11-7-85
Vol. 50 No. 216
Pages 46279-46414

Federal Register

Thursday
November 7, 1985

Briefings on How To Use the Federal Register
For information on briefings in Atlanta, GA, and Philadelphia, PA, see announcement on the inside cover of this issue.

Selected Subjects

Air Pollution Control
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Cargo Vessels
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Chemicals
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Fish and Wildlife Service

Flood Insurance
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Postal Service

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Environmental Protection Agency

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Selected Subjects

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

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: Nov. 21; at 1 pm.
Nov. 22; at 9 am. (identical session)

WHERE: Room LP-7,
Richard B. Russell Federal Building,
75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Deborah Hogan,
Atlanta Federal Information Center.
Before Nov. 12: 404-221-2170
On or after Nov. 12: 404-331-2170

PHILADELPHIA, PA

WHEN: Dec. 17; at 1 pm.
Dec. 18; at 9 am. (identical session)

WHERE: Room 3306/10
William J. Green, Jr., Federal Building,
600 Arch Street, Philadelphia, PA.

RESERVATIONS:
Laura Lewis,
Philadelphia Federal Information Center,
215-597-1709

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

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Presidential Documents

Title 3—

The President

Proclamation 5404 of November 5, 1985

National Drug Abuse Education Week, 1985

By the President of the United States of America

A Proclamation

Only a decade ago, many people believed that drug abuse was an insurmountable problem. Throughout America, parents, educators, law enforcement officials, and other community leaders are proving that the fight against drugs can be won. Law enforcement and international cooperation are reducing the availability and supply of illegal drugs. Research and experience have given us new insight into the causes and treatment of drug and alcohol abuse. Most important, Americans have changed their attitudes toward both drugs and drug users. Negative attitudes have been replaced with understanding, and drug abuse is seen for what it really is: destructive of life's potential and a tragic waste of health and opportunity.

We have developed a sense of responsibility, collectively and individually. Today, we hold the key to creating a drug-free society: prevention of drug abuse through awareness and education.

Many people have contributed to this improved situation. During the past four years, all segments of American society have worked together to stop drug abuse among our young and have brought about new laws and public policies. Young people everywhere are moving away from drug-taking behavior and embracing positive goals such as excellence in education, physical fitness, and personal integrity.

Parents have banded together, and young people are receiving strong support for behavior that is anti-drug, pro-achievement, and that recognizes individual responsibility. These efforts are creating an environment that nurtures our Nation's greatest asset—our children.

But while much has been done, we cannot let up on our efforts against illicit drugs and those who would profit from the havoc they wreak.

We must continue to work together to address drug and alcohol problems in our homes and families. We must carry these concerns into our schools, churches, workplaces, and community life. By heightening awareness, we can gather the moral strength to do what is right and channel it into effective measures against this menace.

To encourage widespread participation in efforts directed at preventing drug abuse, the Congress, by House Joint Resolution 126, has designated the week of November 3 through November 9, 1985, as "National Drug Abuse Education Week" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 3 through November 9, 1985, as National Drug Abuse Education Week. I call upon all Americans to join me in observing this week with personal dedication and a public commitment to protect the future of our Nation by eliminating drug abuse.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, 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.

Ronald Reagan

[FR Doc. 85-26769
Filed 11-6-85; 10:36 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AEA-6]

Designation of Transition Area, Perkasie, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Perkasie, PA. A new VOR Runway 18 instrument approach procedure has been developed to the Pennridge, PA, Airport.The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

EFFECTIVE DATE: 0901 G.m.t., December 19, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On May 5, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Perkasie, PA, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Pennridge Airport (49 FR 22103). A new VOR Runway 18 approach procedure has been developed to the Pennridge, PA, Airport. Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations were published in Handbook 7460.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a new transition area at Perkasie, PA. A new VOR Runway 18 approach procedure has been developed to the Airport. This action provides protected airspace for aircraft arriving/departing under instrument flight rules.

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

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Amendment

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

Perkasie, PA [NEW]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the center, lat. 40°23'25" N., long. 75°23'26" W., of Pennridge Airport, Perkasie, PA: within 14.5 mile radius of the center of the airport, extending clockwise from a 258° bearing from the airport; within 16.5 mile radius from the center of the airport extending clockwise from a 282° bearing from the airport; within 15 mile radius from the center of the airport extending clockwise from a 285° bearing from the airport; within 16 mile radius from the center of the airport extending clockwise from a 267° bearing from the airport; within 14.5 mile radius from the center of the airport extending clockwise from a 270° bearing from the airport; within 13 mile radius from the center of the airport extending clockwise from a 269° bearing from the airport, excluding that airspace that overlies existing transition area airspace.

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,
Acting Director, Eastern Region.

[FR Doc. 85-26540 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 249 and 275

[Release Nos. 34-22468A and IA-991A]

Form BD—Uniform Broker-Dealer Registration Application Form; Form ADV—Uniform Investment Adviser Registration Application Form; Corrections

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of form amendments and related rule amendments; correction.

SUMMARY: This document corrects final rules adopting Form BD (Uniform Application for Broker-Dealer Registration) which was published October 16, 1985 (50 FR 41867) and Form ADV (Uniform Application for Investment Adviser Registration) which was published October 23, 1985 (50 FR 42903). This action is necessary to correct word processing errors in the uniform Form BD and uniform Form ADV.

FOR FURTHER INFORMATION CONTACT: Lynne Masters, Staff Attorney, (202) 272-2848, Division of Market Regulation; or Jay Gould, Staff Attorney, (202) 272-2810, Office of Disclosure and Adviser Regulation, Division of Investment Management; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Accordingly, the following corrections are made in FR Doc. 85–24221 appearing on 41867 in the issue of October 16, 1985:

§ 249.501 [Form BD corrected]

1. On page 41875, amend paragraph 7 E(1) to remove the words "or been dishonest, unfair or unethical."

2. On page 41875, revise paragraph 7 J to remove the last word in the sentence, "initiated" and insert in its place the word "begun."

§ 271.1 [Form ADV corrected]

Also, the following corrections are made in FR Doc. 85–25224 appearing on 42903 in the issue of October 23, 1985:

3. On page 42912, number 11, under the definition of "Investment or investment-related" remove the words "or fiduciary" and insert the word "or" before "savings and loan association."

On page 42913 make the following corrections:

4. Revise paragraph 11C(3) to read "found the applicant or an advisory affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted?"

5. In paragraph 11C(4) remove the words "barring or suspending its association with an investment adviser."

6. In paragraph 11D(4) remove the word "business" and insert in its place the word "activity."

7. In paragraph 11E(1) remove the words "or been dishonest, unfair or unethical."

8. Revise paragraph 11G to read "Is the applicant or an advisory affiliate now the subject of any proceeding that could result in a "yes" answer to parts A–F of this item?"

9. On page 42910, at the top of the first column, add amendatory language for number 4 as follows:

"4. By revising Form ADV as described in § 279.1 as shown in the appendix."

Dated: October 31, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–26647 Filed 11–6–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Halofuginone and Bambermycins; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the animal drug regulations that reflected approval of a new animal drug application (NADA) filed by American Hoechst Corp. This document corrects an editorial error.

EFFECTIVE DATE: October 21, 1985.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 85–24972 appearing on page 42517 in the issue of October 21, 1985, the following corrections are made on page 42518:

§ 558.95 [Corrected]

In the first column in amendment 2, "paragraph (e)(3)" is corrected to read "paragraph (e)(4)" and under § 558.95 *Bambermycins*, "(3)" is corrected to read "(4)".

Dated: October 31, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–26561 Filed 11–6–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

Participation in Contract Claim Awards and Settlements; Technical Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule on participation in contract claim awards and settlements that appears at page 41885 in the **Federal Register** on Wednesday, October 16, 1985 (50 FR 41882). The action is necessary to correct typographical errors in the citation to 23 CFR 635.120.

EFFECTIVE DATE: November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Bob B. Myers, Chief, Construction and Maintenance Division, (202) 426–0392, or Mr. Hugh T. O'Reilly, Office of the Chief Counsel, (202) 426–0780, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

§ 635.210 [Correctly Designated as § 635.120]

In FR Doc. 85–24526 appearing on page 41885 in the issue of October 16, 1985, at the bottom of the first column and the top of the second column, the citation "§ 635.210" should be corrected in two places to read "§ 635.120."

Issued on: October 30, 1985.

Anthony J. McMahon,

Chief Counsel, Federal Highway Administration.

[FR Doc. 85–26566 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its regulations at 28 C.F.R. § 2.35, Mandatory Release in the Absence of Parole, to codify the Commission's interpretation of the interaction between the prison good time statutes, 18 U.S.C. 4161 et seq., and the parole statutes, 18 U.S.C. 4201 et seq. It is the view of the Commission that the only effect of good time credits is to establish the point in a prisoner's sentence at which, if he has not been released on parole, he will be mandatorily released "as if on parole" pursuant to 18 U.S.C. 4164. Consequently, after a prisoner has been released to supervision, either by parole or mandatory release, the good time he earned before that release is of no further effect. If such a prisoner is returned to custody as a parole or mandatory release violator, his mandatory release date on the violator term will be determined only by the good time credits he earns after that return to custody.

EFFECTIVE DATE: November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Patrick J. Glynn, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815. Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: This amendment does not amount to a new interpretation by the Parole Commission. Rather it formalizes the long-standing interpretation of the parole and good time laws by the Commission and its predecessor the U.S.

Board of Parole. The practice of the federal paroling authorities and the Bureau of Prisons for many years has been to treat previously earned good time as being "used up" once a prisoner is placed on supervision by parole or mandatory release. Thus, such good time under this practice does not shorten the period of reimprisonment to which the offender may be subjected if his parole or mandatory release is revoked. This has sometimes been characterized as a "forfeiture" of the old good time credits as a consequence of the revocation decision. See, *e.g., Bentsen* v. *Ralston*, 658 F.2d 639 (8th Cir. 1981). However, it has not been the practice of the Parole Commission or the Board of Parole to make specific orders on the forfeiture of pre-parole good time, because forfeiture of previously earned good time is not provided for as one of the decisions the Commission is statutorily obliged or authorized to make at a parole revocation hearing.

In any event, it makes no difference how the practical result of this sentence computation method is characterized. Regardless of whether the pre-release good time is considered "used up" at the time of release or "forfeited" as a consequence of revocation, the pre-release good time does not have the effect of reducing the period of imprisonment after revocation.

Prior to the enactment of the Parole Commission and Reorganization Act of 1976 (PCRA), the parole statutes addressed the maximum length of a parole violator term in 18 U.S.C. 4205 (1970), which stated: "The unexpired term of imprisonment of any such prisoner shall begin to run from the date he is returned to the custody of the Attorney General. . . ." Since the parole violator was subject to reincarceration for the unexpired term of imprisonment (i.e., the time remaining on his sentence when he was paroled) the good time earned before parole was not seen as reducing the parole violator term. The Board's regulations explained that once parole or mandatory release had been revoked, the prisoner could be required to serve the remainder of his sentence "less such good time as he may earn following his recommitment." 28 CFR 2.40 (1973).

