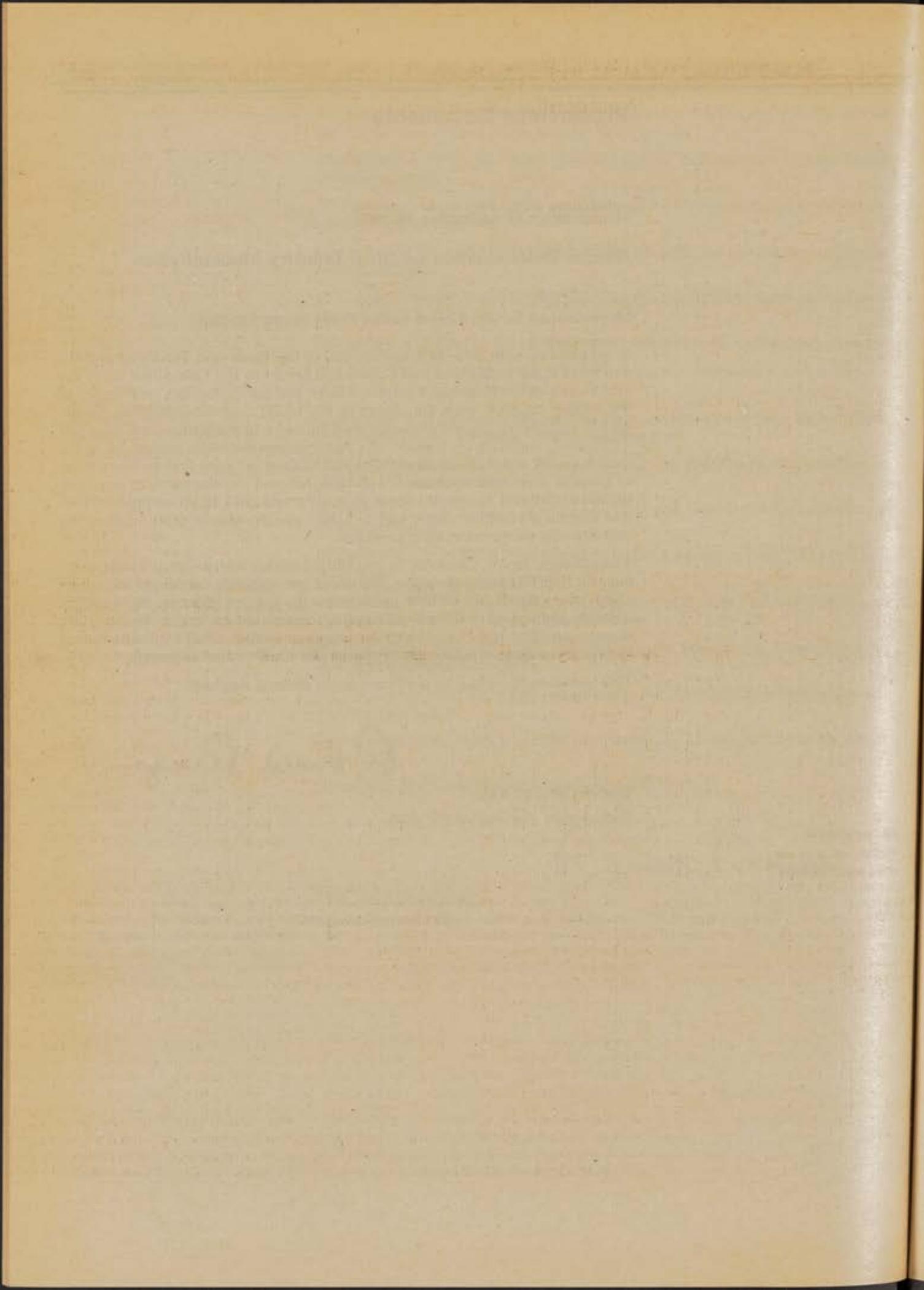
The attached report, prepared by the United States International Trade Commission (USITC) at my direction and under the authority contained in Section 332(g) of the Tariff Act of 1930, enumerates the actions taken by the domestic industry consistent with an affirmative determination under Section 806. Based upon that report and upon further examination of all available data, I hereby make an affirmative determination for the first annual period.