Another provision in the pre-1976 parole statutes stated: "If such order of parole shall be revoked and the parole so terminated, the said prisoner may be required to serve all or any part of the remainder of the term for which he was sentenced." 18 U.S.C. 4207 (1970). It has been suggested that the "all or any part" language in that section gave the Board of Parole the power to restore good time which had been earned before release.

However, that was not the way that language was interpreted by the Board of Parole. The function of good time restoration had not been expressly conferred on the Board of Parole (as it has been conferred on the Attorney General in 18 U.S.C. 4166). Rather than treating § 4207 as an implicit conferral of powers in the good time area, the Board of Parole viewed the "all or any part" language as giving it the power to reparole a parole violator at any time during the violator term without regard to any pre-parole good time.

The PCRA did not contain any provisions directly analogous to the former sections 4205 and 4207, which prescribed the maximum length of parole violator terms. The current section 4210 did change the law to the extent of requiring full sentence credit for time spent on parole except for parolees convicted of new crimes, section 4210(b)(2), and parolees who intentionally failed to respond to an order or warrant of the Commission, section 4210(c). However, in other respects, the Commission has treated the matter of maximum violator terms (in particular, the effect of pre-parole good time) as being the same as under the former sections 4205 and 4207.

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Probation and parole, Prisoners.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.35, *Mandatory Release in the Absence of Parole*, is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 2.35 Mandatory release in the absence of parole.

* * * * *

(b) It is the Commission's interpretation of the statutory scheme for parole and good time that the only function of good time credits is to determine the point in a prisoner's sentence when, in the absence of parole, the prisoner is to be conditionally released on supervision, as described in subsection (a). Once an offender is conditionally released from imprisonment, either by parole or mandatory release, the good time earned during that period of imprisonment is of no further effect either to shorten the period of supervision or to shorten the period of imprisonment which the offender may be required to serve for violation of parole or mandatory release.

* * * * *

Dated: October 17, 1985.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 85-26412 Filed 11-6-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Amendments to Implementing Regulations; Currency and Foreign Transactions Reporting Act; Correction

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a legal citation contained in the regulatory amendments implementing regulations for the Currency and Foreign Transactions Reporting Act which were published October 22, 1985 [50 FR 42691].

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Financial Crimes and Frauds Advisor, Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 566-8022.

§ 103.43 [Corrected]

Accordingly, the Office of the Secretary is correcting 31 CFR 103.43(b) by changing the reference to "Executive Order 12356", to read "Executive Order 12333".

Dated: October 31, 1985.

David D. Queen,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 85-26577 Filed 11-6-85; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

31 CFR Part 355

Regulations Governing Fiscal Agency Checks

Correction

In FR Doc. 85-24934 beginning on page 42518 in the issue of Monday, October 21, 1985, make the following correction:

On page 42520, in the second column, § 355.5(b)(4), in the second line, "identification" should have read "indemnification".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore, MD Regulation 85-09]

Security Zone Regulations; Chesapeake Bay, Baltimore Harbor, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency Rule.

SUMMARY: The Coast Guard is establishing a security zone in the Baltimore Harbor, Dundalk Marine Terminal, Baltimore, Maryland. This security zone is needed to protect a military exercise. Entry into this zone is prohibited unless authorized by the Captain of the Port Baltimore.

EFFECTIVE DATES: This regulation becomes effective beginning at 8:00 am e.s.t. 9 November 1985 or upon the arrival of the vessel American Eagle whichever is earlier. It terminates at 11:00 p.m. e.s.t. 11 November 1985 or upon the departure of the vessel American Eagle, whichever is later, unless sooner terminated by the Captain of the Port Baltimore.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D.E. Henrickson, Chief Port Operations Department, USCG Marine Safety Office, Custom House, 40 South Gay Street, Baltimore, Maryland 21202-4022, (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days from the date of this publication. Publishing a NPRM and delaying the effective date of this security zone would be contrary to the public interest since action is needed to safeguard a military exercise of the scheduled dates.

Drafting Information

The drafters of this regulation are Lt. J.J. Hannon, project officer for the Captain of the Port Baltimore, MD and Lcdr. F.E. Couper, Project Attorney, Fifth Coast Guard District Legal Office (Baltimore Branch).

Discussion of Regulation

The event requiring this regulation will occur on 9 through 11 November 1985. This security zone is necessary to protect the vessel American Eagle while it is participating in a military exercise at a commercial port facility. This action will minimize the hazards to the vessel American Eagle, its personnel and cargo from possible damage from any person or persons.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, vessels, waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.49 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.T0509 is added to read as follows:

§ 165.T0509 Security Zone: Baltimore Harbor, Baltimore, MD.

(a) *Location.* The following area in the Baltimore Harbor is a security zone: A perimeter of 100 yards in every direction from the vessel AMERICAN EAGLE, official number 658479, call sign WFPJ, while it is moored at the Dundalk Marine Terminal, Berth 8.

(b) *Regulations.* (1) In accordance with the general regulation in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Baltimore, MD.

Dated: September 25, 1985.

R.C. Pickup,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 85-26623 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

36 CFR Part 327

Public Use of Water Resource Development Projects Administered by the Chief of Engineers

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule: Correction.

SUMMARY: This document corrects a final rule on Lakeshore Management on Civil Works Projects that appeared at page 35555 in the **Federal Register** of Monday, September 3, 1985, (50 FR 35555). This action is necessary to correct an administrative error that inadvertantly omitted the reserved §§ 327.27, 327.28, 327.29, and adding § 327.30 as Lakeshore Management on Civil Works Projects.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Darrell E. Lewis, Chief, Natural Resources Management Branch, U.S. Army Corps of Engineers, HQUSACE, ATTN: DAEN-CWO-R, Washington, DC 20314-1000.

The following corrections are made in FR Doc 85-20946 appearing on page 35555 in the issue of September 3, 1985: the table of contents on page 35556 and the regulatory text of Part 327 on page 35561 are corrected by adding §§ 327.27 [Reserved], 327.28 [Reserved], 327.29 [Reserved] and 327.30 Lakeshore Management on Civil Works Projects.

John O. Roach, II,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 85-26571 Filed 11-6-85; 8:45 am]

BILLING CODE 3710-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2862-3]

National Emission Standards for Hazardous Air Pollutants; Amendments to General Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) proposed amendments to Subpart A, the General Provisions for national emission standards for hazardous air pollutants, on June 6, 1984

(49 FR 23568). This **Federal Register** notice responds to comments on the proposed amendments and promulgates the amendments to the General Provisions. The amendments codify procedures and criteria used in implementing these emission standards and eliminate the repetition of general information in subparts of future standards. A summary of the specific amendments is provided at the beginning of the **SUPPLEMENTARY INFORMATION** section of this notice.

DATE: Effective November 7, 1985. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the actions taken by this notice is available *only* by filing a petition for review in the United States Court of Appeals for the District of Columbia circuit within 60 days of today's publication. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: *Docket.* Docket No. A–81–12 contains supporting information used in developing the promulgated amendments. This docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Gail K. Lacy or Mr. Gilbert H. Wood, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5578.

SUPPLEMENTARY INFORMATION:

Summary of Amendments

Under the authority of section 112 of the CAA, EPA has been promulgating national standards for the emissions of hazardous air pollutants from existing and new stationary sources. The standards are contained in Part 61 of 40 CFR, each constituting a subpart. Subpart A comprises general provisions that apply to all of the standards.

Many provisions have been repeated in each standard's subpart. The amendments promulgated today add these provisions into the General Provisions, thus eliminating the need to repeat them in the subparts of future standards. They mainly comprise procedures related to emission testing and monitoring.

These amendments also provide criteria and procedures for determining whether proposed changes to a source would constitute modification. They are designed to clarify EPA's implementation of modification, as it is defined in the CAA and in the present Part 61, for owners or operators who propose to make changes to a source which may result in increased emissions.

In addition, the amendments add procedures that would be followed when any person requests that the Administrator permit the use of an alternative design, piece of equipment, work practice or operation in place of one specified by a standard. This amendment is consistent with the CAA, which provides that the Administrator may permit the use of an alternative method of controlling emissions if, after notice and opportunity for a public hearing, the Administrator determines that the alternative method is equivalent, in terms of reducing emissions, to that specified in the applicable standard.

The amendments also add two lists. The first is a list of hazardous air pollutants. The second is a list of other substances for which the Agency has published a notice that included consideration of the serious health effects, including cancer, from ambient air exposure to the substance.

The amendments simplify Part 61 by eliminating the concept "equivalent method," a method of emission testing that is equivalent to a reference method specified in a standard, meaning that it has a consistent and quantitative relationship to the appropriate reference method. Under these amendments, each test method approved by the Administrator that is not a reference method, or a minor change from thereof, would be classified as an alternative method, meaning that it has been demonstrated to the Administrator's satisfaction to produce results adequate for the determination of compliance.

The amendments also simplify the wording and punctuation in Subpart A.

Public Participation

At the time of proposal, public comments were solicited and copies of the proposal were distributed to interested parties. The public was also given the opportunity to present views at a public hearing concerning the proposed standards in accordance with section 307(d)(5) of the CAA. The public comment period was from June 6 to August 20, 1984. No one requested to speak at the public hearing, so a public hearing was not held. Eight comment letters were received. They were submitted by industry representatives and a State air pollution control agency.

Significant Comments and Changes to the Proposed Amendments

The comments have been carefully considered and, where determined appropriate by the Administrator, changes have been made to the proposed amendments. In the section on emission testing, the provisions for use of alternative methods were clarified, and provisions for the use of reference methods with minor changes were added. Similar provisions were also added to the monitoring section. In the section on modification, an additional reference source was added to provide emission factors to be used to determine emission increases. The new reference source is the background information document published for each individual subpart. In addition, the definition of capital expenditure, used in determining if modification has occurred, was clarified for sources constructed in 1980 and thereafter. A new pollutant, coke oven emissions, was added to the list of hazardous air pollutants under Section 112 of the CAA. Also, a list was added for other substances for which the Agency has published a notice that included consideration of the serious health effects, including cancer, from ambient air exposure to the substance.

The significant comments and EPA's responses are discussed below. Also included are discussions of changes that are not related to public comments. The discussions are organized in the same order as the sections of the General Provisions to which they apply.

Lists of Pollutants

The proposed amendments included a list of hazardous air pollutants. In addition, the promulgated amendments include a list of other substances for which EPA has published a notice that included consideration of the serious health effects, including cancer, from ambient air exposure to the substance.

Publication of both of these lists serves to inform the public as to the status of EPA's program for assessing potentially toxic air pollutants as well as providing a useful reference for those **Federal Register** publications dealing with potentially toxic air pollutants. In addition, the first of these lists will remove uncertainty that the public may have as to the status of a particular pollutant between listing of the pollutant and promulgation of emission standards for that pollutant. The second of these lists will also convey to the public the scope of the Agency's air toxics program by identifying all of the actions that EPA has taken with respect to potentially toxic air pollutants.

Definition of "Standard"

The proposed amendments redefined "standard" to include design, equipment, work practice, and operational standards, or any combination thereof. Two commenters thought that the proposed definition should be changed to only apply to actions subsequent to the 1977 Amendments to the CAA. They were concerned that under the proposed definition, work practice requirements in the current vinyl chloride standard, which are in their opinion, invalid, would be considered valid by virtue of the change in the General Provisions of Part 61. The EPA disagrees. By simply promulgating a definition that conforms to the current section 112 of the CAA, EPA is not attempting to address any questions regarding the work practice requirements of the vinyl chloride standard. Therefore, EPA decided it was inappropriate to change the proposed definition of standard.

Another commenter thought that a clearer wording of the definition might be: "A national emission standard 'and/or' (rather than the proposed 'including') a national design, equipment, work practice or operational standard." The proposed wording of the definition of "standard" was derived from section 112(e)(5) of the CAA, which states that any design, equipment, work practice, or operational standard, or any combination thereof, shall be treated as an emission standard. Therefore, the proposed definition is consistent with the CAA whereas the definition suggested by the commenter is not.

Address

Comments on the Address section (§ 61.04) all related to the delegation of standards to the States. The proposed revisions to this section stated that EPA may permit requested information to be submitted to the State agency only, instead of to both the State agency and to EPA. Three commenters requested that, when standards have been delegated to State agencies, the owner should be required to submit information only to the appropriate State agency in all cases, rather than EPA permitting it in some cases. The EPA disagrees with the commenters' request because both EPA and the States have enforcement responsibilities. There are aspects of all the standards that EPA will not delegate to any State. Moreover, EPA reserves oversight authority for delegated activities. The EPA would permit sources to submit information solely to the State agency only in cases where the permission has been specifically granted in the written delegation.

Another comment suggested that the word "Administrator" be replaced by "authorized agency" throughout the General Provisions. As mentioned above, not all provisions are delegated to the States. Furthermore, EPA always has the responsibility to ensure enforcement; section 112(d)(2) of the CAA reserves the Administrator's authority to enforce standards even when enforcement has been delegated to a State. Use of the term "authorized agency" could imply that the delegated agency has sole authority to enforce. Therefore, "Administrator" is the more appropriate term.

One commenter suggested that the listing of States with approved delegation should note the extent of delegation allowed each State, or at least identify the **Federal Register** notices wherein such delegations have been made. Most States have full delegation of all applicable NESHAP. The listing already notes the exceptions to full delegation for some of the States. The EPA plans to continue updating the listing to show exceptions to full delegation on a case-by-case basis.

Two commenters questioned if States with delegated authority will be required to revise their provisions to match these amendments. The States are required only to have provisions at least as stringent as the ones that have been delegated to them. However, these amendments do not add any more stringent requirements to the General Provisions. Therefore, it is not expected that States will be required to change their provisions.

Applications for Approval of Construction or Modification

One commenter suggested a wording change to the paragraph describing the necessary information to be included in an application for approval of modification § 61.07(c). The suggestion was to replace the words "the precise nature of the proposed changes" with "a description of the proposed changes." The EPA believes that the wording "precise nature" more clearly conveys that EPA needs exact information, rather than a vague or general description of the proposed changes.

Another commenter requested that the enforcement authority should be allowed at least 120 days, rather than 60 days, to respond to applications for approval of construction or modification. The commenter believes that a longer time is particularly important when processing applications that are subject to other rules requiring public notice and/or an opportunity for a public hearing. The EPA disagrees that the allowed response time should be lengthened. Approvals of construction or modification under the NESHAP program are based on the expected ability of the source to meet the applicable NESHAP emission standard. The EPA is not convinced that any more than 60 days is necessary for this type of determination. For cases where the construction or modification is subject to a public hearing under another rule, the enforcement authority should be able to determine if the construction or modification would be approvable under Part 61 regardless of the public hearing outcome. For cases in which the construction or modification is not subject to a rule requiring a public hearing, it would be unfair to the source for the enforcement authority to delay a determination any longer than necessary.

Notification of Startup

The proposed § 61.09(a)(1) requires notification of anticipated startup no more than 60 days and no less than 30 days before the planned startup date. One commenter suggested that some provisions should be added to include those sources whose planned startup falls within 30 days after the effective date of the applicable standard.

The EPA believes that it is unlikely that a source would start up within 30 days of the effective date. Any new or modified source that has not had initial startup before the effective date is required to submit an application for approval of construction or modification, as specified in § 61.07. Startup could not occur before the Administrator approves the construction or modification. To increase the possibility that approval takes place within 30 days after the effective date, the owner or operator could submit the application for approval before the effective date. The owner or operator could notify the Agency of the anticipated startup date at the same time. However, EPA cannot require that these items be submitted before the effective date. Therefore, EPA did not add any special provisions to § 61.09.

Waiver of Compliance

Several commenters stated that EPA should provide that a source will not be considered to be in violation of the standard during the time between submittal of a waiver of compliance and final action on the waiver by EPA, if final action has not taken place before the 90-day compliance period is over. One of these commenters suggested that the 90-day period for coming into

compliance should be removed from the General Provisions and decided separately for each standard.

The CAA clearly states in section 112(c)(1)(B) that an existing source shall comply with the standard within 90 days of the effective date unless the source is operating under a waiver of compliance. If would be inconsistent with the statute to change the 90-day period or to add the provision requested by the commenters. Thus, the owner or operator of a source should submit the waiver application as soon as practicable to allow time for the Agency to make a determination within the 90-day period after the effective date. One should note that all substantive standards are proposed prior to being promulgated. The owner or operator should take advantage of the time between proposal and promulgation to prepare significant portions of a plan for achieving compliance. In addition, the source should continue to take all possible steps toward achieving compliance while the Agency is evaluating the waiver application.

One commenter requested that EPA describe the compliance schedule requirements for waivers of compliance applying to work practice, design, or operational standards. The commenter also suggested that EPA modify the example "request for waiver" form in Appendix A of Part 61 to accommodate work practice, design, or operational standards. The EPA agrees that the information requested in the waiver application is oriented toward equipment. This information would be appropriate for design and equipment requirements, as well as for standards with a numerical emissions limit. However, EPA disagrees that the General Provisions or Appendix A should be revised to describe the compliance schedule information required in applications for waivers of compliance with work practice or operational standards. In most cases, the owner or operator should be able to implement work practice and operational requirements within 90 days of the effecitive date. Furthermore, even if a waiver may be justified, the information needed in the waiver application would be specific to the particular standard. Therefore, it is more appropriate that detailed guidance be given in the subpart of the standard or by the enforcement agency, rather than in the General Provisions. General guidance is that the waiver application should contain sufficient information to show why the source is unable to comply within 90 days, the steps that the source is taking to achieve compliance in the minimum amount of time, and the dates for completing each step.

Compliance with Standards and Maintenance Requirements

One commenter suggested a minor wording change in the first paragraph of the provisions in the proposed § 61.12 on compliance determinations. The wording in the proposed section said that compliance shall be determined by emission tests established in § 61.13 or as otherwise specified in an individual subpart. The EPA agrees that this language was ambiguous. The intent of EPA is that the individual subpart would take precedence over the General Provisions. The final wording removes this ambiguity.

Another comment suggested that EPA remove the proposed words "for minimizing emissions" from the provision requiring the operation of the source and associated air pollution control equipment "in a manner consistent with good air pollution control practice for minimizing emission." The EPA believes that these words serve to clarify the phrase "good air pollution control practice" and therefore should be included.

Other comments on this section related to the provisions of alternative means of emission limitation. One suggested that the language be made consistent with the CAA by stating that the Administrator "shall" (instead of the proposed "will") publish in the **Federal Register** a notice permitting the use of the alternative means. The commenter believes the "shall" more clearly states the Administrator's obligation to permit the use. The EPA disagrees. Throughout the General Provisions, the word "will" is used to describe the actions which will be performed by the Administrator. The EPA decided to leave "will" to maintain consistency between this section and the rest of the General Provisions and because this properly describes the actions to be taken by the Administrator.

The same commenter also requested the addition of a sentence to § 61.12(d)(1) following the statement that the permission to use an alternative means may be conditioned on requirements for the operation and maintenance of the alternative means. The suggested sentence states that such operation and maintenance requirements will be no more severe than necessary to ensure that the alternative method of emission limitation will be operated and maintained in such a manner as to achieve a reduction in emissions at least equivalent to the reduction to be achieved under any design, equipment, work practice or operational standard required by the Administrator for a particular pollutant. The EPA agrees that the intent of the operation and maintenance provisions is to ensure that the alternative means achieves at least as must emission reduction as the standard, instead of necessarily achieving more emission reduction than the standard. The EPA believes, however, that in most cases, it is infeasible to quantify the effect of the operation and maintenance requirements on the amount of emission reduction. For example, it would often be infeasible to estimate that, with one set of maintenance requirements, the control method would achieve 90 percent control; yet with another set of maintenance requirements, it would achieve 95 percent control. The selection of operation and maintenance requirements will be EPA's best judgment of what is necessary to ensure that the alternative method will achieve a reduction in emissions at least equivalent to the standard. Therefore, it is not appropriate to change the proposed regulation.

Emission Testing

Comments were received on the proposed § 61.13(b), which provides that the Administrator may require emission testing in addition to the initial emission test "at any other time under section 114 of the Act." The commenters believed that one could infer from the proposed wording that Section 114 gives unlimited authority to EPA to require testing. The EPA agrees with the commenters that the wording of this paragraph could be improved. The final amendments state that the Administrator may require an owner or operator to test emissions from the source at any other time, when such action is authorized under section 114 of the Act. This suggested wording was chosen over other suggestions because it most accurately reflects the intent of the provision.

Another commenter requested that the time for analyzing test samples be lengthened from 30 to 45 days, and the time for submitting a report after emission testing be lengthened from 31 to 60 days. The commenter believes this time is needed especially when samples have to be shipped off-site for analysis. The EPA intends to specify as short a time period as reasonable to minimize delay in determining the compliance status of the source. The individual subparts in Part 61 that require emission testing allow 30 days for determining emission test results, and require the results to be sent to EPA the next business day following the

determination. In enforcing these standards, EPA has generally found these deadlines to be reasonable. The commenter did not provide any case to illustrate any specific difficulty. The proposed General Provisions allow for a different time period to be specified in a particular subpart, if necessary, and EPA will address testing schedules when each subpart is reviewed. Consequently, EPA disagrees with the commenter's suggestion to change the proposed time period.

The same commenter pointed out that the requirements for emission test facilities (e.g., sampling ports) in § 61.13(d) would be applicable only to those sources required to perform emission testing. The EPA agrees with the commenter and has clarified this point in the final regulation.