This memorandum shall be published in the **Federal Register**.



THE WHITE HOUSE

Washington, September 30, 1985.



Presidential Documents

Proclamation 5372 of October 1, 1985

United Nations Day, 1985

By the President of the United States of America

A Proclamation

The founders of the United Nations, meeting in San Francisco 40 years ago, set forth in the U.N. Charter the fervent hope that humanity might experience peace and international cooperation in the era after the greatest and most costly war ever experienced. The ideals expressed in the Charter were that all member states would work together to maintain international peace and security, encourage human rights, and cooperate in dealing with the economic, social, humanitarian, and technical problems that afflict our planet.

The United Nations and its family of international organizations have sought, constructively, to improve the human condition. Many people today live under better conditions because of work done in the name of these organizations. That hope for international cooperation, expressed 40 years ago, has been achieved most often in the U.N.'s technical, development, and humanitarian agencies. The United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the International Civil Aviation Organization (ICAO), the World Meteorological Organization (WMO), the International Atomic Energy Agency (IAEA), and the World Food Program (WFP), for example, have made major contributions to the safety and welfare of people everywhere.

On this the United Nation's 40th Anniversary, it is appropriate that all member states reflect not only on the achievements of the organization, but also its shortcomings, its unfulfilled promise, and yes, even its failures. We do so in a positive spirit, seeking constructive solutions to those problems that prevent the U.N. from realizing its full potential and fully embodying the ideals of the Charter. We believe that by facing those problems realistically and working together, many can be solved. The tasks before us are not easy. It will require both patience and dedication to the ideals of the U.N. Charter. We owe it to ourselves, however, to our children, and to all future generations to make this effort.

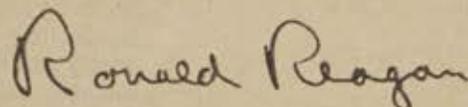
To the American people and their elected representatives, the United Nations plays an important role in the search for peace with justice. It provides a forum where member states can discuss and try to resolve their differences peacefully, in the spirit of the Charter. We will continue to do all we can to support that process within the U.N., within recognized regional fora, and in direct bilateral dialogue. As we encourage more responsible international behavior, we strengthen the United Nations and the prospect for achieving the goals of its Charter. But much more can and must be done. We look to all member states to support the sound principles upon which the U.N. was founded. These include respect for the rights and views of states that may find themselves in the minority, and support for recognized regional associations as provided for in the Charter, as well as the wise use of its-own resources and established procedures.

The people and the government of the United States take satisfaction in the very substantial moral, political, and financial support we have given to the United Nations since its founding. We remain firmly committed to the noble ideals set forth in the Charter; they are entirely consonant with the ideals

embodied in our own political institutions. The United Nations continues to stand as the symbol of the hopes of all mankind for a more peaceful and productive world. We must not disappoint those hopes.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, October 24, 1985, as United Nations Day and urge all Americans to acquaint themselves with the activities of the United Nations, its accomplishments, and the challenges it faces. I have appointed Peter H. Dailey to serve as 1985 United States Chairman for United Nations Day and welcome the role of the United Nations Association of the United States of America in working with him to celebrate this special day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, 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 tenth.



[FR Doc. 85-23756

Filed 10-1-85; 11:57 am]

Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 50, No. 191

Wednesday, October 2, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230
United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