Two commenters requested clarification of the provisions for use of alternative methods for emission testing that are in the proposed § 61.13(h). One commenter stated that the section needs to address the date for submission of requests to use an alternative test method during the initial emission test for new sources that have initial startup before the effective date of the applicable standard. The EPA agrees with the commenter that for these sources the date should be the same as for existing sources, which is 30 days after the effective date. Another commenter requested that EPA consider requests to use an alternative test method at any other time, in addition to during the initial emission test. The EPA also agrees with this request. The final regulation incorporates provisions addressing these points in § 61.13(h).

Another change from the proposed emission test § 61.13(h) is the addition of a provision for the use of a reference method with minor changes in methodology. Minor changes pertain to contingencies that arise in the field and to authorizations that may appear in the regulations where the potential for advancement in test procedures, equipment, reagents, or analytic methods was anticipated. The reason for distinguishing minor changes to reference methods from alternative methods is related to procedures for approving their use. The decisions to approve minor changes may be made most efficiently and reasonably by the implementing agency, which may be a delegated State or local agency. Subsequent approval at the Federal level would be unnecessary because minor changes do not affect the precision or accuracy of the method and, therefore, are not of national significance. Conversely, EPA retains authority for the approval of alternative methods in order to ensure uniformity and technical quality in the test methods used for enforcement of national standards. Therefore, the new provision adds flexibility to the emission testing section.

Monitoring Requirements

One commenter stated that monitoring data obtained during periods of plant startup, shutdown, or malfunction should not be included in the monitoring data average, and emissions excesses recorded during those periods should not be considered violations of the standard. The EPA disagrees. The monitoring data collected during periods of plant startup, shutdown, and malfunction should be included because they contain relevant information about the event. It is important to know how much is being emitted during such a period, and how long the period lasts, especially during plant startup and malfunction. Unless specified otherwise in a particular subpart, compliance is determined by a performance test, and monitoring data are used to indicate excess emissions, or improper operation and maintenance. Therefore, no such provisions were added.

Provisions for the use of minor changes that do not affect the precision and accuracy of specified monitoring procedures were added to § 61.14(g). These provisions are similar in substance and purpose to those for the use of minor changes to reference emission-test methods. The provisions also state the Administrator's authority to require the use of the procedures specified under this part if the Administrator has reasonable grounds to dispute results obtained by an alternative method.

Modification

The EPA revised the proposed definition of "capital expenditure," which is used in determining whether some changes to an existing source are modifications. In the proposal, "capital expenditure" was defined as the product of the applicable "annual asset guideline repair allowable percentage" (AAGRAP) specified in the latest edition of the Internal Revenue Service (IRS) publication 534 and the existing source's basis. Recent tax revisions repealed the use of AAGRAP for property placed in service after December 31, 1980. Therefore, the EPA reviewed IRS Publication 534 to determine if the proposed procedure is practical for post-1980 assets. The publication continues to require the use of an existing source's basis, and also continues to report the AAGRAP because it is still used for tax purposes for pre-1981 assets. This means that asset records must be kept for post-1980 assets similarly as for pre-1981 assets. Thus, EPA is revising the definition of "capital expenditure" to clarify that the AAGRAP can be for post-1980 assets. The public comments on modification and EPA's responses are discussed below.

Two commenters stated that, to determine modification, the increase in emissions should be compared to the permitted emission level, rather than the actual level. They contended that measuring increases from the current operating level would penalize owners or operators for past reductions. The EPA disagrees with these commenters. The comparison of an emission increase to the permitted level of emissions instead of to the actual level is contrary to the statutory definition of modification. The definition of modification in sections 112(a)(3) and 111(a)(4) of the CAA refers to the increase in terms of "the amount of air pollutant emitted by the source."

Two commenters requested that only changes resulting in a "significant" increase in emissions be considered a modification. They noted that only significant increases are regulated under the modification provisions in 40 CFR 51.24 and 52.21, which are the prevention of significant deterioration (PSD) requirements of the State implementation plan (SIP) rules. The EPA believes the commenter's request is inappropriate for Part 61. Under the definition of modification in the CAA, any physical or operational change resulting in an increase in emissions constitutes a "modification." As the commenters note, the PSD rules in 40 CFR 51.24 and 52.21 apply to "major modifications" that result in a "significant" emissions increase, (i.e., greater than a specified *de minimis* amount). The promulgation of these rules followed the decision in *Alabama Power Co* v. *Costle*, 636 F.2d 323 (D.C. Cir 1979), in which the D.C. Circuit held that EPA has authority to interpret the definition of modification for PSD review so as to exempt sources with small emissions increases on grounds of administrative necessity. The *Alabama Power* decision does not require EPA to provide a *de minimis* exemption from application of the modification for NESHAP applicability purposes; nor does EPA expect an administrative need for exempting small emissions increases from the modification provisions under the NESHAP program. The NESHAP are categorically applicable emission standards and the administrative

burden associated with their application is not overwhelming. In contrast, the PSD requirements involve an assessment of the effects of the modification on ambient air quality and a case-by-case technical review including opportunity for public comment.

The EPA received two comments that EPA should emphasize the use of other emission factors, rather than emission factors contained in "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP–42, for determining emission increases. The commenters cited the lack of emission factors specific to the synthetic organic chemical manufacturing industry (SOCMI) in AP–42. In some cases, the most appropriate emission factors for determining emissions increases would be those used by EPA in developing the NESHAP. They are described in the documents providing background information for each standard. Therefore, the promulgated modification section refers to these documents, as well as AP–42, as sources of emission factors. The modification section would continue to provide for use of other emission factors determined by the Administrator to be superior for determining an emission increase to the emission factors in AP–42 or the background information documents. This determination could be made on a case-by-case basis, or more generally in the individual subparts.

One commenter questioned why the modification provision in 40 CFR 60.14(c) for the NSPS program is not included in the proposed provisions for Part 61. This provision states that "the addition of an affected facility to a stationary source or as a replacement for an existing facility shall not by itself bring within the applicability of this part any other facility within that source." This provision is inappropriate for Part 61. The EPA uses the term "affected facility" under Part 60 to designate the unit subject to a standard. The EPA does not use the term "affected facility" under Part 61.

Several comments were received on the exemptions to modification listed in the proposed § 61.15(d). One commenter had two comments on the exemption for an increase in production rate of a stationary source, if that increase can be accomplished without a capital expenditure on the stationary source (§ 61.15(d)(2)). One of these comments was that the definition of capital expenditure should be changed to use the replacement cost rather than the original cost. The comment stated that EPA at least should allow the alternative definition of capital expenditure that is included in the NSPS for equipment leaks (i.e., fugitive emissions) from petroleum refineries and SOCMI. The alternative definition to which the comment referred uses the replacement cost with an adjustment factor to approximate the original cost, rather than only the original cost. The reason was that the original cost for the particular equipment (e.g., valves and pumps) covered by these two NSPS may not be available, and may be very difficult to recreate at some plants. The alternative definition of capital expenditure achieves the same result by using the replacement cost and depreciating it to approximate the original cost. The EPA does not believe that the difficulties with original costs encountered by some of the plants subject to the equipment leaks NSPS are general enough to all standards to warrant inclusion of this alternative definition in the General Provisions. Furthermore, if an alternative definition were necessary for a specific standard, the definition would need to be tailored to the particular industry and equipment. For example, the inflation index used to depreciate the replacement cost may be different from that used for refineries and chemical plants.

The second comment was that EPA should use "process improvement" rather than "increase in production rate" in the exemption in § 61.15(d)(2). The use of "process improvement" is specific to the NSPS for equipment leaks from refineries and SOCMI and is not appropriate for the General Provisions of either Part 60 or Part 61. The equipment leaks NSPS are unusual because the affected facility (equivalent to the "source" under NESHAP) is broadly defined as the grouping of a large number of certain types of equipment within process units rather than the individual pieces of equipment for which there are requirements. In process units in refineries and chemical plants, many routine changes that may result in the minor addition of potentially leaking equipment, such as a few valves or a pump, are made for specific reasons. For other source categories, EPA has no evidence that such changes would routinely be made. If such changes exist for another source category, EPA would need to examine the details of specific examples before it would exempt the changes from modification.

One commenter stated that sources that are relocated should not be exempted from the modification provisions. The commenter stated that the exemption for relocated sources in the proposed § 61.15(d)(95) is inconsistent with other rules, such as SIP's. The EPA disagrees. Sections 112(a)(3) and 111(a)(4) of the CAA define modification to be a change in a source that increases emissions. Section 61.15(d)(5) merely provides that relocation of a source does not by itself constitute a modification. This is correct because relocation does not by itself increase emissions. However, § 61.15(d)(5) clarifies that the owner must report relocations and changes in ownership to the EPA, as described under § 61.10(c).

One commenter questioned why an exemption to modification in Part 60 was not included in the proposed provisions in Part 61. The specific exemption, in § 60.14(e)(5), is for "the addition or use of any system or device whose primary function is the reduction of air pollutants except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial." The EPA believes that this exemption to modification is inappropriate for the Part 61 General Provisions because of the hazardous nature of the subject pollutants. If the addition or use of an air pollution control device causes an increase in emissions of a hazardous air pollutant, the source should become subject to the applicable standard to protect the public health.

A commenter noted that paragraph § 61.15(e) referenced in the proposed paragraph § 61.15(a), was missing. The EPA found that the proposed paragraph (a) of the modification provisions was incorrect; there is no intended paragraph § 61.15(e). The final regulation has been corrected.

Miscellaneous

Major Rule Determination

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding the regulation to be a "major rule." In fact, this action would impose no new regulatory requirements for owners or operators of sources to which a standard under Part 61 is applicable. The Agency has therefore concluded that this regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget

(OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to these comments are included in Docket Number A-81-12.

Paperwork Reduction Act

These amendments do not add any information collection burden for sources subject to standards currently in Part 61. Thus, this action is not an information collection request (ICR) under the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.*

Regulatory Flexibility Analysis Certification

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that these amendments to Part 61 will not have a significant economic impact on a substantial number of small entities. The amendments will not add any new regulatory requirements to Part 61. Consequently, they will not add significant costs.

List of Subjects in 40 CFR Part 61

Asbestos, Beryllium, Hazardous substances, Mercury, Radionuclides, Reporting and recordkeeping requirements, Vinyl chloride.

Dated: September 23, 1985.

Lee M. Thomas,

Administrator.

PART 61—[AMENDED]

40 CFR Part 61 is amended as follows:

1. The authority citation for Part 61 is revised to read as set forth below and the authority citations following all the sections in Part 61 are removed.

Authority: Secs. 101, 112, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

2. The table of contents is amended by revising the table of contents for Subpart A to read as follows:

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subpart A-General Provisions

* * * * *

3. Section 61.01 is revised to read as set forth below:

§ 61.01 Lists of pollutants and applicability of Part 61.

(a) The following list presents the substances that, pursuant to section 112 of the Act, have been designated as hazardous air pollutants. The **Federal Register** citations and dates refer to the publication in which the listing decision was originally published.

Asbestos (36 FR 5931; March 31, 1971)
Benzene (42 FR 29332; June 8, 1977)
Beryllium (36 FR 5931; March 31, 1971)
Coke Oven Emissions (49 FR 36560; September 18, 1984)
Inorganic Arsenic (45 FR 37886; June 5, 1980)
Mercury (36 FR 5931; March 31, 1971)
Radionuclides (44 FR 76738; December 27, 1979)
Vinyl Chloride (40 FR 59532; December 24, 1975)

(b) The following list presents other substances for which a **Federal Register** notice has been published that included consideration of the serious health effects, including cancer, from ambient air exposure to the substance.

Acrylonitrile (50 FR 24319; June 10, 1985)
Carbon Tetrachloride (50 FR 32621; August 13, 1985)
Chlorinated Benzenes (50 FR 32628; August 13, 1985)
Chlorofluorocarbon—113 (50 FR 24313; June 10, 1985)
Chromium (50 FR 24317; June 10, 1985)
Epichlorohydrin (50 FR 24575; June 11, 1985)
Manganese (50 FR 32627; August 13, 1985)
Methyl Chloroform (50 FR 24314; June 10, 1985)
Polycyclic Organic Matter (49 FR 31680; August 8, 1984)
Toluene (49 FR 22195; May 25, 1984)
Vinylidene Chloride (50 FR 32632; August 13, 1985)

(c) This part applies to the owner or operator of any stationary source for which a standard is prescribed under this part.

4. Section 61.02 is amended by removing the definition of "equivalent method" and "modification"; by correcting the definition of "Act"; by revising the definitions for "alternative method" and "standard"; and by adding definitions of "capital expenditure", "monitoring system", and "run". The revised and new definitions will read as follows:

§ 61.02 Definitions.

* * * * *

"Act" means the Clean Air Act (42 U.S.C. 7401 et seq.).

* * * * *

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference method but which has been demonstrated to the Administrator's satisfaction to produce results adequate for the Administrator's determination of compliance.

"Capital expenditure" means an expenditure for a physical or operational change to a stationary source which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the stationary source's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to a stationary source must not be reduced by any "excluded additions" as defined for stationary sources constructed after December 31, 1981, in IRS Publication 534, as would be done for tax purposes. In addition, "annual asset guideline repair allowance" may be used even though it is excluded for tax purposes in IRS Publication 534.

* * * * *

"Monitoring system" means any system, required under the monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a record of emissions or process parameters.

* * * * *

"Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Standard" means a national emission standard including a design, equipment, work practice or operational standard for a hazardous air pollutant proposed or promulgated under this part.

* * * * *

5. Section 61.04 is amended by revising paragraph (b) introductory text to read as follows:

§ 61.04 Address.

* * * * *

(b) Section 112(d) directs the Administrator to delegate to each State,

when appropriate, the authority to implement and enforce national emission standards for hazardous air pollutants for stationary sources located in such State. If the authority to implement and enforce a standard under this part has been delegated to a State, all information required to be submitted to EPA under paragraph (a) of this section shall also be submitted to the appropriate State agency (provided, that each specific delegation may exempt sources from a certain Federal or State reporting requirement). The Administrator may permit all or some of the information to be submitted to the appropriate State agency only, instead of to EPA and the State agency. The appropriate mailing address for those States whose delegation request has been approved is as follows:

* * * * *

6. Section 61.05 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 61.05 Prohibited activities.

(a) After the effective date of any standard, no owner or operator shall construct or modify any stationary source subject to that standard without first obtaining written approval from the Administrator in accordance with this subpart, except under an exemption granted by the President under section 112(c)(2) of the Act. Sources, the construction or modification of which commenced after the publication date of the standards proposed to be applicable to the sources, are subject to this prohibition.

(b) After the effective date of any standard, no owner or operator shall operate a new stationary source subject to that standard in violation of the standard, except under an exemption granted by the President under section 112(c)(2) of the Act.

(c) Ninety days after the effective date of any standard, no owner or operator shall operate any existing source subject to that standard in violation of the standard, except under a waiver granted by the Administrator under this part or under an exemption granted by the President under section 112(c)(2) of the Act.

* * * * *

7. Section 61.06 is revised to read as follows:

§ 61.06 Determination of construction or modification.

An owner or operator may submit to the Administrator a written application for a determination of whether actions intended to be taken by the owner or operator constitute construction or modification, or commencement thereof, of a source subject to a standard. The Administrator will notify the owner or operator of his determination within 30 days after receiving sufficient information to evaluate the application.

8. Section 61.07 is revised to read as follows:

§ 61.07 Application for approval of construction or modification.

(a) The owner or operator shall submit to the Administrator an application for approval of the construction of any new source or modification of any existing source. The application shall be submitted before the construction or modification is planned to commence, or within 30 days after the effective date if the construction or modification had commenced before the effective date and initial startup has not occurred. A separate application shall be submitted for each stationary source.

(b) Each application for approval of construction shall include—

(1) The name and address of the applicant;

(2) The location or proposed location of the source; and

(3) Technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of any equipment to be used for control of emissions. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

(c) Each application for approval of modification shall include, in addition to the information required in paragraph (b) of this section—

(1) The precise nature of the proposed changes;

(2) The productive capacity of the source before and after the changes are completed; and

(3) Calculations of estimates of emissions before and after the changes are completed, in sufficient detail to permit assessment of the validity of the calculations.

9. Section 61.08 is revised to read as follows:

§ 61.08 Approval of construction or modification.

(a) The Administrator will notify the owner or operator of approval or intention to deny approval of construction or modification within 60 days after receipt of sufficient information to evaluate an application under § 61.07.

(b) If the Administrator determines that a stationary source for which an application under § 61.07 was submitted will not cause emissions in violation of a standard if properly operated, the Administrator will approve the construction or modification.

(c) Before denying any application for approval of construction or modification, the Administrator will notify the applicant of the Administrator's intention to issue the denial together with—

(1) Notice of the information and findings on which the intended denial is based; and

(2) Notice of opportunity for the applicant to present, within such time limit as the Administrator shall specify, additional information or arguments to the Administrator before final action on the application.

(d) A final determination to deny any application for approval will be in writing and will specify the grounds on which the denial is based. The final determination will be made within 60 days of presentation of additional information or arguments, or 60 days after the final date specified for presentation if no presentation is made.

(e) Neither the submission of an application for approval nor the Administrator's approval of construction or modification shall—

(1) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or of any other applicable Federal, State, or local requirement; or

(2) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

10. Section 61.09 is revised to read as follows:

§ 61.09 Notification of startup.

(a) The owner or operator of each stationary source which has an initial startup after the effective date of a standard shall furnish the Administrator with written notification as follows:

(1) A notification of the anticipated date of initial startup of the source not more than 60 days nor less than 30 days before that date.

(2) A notification of the actual date of initial startup of the source within 15 days after that date.

(b) If any State or local agency requires a notice which contains all the information required in the notification in paragraph (a) of this section, sending the Administrator a copy of that notification will satisfy paragraph (a) of this section.

11. Section 61.10 is amended by revising paragraphs (a) introductory text, (a)(4), (a)(6), (a)(7), (b) introductory

text, (b)(2)(i), (b)(2)(iii), (c), and (d) to read as follows:

§ 61.10 Source reporting and request for waiver of compliance.

(a) The owner or operator of each existing source or each new source which had an initial startup before the effective date shall provide the following information in writing to the Administrator within 90 days after the effective date:

* * * * *

(4) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of the source. Identify each point of emission for each hazardous pollutant.

* * * * *

(6) A description of the existing control equipment for each emission point including—

(i) Each control device for each hazardous pollutant; and

(ii) Estimated control efficiency (percent) for each control device.

(7) A statement by the owner or operator of the source as to whether the source can comply with the standards within 90 days after the effective date.

(b) The owner or operator of an existing source unable to comply with an applicable standard may request a waiver of compliance with that standard for a period not exceeding 2 years after the effective date. Any request shall be in writing and shall include the following information:

* * * * *

(2) A compliance schedule, including the date each step toward compliance will be reached. The list shall include as a minimum the following dates:

(i) Date by which contracts for emission control systems or process changes for emission control will be awarded, or date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

* * * * *

(iii) Date by which onsite construction or installation of emission control equipment or process change is to be completed; and

* * * * *

(c) Any change in the information provided under paragraph (a) of this section or § 61.07(b) shall be provided to the Administrator within 30 days after the change. However, if any change will result from modification of the source, §§ 61.07(c) and 61.08 apply.

(d) A possible format for reporting under this section is included as Appendix A of this part. Advice on reporting the status of compliance may be obtained from the Administrator.

12. Section 61.11 is revised to read as follows:

§ 61.11 Waiver of compliance.

(a) Based on the information provided in any request under § 61.10, or other information, the Administrator may grant a waiver of compliance with a standard for a period not exceeding 2 years after the effective date of the standard.

(b) The waiver will be in writing and will—

(1) Identify the stationary source covered;

(2) Specify the termination date of the waiver;

(3) Specify dates by which steps toward compliance are to be taken; and

(4) Specify any additional conditions which the Administrator determines necessary to assure installation of the necessary controls within the waiver period and to assure protection of the health of persons during the waiver period.

(c) The Administrator may terminate the waiver at an earlier date than specified if any specification under paragraphs (b)(3) and (b)(4) of this section are not met.

(d) Before denying any request for a waiver, the Administrator will notify the owner or operator making the request of the Administrator's intention to issue the denial, together with—

(1) Notice of the information and findings on which the intended denial is based; and

(2) Notice of opportunity for the owner or operator to present, within the time limit the Administrator specifies, additional information or arguments to the Administrator before final action on the request.

(e) A final determination to deny any request for a waiver will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 60 days after presentation of additional information or argument; or within 60 days after the final date specified for the presentation if no presentation is made.

(f) The granting of a waiver under this section shall not abrogate the Administrator's authority under section 114 of the Act.

13. Section 61.12 is revised to read as follows:

§ 61.12 Compliance with standards and maintenance requirements.

(a) Compliance with numerical emission limits shall be determined by emission tests established in § 61.13 unless otherwise specified in an individual subpart.

(b) Compliance with design, equipment, work practice or operational standards shall be determined as specified in an individual subpart.

(c) The owner or operator of each stationary source shall maintain and operate the source, including associated equipment for air pollution control, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the source.

(d)(1) If, in the Administrator's judgment, an alternative means of emission limitation will achieve a reduction in emissions of a pollutant from a source at least equivalent to the reduction in emissions of that pollutant from that source achieved under any design, equipment, work practice or operational standard, the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means for purposes of compliance with the standard. The notice will restrict the permission to the source(s) or category(ies) of sources on which the alternative means will achieve equivalent emission reductions. The notice may condition permission on requirements related to the operation and maintenance of the alternative means.

(2) Any notice under paragraph 1 shall be published only after notice and an opportunity for a hearing.