59953-40180	1
40181-40324	2

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:	12489 (Revoked by EO 12534)	40319
Presidential Determinations:	12499 (Revoked by EO 12534)	40319
No. 85-15 of July 12, 1985	12502 (Revoked by EO 12534)	40319
Memorandums:	12533	40317
September 30, 1985	12534	40319
Executive Orders:	11145 (Continued by EO 12534)	40319
	11183 (Continued by EO 12534)	40319
	11287 (Continued by EO 12534)	40319
	11776 (Continued by EO 12534)	40319
	12131 (Continued by EO 12534)	40319
	12190 (Continued by EO 12534)	40319
	12196 (Continued by EO 12534)	40319
	12216 (Continued by EO 12534)	40319
	12296 (Continued by EO 12534)	40319
	12332 (Revoked by EO 12534)	40319
	12335 (Revoked by EO 12534)	40319
	12345 (Continued by EO 12534)	40319
	12367 (Continued by EO 12534)	40319
	12369 (Revoked by EO 12534)	40319
	12382 (Continued by EO 12534)	40319
	12395 (Revoked by EO 12534)	40319
	12399 (Revoked by EO 12534)	40319
	12400 (Revoked by EO 12534)	40319
	12401 (Revoked by EO 12534)	40319
	12412 (Revoked by EO 12534)	40319
	12421 (Revoked by EO 12534)	40319
	12426 (Revoked by EO 12534)	40319
	12428 (Revoked by EO 12534)	40319
	12433 (Revoked by EO 12534)	40319
	12439 (Revoked by EO 12534)	40319
	12462 (Amended by EO 12533)	40317
	12468 (Revoked by EO 12534)	40319
	12489 (Revoked by EO 12534)	40319
	12499 (Revoked by EO 12534)	40319
	12502 (Revoked by EO 12534)	40319
	12533	40317
	12534	40319
Proclamations:	5368	59953
	5369	59955
	5370	59957
	5371	40181
	5372	40323
5 CFR	530	40178
	531	40178
	536	40178
	540	40178
7 CFR	51	40185
	354	40186
	1822	39959
	1864	40187
	1872	39959
	1930	39959
	1944	39959
	1951	39959, 39967
	1980	39959
Proposed Rules:	51	40200
	982	40200
11 CFR	2	39968
	3	39968
12 CFR	211	39974
	338	39986
13 CFR		
Proposed Rules:	121	40032
14 CFR	39	39990, 40188, 40189
	71	40035, 30046, 40190
	73	40191
Proposed Rules:	39	40034, 40201, 40202
	71	40035, 40036, 40203
15 CFR	376	39993
	379	39993
	399	39993

18 CFR
 271.....40182, 40193

20 CFR
 302.....39993

21 CFR
 558.....39994
Proposed Rules:
 182.....40204
 186.....40204
 348.....40260

22 CFR
 208.....39994

24 CFR
 203.....40194
 251.....40195
 990.....40196

26 CFR
 51.....39998
 602.....39998
Proposed Rules:
 1.....40205

28 CFR
 0.....40196
 503.....40104
 527.....40105
 540.....40106
Proposed Rules:
 540.....40113-40115
 544.....40116

29 CFR
 1960.....40268

32 CFR
 806b.....40197

40 CFR
 60.....40158
 191.....40003
Proposed Rules:
 60.....40280
 228.....40274
 261.....40292

42 CFR
 405.....40168
 420.....40003

43 CFR
 3480.....40197

44 CFR
 1.....40004
 2.....40004
 5.....40004
 6.....40004
 8.....40004
 9.....40004
 10.....40004
 11.....40004
 12.....40004
 59.....40004
 205.....40004
 300.....40004
 301.....40004
 303.....40004
 304.....40004
 311.....40004

350.....40004
 351.....40004

45 CFR
 205.....40120
 305.....40120

46 CFR
 69.....40008
Proposed Rules:
 160.....40036

47 CFR
 0.....40012
 1.....40012
 2.....40016
 25.....40019
 73.....40012, 40021, 40022
 74.....40012
 76.....40012
 78.....40012
 81.....40023
 83.....40023
 87.....40023

49 CFR
 386.....40304
 509.....40023
 1002.....40024
 1003.....40027, 40029
 1043.....40029
 1171.....40029
Proposed Rules:
 391.....40040

50 CFR
Proposed Rules:
 641.....40206

H.J. Res. 229 / Pub. L. 99-102
 Designating the week beginning September 22, 1985, as "National Adult Day Care Week". (Sept. 27, 1985; 99 Stat. 470) Price: \$1.00

List of Public Laws

Last list October 1, 1985

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 186 / Pub. L. 99-100

To designate the week of September 23, 1985, through September 29, 1985, as "National Historically Black Colleges Week". (Sept. 27, 1985; 99 Stat. 488) Price: \$1.00

H.J. Res. 218 / Pub. L. 99-101

To designate the week beginning September 15, 1985, as "National Dental Hygiene Week". (Sept. 27, 1985; 99 Stat. 469) Price: \$1.00