(3) Any person seeking permission under this subsection shall, unless otherwise specified in the applicable subpart, submit a proposed test plan or the results of testing and monitoring, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring.

14. In § 61.13, "emission tests" is added to the heading and the section is revised to read as follows:

§ 61.13 Emission tests and waiver of emission tests.

(a) If required to do emission testing by an applicable subpart and unless a waiver of emission testing is obtained under this section, the owner or operator shall test emissions from the source—

(1) Within 90 days after the effective date, for an existing source or a new

source which has an initial startup date before the effective date; or

(2) Within 90 days after initial startup, for a new source which has an initial startup date after the effective date.

(b) The Administrator may require an owner or operator to test emissions from the source at any other time when the action is authorized by section 114 of the Act.

(c) The owner or operator shall notify the Administrator of the emission test at least 30 days before the emission test to allow the Administrator the opportunity to have an observer present during the test.

(d) If required to do emission testing, the owner or operator of each new source and, at the request of the Administrator, the owner or operator of each existing source shall provide emission testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to each source.

(2) Safe sampling platform(s).

(3) Safe access to sampling platform(s).

(4) Utilities for sampling and testing equipment.

(5) Any other facilities that the Administrator needs to safely and properly test a source.

(e) Each emission test shall be conducted under such conditions as the Administrator shall specify based on design and operational characteristics of the source.

(f) Unless otherwise specified in an applicable subpart, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Administrator by a registered letter sent before the close of business on the 31st day following the completion of the emission test.

(g) The owner or operator shall retain at the source and make available, upon request, for inspection by the Administrator, for a minimum of 2 years, records of emission test results and other data needed to determine emissions.

(h)(1) Emission tests shall be conducted as set forth in this section, the applicable subpart and Appendix B unless the Administrator—

(i) Specifies or approves the use of a reference method with minor changes in methodology; or

(ii) Approves the use of an alternative method; or

(iii) Waives the requirement for emission testing because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is in compliance with the standard.

(2) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative method, he may require the use of a reference method. If the results of the reference and alternative methods do not agree, the results obtained by the reference method prevail.

(3) The owner or operator may request approval for the use of an alternative method at any time, except—

(i) For an existing source or a new source that had an initial startup before the effective date, any request for use of an alternative method during the initial emission test shall be submitted to the Administrator within 30 days after the effective date, or with the request for a waiver of compliance if one is submitted under § 60.10(b); or

(ii) For a new source that has an initial startup after the effective date, any request for use of an alternative method during the initial emission test shall be submitted to the Administrator no later than with the notification of anticipated startup required under § 60.09.

(i)(1) Emission tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the standard, or the source is being operated under a waiver or compliance, or the owner or operator has requested a waiver of compliance and the Administrator is still considering that request.

(2) If application for waiver of the emission test is made, the application shall accompany the information required by § 61.10 or the notification of startup required by § 61.09, whichever is applicable. A possible format is contained in Appendix A to this part.

(3) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later cancelling the waiver. The cancellation will be made only after notice is given to the owner or operator of the source.

15. Section 61.14 is revised to read as follows:

§ 61.14 Monitoring requirements.

(a) Unless otherwise specified, this section applies to each monitoring system required under each subpart which requires monitoring.

(b) Each owner or operator shall maintain and operate each monitoring system as specified in the applicable subpart and in a manner consistent with good air pollution control practice for minimizing emissions. Any unavoidable breakdown or malfunction of the monitoring system should be repaired or adjusted as soon as practicable after its occurrence. The Administrator's determination of whether acceptable operating and maintenance procedures are being used will be based on information which may include, but not be limited to, review of operating and maintenance procedures, manufacturer recommendations and specifications, and inspection of the monitoring system.

(c) When required by the applicable subpart, and at any other time the Administrator may require, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Administrator with a copy of a written report of the results within 60 days of the evaluation. Such a performance evaluation shall be conducted according to the applicable specifications and procedures described in the applicable subpart. The owner or operator of the source shall furnish the Administrator with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

(d) When the effluents from a single source, or from two or more sources subject to the same emission standards, are combined before being released to the atmosphere, the owner or operator shall install a monitoring system on each effluent or on the combined effluent. If two or more sources are not subject to the same emission standards, the owner or operator shall install a separate monitoring system on each effluent, unless otherwise specified. If the applicable standard is a mass emission standard and the effluent from one source is released to the atmosphere through more than one point, the owner or operator shall install a monitoring system at each emission point unless the installation of fewer systems is approved by the Administrator.

(e) The owner or operator of each monitoring system shall reduce the monitoring data as specified in each applicable subpart. Monitoring data recorded during periods of unavoidable monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in any data average.

(f) The owner or operator shall maintain records of monitoring data, monitoring system calibration checks, and the occurrence and duration of any period during which the monitoring system is malfunctioning or inoperative. These records shall be maintained at the source for a minimum of 2 years and

made available, upon request, for inspection by the Administrator.

(g)(1) Monitoring shall be conducted as set forth in this section and the applicable subpart unless the Administrator—

(i) Specifies or approves the use of the specified monitoring requirements and procedures with minor changes in methodology; or

(ii) Approves the use of alternatives to any monitoring requirements or procedures.

(2) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, the Administrator may require the monitoring requirements and procedures specified in this part.

§ 61.15 [Redesignated as § 61.16]

16. Section 61.15 is redesignated as § 61.16.

17. A new § 61.15 is added to read as follows:

§ 61.15 Modification.

(a) Except as provided under paragraph (d) of this section, any physical or operational change to a stationary source which results in an increase in the rate of emission to the atmosphere of a hazardous pollutant to which a standard applies shall be considered a modification.

(b) Upon modification, an existing source shall become a new source for each hazardous pollutant for which the rate of emission to the atmosphere increases and to which a standard applies.

(c) Emission rate shall be expressed as kg/hr or any hazardous pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine the emission rate:

(1) Emission factors as specified in the background information document (BID) for the applicable standard, or in the latest issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP-42, or other emission factors determined by the Administrator to be superior to AP-42 emission factors, in cases where use of emission factors demonstrates that the emission rate will clearly increase or clearly not increase as a result of the physical or operational change.

(2) Material balances, monitoring data, or manual emission tests in cases where use of emission factors, as referenced in paragraph (c)(1) of this section, does not demonstrate to the Administrator's satisfaction that the emission rate will clearly increase or clearly not increase as a result of the physical or operational change, or where an interested person demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator using emission factors. When the emission rate is based on results from manual emission tests or monitoring data, the procedures specified in Appendix C of 40 CFR Part 60 shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator. At least three test runs must be conducted before and at least three after the physical or operational change. If the Administrator approves, the results of the emission tests required in § 61.13(a) may be used for the test runs to be conducted before the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum degree feasible for all test runs.

(d) The following shall not, by themselves, be considered modifications under this part:

(1) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category.

(2) An increase in production rate of a stationary source, if that increase can be accomplished without a capital expenditure on the stationary source.

(3) An increase in the hours of operation.

(4) Any conversion to coal that meets the requirements specified in section 111(a)(8) of the Act.

(5) The relocation or change in ownership of a stationary source. However, such activities must be reported in accordance with § 61.10(c).

18. Section 61.16 is redesignated as § 61.17 and is revised to read as follows:

§ 61.17 State authority.

(a) This part shall not be construed to preclude any State or political subdivision thereof from—

(1) Adopting and enforcing any emission limiting regulation applicable to a stationary source, provided that such emission limiting regulation is not less stringent than the standards prescribed under this part; or

(2) Requiring the owner or operator of a stationary source to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of the source.

§ 61.171 [Redesignated as 61.19 and amended]

19. Section 61.17 is redesignated as § 61.19 and the words "subject to the provisions of this part" are removed from the first sentence.

20. In § 61.33, the introductory text of paragraph (a) is revised to read as follows:

§ 61.33 Stack sampling.

(a) Unless a waiver of emission testing is obtained under § 61.13, each owner or operator required to comply with §61.32(a) shall test emissions from the source according to Method 104 of Appendix B to this part. Method 103 of Appendix B to this part is approved by the Administrator as an alternative method for sources subject to § 61.32(a). The emission test shall be performed—

* * * * *

21. In § 61.44, paragraph (a) is revised to read as follows:

§ 61.44 Stack sampling.

(a) Sources subject to § 61.42(b) shall be continuously sampled, during release of combustion products from the tank, according to Method 104 of Appendix B to this part. Method 103 of Appendix B to this part is approved by the Administrator as an alternative method for sources subject to § 61.42(b).

* * * * *

22. Section 61.53 is amended by revising paragraph (a)(1) introductory text, (b)(1) introductory text, and (c)(2) introductory text to read as follows:

§ 61.53 Stack sampling.

(a) Mercury ore processing facility.

(1) Unless a waiver of emission testing is obtained under § 61.31, each owner or operator processing mercury ore shall test emissions from the source according to Method 101 of Appendix B to this part. The emission test shall be performed—

* * * * *

(b) Mercury chlor-alkali plant—hydrogen and end-box ventilation gas streams.

(1) Unless a waiver of emission testing is obtained under § 61.13, each owner or operator employing mercury chlor-alkali cell(s) shall test emissions from hydrogen streams according to Method 102 and from end-box ventilation gas streams according to Method 101 of Appendix B to this part. The emission test shall be performed—

* * * * *

(c) Mercury Chlor-alkali plants—Cell room ventilation system.

* * * * *

(2) Unless a waiver of emission testing is obtained under § 61.13, each owner or operator shall pass all cell room air in force gas streams through stacks suitable for testing and shall test

emissions from the source according to Method 101 in Appendix B to this part. The emission test shall be performed—

* * * * *

§ 61.65 [Amended]

23. Section 61.65 is amended by removing the words "equivalent or" throughout paragraphs (b)(8)(i) and (c).

§ 61.67 [Amended]

24. Section 61.67 is amended by removing the words "an equivalent method or" and "equivalent or" throughout paragraph (g).

§ 61.68 [Amended]

25. Section 61.68 is amended by removing the words "equivalent or" throughout paragraph (b).

§ 61.70 [Amended]

26. Section 61.70 is amended by removing the words "equivalent or" throughout paragraph (c).

Appendix A [Amended]

27. In Appendix A, paragraph (II)(B) is amended by replacing the words "of beryllium or mercury pollutants" with the words "subject to emission testing."

Appendix B [Amended]

28. In Method 103 of Appendix B, paragraph 1.1 is amended by removing the words "as specified under the provisions of § 61.14 of the regulations."

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40 CFR Part 716

[OPTS-84020A; FRL-2920-7]

Health and Safety Data Reporting; Urea-Formaldehyde Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the TSCA section 8(d) model health and safety data reporting rule to exempt the reporting of certain agronomic plant growth or damage studies on urea-formaldehyde resins (UF resins).

EFFECTIVE DATE: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 3, 1985 (50 FR 18861), EPA promulgated an amendment to the TSCA section 8(d) model health and safety data reporting rule which added UF resins to the list of substances for which persons are required to submit lists and copies of unpublished health and safety studies. That amendment became final on June 3, 1985. In the amendment, EPA discussed its rationale for requiring reporting of UF resins. Persons wishing to obtain an in-depth discussion of the Agency's information requirements for UF resins are encouraged to read that **Federal Register** publication.

Shortly before the deadline for reporting unpublished health and safety studies was reached, the Fertilizer Institute, acting on behalf of its member companies who manufacture, import, or process UF resins, requested that EPA reconsider the requirement for reporting plant growth or damage data in this instance, and to remove the requirement to report these data for UF resins. The model health and safety data reporting rule at 40 CFR 716.3(e)(2)(ii) defines health and safety data to be reported as including plant growth or damage tests.

The Fertilizer Institute pointed out that many fertilizer products are either urea, stabilized by reaction with small amounts of formaldehyde, or are UF resin type slow-release fertilizers. Both of these fertilizer products are either entirely, or contain some amount of UF resin. As part of a normal course of business, fertilizer manufacturers conduct extensive testing of their fertilizers to demonstrate the effectiveness of the materials as plant growth promoters, or to show that the product will not damage target plants when used as intended. For UF resin fertilizers alone, the total number of such agronomic plant growth or damage tests may number well over 1,000. Subsequent reporting of newly initiated plant growth or damage tests could number between 100 and 200 per year.

In developing the 8(d) reporting rule on UF resins, EPA was not aware of the extensive number of studies that have been conducted to demonstrate the efficacy of UF resins as fertilizer products. That UF resins are effective as fertilizers is well documented in the published literatre. These data, which demonstrate the UF resins perform their commercial function as intended, would do little to aid the Agency in determining the health or environmental effects of UF resins, or allow the Agency to identify gaps in existing health and safety data.

As a result of the large number of these agronomic plant growth or damage tests that would need to be submitted to the Agency, several fertilizer-producing companies would be saddled with a disproportionately large financial burden in reporting these tests. EPA would also need to expend considerable resources to process and review all of the submitted tests.

Because these data are not vital to EPA's assessment of the health and environmental effects of UF resins at this time, and since requiring these data would result in an unanticipated burden to both the Government and industry, the Agency has decided to exempt certain agronomic plant growth or damage data from the reporting requirement.

II. Provisions of This Amendment

EPA is amending the language contained in the provision at 40 CFR 716.17(a)(11), which added UF resins to the model health and safety data reporting rule. The amendment requires persons to submit unpublished health and safety data to EPA, except such persons are not required to submit agronomic plant growth or damage tests that demonstrate only that the listed UF resins stimulate plant growth, or that target plants are damaged when the product is applied as a fertilizer. The listed UF resins are: urea, polymer with formaldehyde (CAS No. 9011-05-6) and urea, reaction product with formaldehyde (CAS No. 68611-64-3).

However, this exemption does not exclude all plant growth or damage tests from the reporting requirement. Plant growth tests that demonstrate a combination of effects, such as plant growth and genotoxicity, would still be required to be reported. Algal growth studies would also be required to be reported. Any study demonstrating a deleterious or potentially deleterious effect to individuals, species, ecosystems, or the environment would also not be exempt.

III. Final Rule

EPA issued regulations under section 8(d) of TSCA, which were published in the **Federal Register** of September 2, 1982 (47 FR 38780), to require submission of lists and copies of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers, importers, and processors. The rule, codified at 40 CFR Part 716, establishes standardized reporting requirements and provides for amending the list of

chemicals subject to the rule. Section 716.18(b) of the rule provides that chemicals designated by the Interagency Testing Committee (ITC) may be made subject to the rule by the publication of a final regulation to that effect in the Federal Register.

As discussed in the regulations adding UF resins to the section 8(d) model rule at 40 CFR 716 (50 FR 18861), UF resins were designated by the ITC in its Twelfth Report to the Administrator of EPA, published in the **Federal Register** of June 1, 1983 (48 FR 24443). (At that time, the ITC termed UF resins "methylolurea" based on its experience with a UF resin commercial product trade-named methylolurea.)

The regulations adding UF resins became effective on June 3, 1985, 30 days after their promulgation. This rulemaking is merely a technical amendment to that regulation, and is designed to limit its coverage. Since this rulemaking involves the same ITC-designated chemical, § 716.18(b) of the 8(d) rule applies and publication of this amendment in final without notice and comment rulemaking is permissible. Moreover, this is a technical amendment involving matters of which the public is unlikely to be interested. Notice and comment procedures would be of no value or help in light of the purposes for which public participation is generally desired. Therefore, EPA finds that good cause exists to exempt this rule from public participation because notice and comment is unnecessary and contrary to the public interest. The Agency is therefore proceeding directly with a final rule.

IV. Interim Actions

This amendment affects several fertilizer manufacturing firms who may have unpublished agronomic plant growth or damage studies on UF resins that were not submitted on or before the August 1, 1985 deadline for UF resin reporting. These firms are technically in non-compliance with the May 3, 1985 rule which added UF resins to 40 CFR Part 716. However, the Fertilizer Institute, on behalf of its member companies, notified EPA as soon as potential compliance problems were foreseen, and has continued to work with the Agency to ensure EPA's data needs are met without imposing an undue burden on industry. EPA has notified the Fertilizer Institute that the Agency was planning to show enforcement discretion regarding agronomic plant growth or damage tests until such time as this amendment was promulgated. Until this amendment is final, EPA does not intend to take enforcement action under TSCA section 16 in cases involving reporting on chemicals listed in 40 CFR 716.17(a)(11).

V. Economic Impact

EPA expects this amendment to result in a net actual reduction in costs to industry in submitting the required health and safety data to the Agency. In preparing the original economic analysis for the May 3, 1985 amendment adding UF resins to the model section 8(d) health and safety data reporting rule, EPA was not aware of the extensive collections of studies demonstrating the effectiveness of UF resins as plant growth promoters. The Agency therefore did not include the costs of reporting these agronomic plant growth or damage data in estimating the total costs of submitting unpublished health and safety data on UF resins to EPA.

If these agronomic plant growth or damage tests were now required to be reported to EPA, it is likely that there would be as much as a tenfold increase in the cost of this regulation over the original estimate. Because the Agency is amending the regulation to exempt the submission of agronomic plant growth or damage data on UF resins, the cost of this regulation will remain at EPA's original estimate of $57,000.

VI. Rulemaking Record

EPA has established a public record (docket number OPTS-82020A) for this rulemaking document. All documents, including the index to this public record, are available for inspection in the OTS Reading Room, Room E-107, 401 M Street SW., Washington, DC from 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. This record includes basic information considered in developing this rule.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review because the automatic listing of designated substances is provided for in 40 CFR 716.18(b). That final rule has been previously reviewed by OMB under the terms of the Executive Order.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), EPA certifies that this rule will not have a signficant impact on a substantial number of small businesses.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070-0004.

List of Subjects in 40 CFR Part 716

Chemicals, Environmental protection, Health and safety data, Hazardous substances, Recordkeeping and reporting requirements.

Dated: October 31, 1985.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

PART 716—[AMENDED]

Therefore, 40 CFR Part 716 is amended to read as follows:

1. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

2. By revising § 716.17(a)(11) to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(11)(i) As of June 3, 1985, the following chemical substances are subject to Subpart A of this Part.

CAS No.	Name
9011-05-6	Urea, polymer with formaldehyde.
68611-64-3	Urea, reaction product with formaldehyde.

(ii) Persons are not required to submit agronomic plant growth or damage tests demonstrating only that these listed ureaformaldehyde resins stimulate plant growth, or cause plant damage when applied as a fertilizer.

* * * * *

[FR Doc. 85-26617 Filed 11-6-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Administration

44 CFR Part 64

[Docket No. FEMA 6687]

Suspension of Community Eligibility; New Jersey et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, 500 C Street, Southwest, FEMA—Room 416, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice will no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than one year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date *
Region II					
New Jersey:					
Burlington	Burlington, city of	345287C	Aug. 7, 1970, Emerg.; July 23, 1971, Reg.; Nov. 15, 1985, Susp.	July 23, 1971, July 1, 1974, Feb. 20, 1976, July 29, 1977, and Nov. 15, 1985.	Nov. 15, 1985.
Middlesex	Old Bridge, township of	340285C	Aug. 13, 1971, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	June 28, 1974, Apr. 30, 1976, Nov. 23, 1981, and Nov. 15, 1985.	Do.
Hunterdon	Raritan, township of	340240A	Jan. 14, 1972, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	July 26, 1974 and Nov. 15, 1985.	Do.
New York:					
Orange	Blooming Grove, town of	360608B	May 8, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	June 7, 1974, Sept. 17, 1976, and Nov. 15, 1985.	Do.
Westchester	Yorktown, town of	360937B	Mar. 28, 1975, Emerg.; Nov. 15, 1985, Reg.; and Nov. 15, 1985, Susp.	Sept. 20, 1974, July 16, 1976, and Nov. 15, 1985.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region III					
Washington, D.C	District of Columbia	110001B	Oct. 31, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Nov. 1, 1974, Oct. 10, 1975, and Nov. 15, 1985.	Do.
Maryland: Wicomico	Fruitland, city of	240139B	Mar. 14, 1977, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Jan. 28, 1977 and Nov. 15, 1985	Do.
Region IV					
Florida:					
Santa Rosa	Milton, city of	120276B	July 30, 1971, Emerg.; June 1, 1977, Reg.; Nov. 15, 1985, Susp.	May 24, 1974, June 1, 1977, and July 18, 1985.	Do.
Okaloosa	Unincorporated areas	120173D	Aug. 28, 1970, Emerg.; July 1, 1977, Reg.; Nov. 15, 1985, Susp.	Jan. 3, 1975, July 1, 1977, Oct. 1, 1983, and July 18, 1985.	Do.
Region V					
Illinois: Cass	Unincorporated areas	170810B	June 10, 1974, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Jan. 30, 1981 and Nov. 15, 1985	Do.
Wisconsin: Shawano	do	550412	Dec. 30, 1971, Emerg.; Oct. 14, 1977, Reg.; Nov. 15, 1985, Susp.	Oct. 14, 1977 and Nov. 15, 1985	Do.
Region VI					
Louisiana: East Baton Rouge Parish.	Unincorporated areas	220058C	June 12, 1970, Emerg.; July 2, 1979, Reg.; Nov. 15, 1985, Susp.	Nov. 22, 1974, July 2, 1979, July 6, 1982, and Nov. 15, 1985.	Do.
Region VII					
Kansas: Washington	Washington, city of	200555A	June 24, 1976, Emerg.; Sept. 27, 1985, Reg.; Nov. 15, 1985, Susp.	Aug. 15, 1975 and Sept. 27, 1985	Do.
Region VIII					
Colorado: Grand	Winter Park, town of	080305A	July 30, 1980, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Nov. 15, 1985	Nov. 15, 1985.
Region IX					
Guam	Territory of Guam	660001B	Jan. 18, 1979, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Aug 8, 1978 and Nov. 15, 1985	Nov. 15, 1985.
Nevada: Churchill	Unincorporated areas	320020C	Dec. 30, 1983, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Dec. 27, 1977, June 12, 1979, and Nov. 15, 1985.	Do.
Region X					
Oregon:					
Lane	Cottage Grove, city of	410120B	Apr. 4, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp..	Feb. 22, 1974, Feb. 6, 1976, and Nov. 15, 1985.	Do.
Curry	Gold Beach, city of	410054C	Nov. 11, 1974, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Nov. 23, 1973, Sept. 13, 1974, July 30, 1976, and Nov. 15, 1985.	Do.
Region I Minimal Conversions					
Vermont:					
Caledonia	Waterford, town of	500200	July 29, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Nov. 15, 1985	Nov. 15, 1985.
Orange	West Fairlee, town of	500079A	May 5, 1976, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Jan 28, 1975 and Nov. 15, 1985	Nov. 15, 1985.
Region VIII					
South Dakota:					
Spink	Redfield, town of	460081B	May 22, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	Aug. 2, 1974, Jan. 2, 1976, and Nov. 15, 1985.	Do.
Hutchinson	Parkston, city of	460042B	June 27, 1975, Emerg.; Nov. 15, 1985, Reg.; Nov. 15, 1985, Susp.	June 14, 1974, Jan. 2, 1976, and Nov. 15, 1985.	Do.

Code for reading 4th column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension.
[1] Date certain Federal assistance no longer available in special flood hazard areas.

Issued: November 1, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-26583 Filed 11-6-85; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Part 319

Small Business and Small Disadvantaged Business Concerns

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (48 CFR Chapter 3) to add guidance for contracting officers to follow in determining whether a contractor has complied with its subcontracting goals for small business concerns and small disadvantaged business concerns established under the subcontracting plans of an applicable contract.

EFFECTIVE DATE: November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Senior Procurement Analyst, Office of Procurement and Logistics Policy, telephone (202) 245-8901.

SUPPLEMENTARY INFORMATION: Subpart 319.7—Subcontracting with Small Business and Small Disadvantaged Business Concerns, is being amended to provide procedural guidance under existing § 319.706, Responsibilities of the cognizant administrative contracting officer, to assist departmental contracting officers in assessing a contractor's performance in complying with small business and small disadvantaged business subcontracting goals by monitoring the contractor's progress towards meeting the established goals.

The section is also being amended to include the requirement that the contracting officer document the contract file at the time of physical completion of the contract to indicate whether the contractor met or failed to meet the small business and small disadvantaged business subcontracting goals. If the contractor failed to meet its

goals, the contracting officer must provide documentation indicating whether or not the contractor exercised its best efforts in attempting to achieve the goals.

The Department of Health and Human Services certifies that this document will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Small business concerns are exempt from the subcontracting plan requirement.

The Federal Acquisition Regulation (FAR) requires the use of the clause at § 52.219-8, Small Business and Small Disadvantaged Business Subcontracting Plan, and has obtained the approval of the Office of Management and Budget (OMB Control Number 9000-0006) to collect information under the clause. Paragraphs (d)(10) (ii) and (iii) of the clause require assurances that the contractor submit (1) periodic reports to allow the Government to determine the extent of compliance with the subcontracting plan, and (2) Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontracting Report, in accordance with instructions on the forms, respectively. The Department has determined that the reporting requirements stated in § 319.706 are covered under the OMB approval of the referenced FAR clause and represent an administrative procedural implementation of the requirements of the FAR clause. Therefore, the Department has determined that this document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this regulation are issued under 5 U.S.C. 301, 40 U.S.C. 486(c).

List of Subjects in 48 CFR Part 319

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Dated: October 28, 1985.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown.

1. The authority citation for Part 319 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 319—[AMENDED]

2. Section 319.706 is revised to read as follows:

319.706 Responsibilities of the cognizant administrative contracting officer.

(a) The contracting officer shall comply with the requirements of FAR 19.706(a), and shall use the Standard Form 294, Subcontracting Report for Individual Contracts, to monitor the contractor's progress in achieving both the small business and small disadvantaged business subcontracting goals. The contracting officer shall require the contractor to provide in the Remarks block of each Standard Form 294 submitted a narrative of the progress in fulfilling the small business and small disadvantaged business subcontracting goals. The contracting officer shall require the contractor to report any difficulties in achieving the goals and the actions being taken by the contractor to overcome the difficulties. The contracting officer shall document the contract file whenever the contractor is experiencing difficulties in achieving the planned subcontracting goals, and shall indicate the actions taken by the contractor to resolve the difficulties and the actions taken by the contracting officer to remedy the situation. A copy of this documentation shall be provided to the SADBUS.

(b) At the time of physical completion of the contract, the contracting officer shall prepare a memorandum for record for inclusion in the contract file indicating whether or not the contractor complied with the subcontracting plan and subcontracting provisions of the contract.

(1) If the contractor achieved its subcontracting dollar goals for both small business and small disadvantaged business, the memorandum shall state that the contractor complied with the subcontracting plan and provisions of the contract. No other documentation is needed.

(2) If the contractor failed to achieve its subcontracting dollar goals for either small business or small disadvantaged business, or both, the contracting officer shall indicate this failure in the memorandum and determine whether the contractor did or did not exercise its best efforts in attempting to achieve the goals.

(i) If determined that the contractor exercised its best efforts, the contractor shall be found to have complied with the subcontracting plan and provisions of the contract. The rationale for this determination shall be documented in the memorandum.

(ii) If determined that the contractor did not exercise its best efforts, the contractor shall be found to have not complied with the subcontracting plan and provisions of the contract. The reasons for this determination shall be documented in the memorandum, along with a description of specific actions taken by the contracting officer during the performance of the contracting to attempt to remedy the failure.

(c) A copy of the memorandum pertaining to either situation described in paragraph (b)(2) (i) or (ii) above shall be sent to the Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 85-26043 Filed 11-6-85; 8:45 am]

BILLING CODE 4150-04-M

Proposed Rules

Federal Register
Vol. 50, No. 216
Thursday, November 7, 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.

FEDERAL TRADE COMMISSION

16 CFR Part 259

Guide Concerning Fuel Economy Advertising for New Automobiles; Extension of Comment Period

AGENCY: Federal Trade Commission.

ACTION: Extension of time for comments on proposed guide amendment.

SUMMARY: The Federal Trade Commission (FTC) is seeking public comment on whether the Guide Concerning Fuel Economy Advertising for New Automobiles should be amended. The proposed amendments were published in the **Federal Register** on March 21, 1985 (50 FR 11378). The comment period established therein closed on April 22, 1985. Since that date, however, several additional comments have been received, and the Commission has determined to accept them and place them on the public record. In addition, the Commission has determined to reopen the comment period to November 22, 1985; all comments received by that date will be considered by the Commission.

DATE: Comments should be received no later than November 22, 1985.

ADDRESSES: Comments should be sent to: James H. Skiles, Assistant Director, Division of Advertising Practices, The Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Brinley H. Williams, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, The Federal Trade Commission, Washington, DC 20580, (202) 376–8684.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85–26435 Filed 11–6–85; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Supplementary Definition of Strong Sensitizer

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to issue a rule that will supplement the definition of "strong sensitizer" in the Federal Hazardous Substances Act. The proposed supplementary definition would clarify how the statutory definition should be interpreted in view of current scientific knowledge and would explain the factors the Commission would consider in determining whether a substance is a strong sensitizer.

DATE: Comment on the proposal should be received by January 6, 1986.

ADDRESS: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Public Reading Room, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan E. Feinman, Ph.D., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6477.

SUPPLEMENTARY INFORMATION:

Background

The Federal Hazardous Substances Act ("FHSA" or "the Act"), 15 U.S.C. 1261–1276, was enacted on July 12, 1960. Included within the Act's definition of "hazardous substance" is "a strong sensitizer," 15 U.S.C. 1261(f)(1)(iv). Section 2(k) of the FHSA, 15 U.S.C. 1261(k), defines "strong sensitizer" as:

> A substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the [Consumer Product Safety Commission]. Before designating any substance as a strong sensitizer, the [Commission], upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

This definition is restated in the regulations under the FHSA published at 16 CFR 1500.3(b)(9).

On August 12, 1961, the Food and Drug Administration (which at that time administered the FHSA) issued regulations under the FHSA which supplemented the statutory definition of strong sensitizer. 26 FR 7334 (§ 191.10(i)). In 1973, the responsibility for the administration of the FHSA was transferred to the Consumer Product Safety Commission, and the supplementary definition of strong sensitizer referred to above was recodified at 16 CFR 1500.3(c)(5).

Since that supplementary definition was issued in 1961, there have been many advances in understanding the basic principles involved in allergic hypersensitivity mechanisms. Based on modern concepts of immunology, the definition of strong sensitizer previously set forth in 16 CFR 1500.3(c)(5) was incorrect in at least two aspects. Therefore, on May 30, 1984, the Commission revoked the supplemental definition in § 1500.3(c)(5) and reserved that section. 49 FR 22464. [4] [1] The Commission noted that it had taken steps to establish an advisory panel on allergic sensitization which would have as one of its tasks the evaluation and refinement of terms and criteria used in defining strong sensitizers.

In September 1984, the Commission established the Technical Advisory Panel on Allergic Sensitization ("TAPAS") to assist the staff in developing appropriate terms and criteria for a supplemental definition of strong sensitizer that would reflect current scientific theory. The staff and the TAPAS have developed new supplemental definitions to explain how the statutory definition of strong sensitizer will be applied. [5–9]

Issues Addressed by the Proposed Supplemental Definition

The text of the definition of "strong sensitizer" contained in section 2(k) of the FHSA, 15 U.S.C. 1261(k), is reproduced above in the background section of this notice. The discussion below describes the way in which various terms in the statutory definition

[1] Numbers in brackets indicate the number of the relevant document in the record, as listed in the Appendix to this notice.

are explained or supplemented in the proposed supplementary definition.

Allergic. The supplemental definition, at subsection (i), points out that an "allergic response is one that is directed by the immune system. Thus, the sensitization reaction is not caused by irritant or other nonallergenic qualities of the substance. [1 at ii-iii] The Commission staff and the TAPAS considered whether the term "allergic" should apply to substances that produce reactions similar to those caused by the immune system but which are not caused in this manner. These substances are sometimes referred to as "pseudoallergens." It was decided that pseudoallergens were not properly included in a statutory definition limited to substances that produce hypersensitivity reactions by an allergic process. [7 at 4, 8 at 2–4]

Reapplication of the substance. [See generally 7 at 4–5, 8 at 4] A sensitivity reaction does not occur as soon as one is first exposed to the substance; there must be a latent period during which immune cells become sensitized. After the immune response has developed, the sensitized tissue may react upon subsequent exposure to very small amounts of the sensitizing agent. [1 at ii-iii]

The fact that some time is needed for the development of the immune response is reflected in the specification in the statutory definition of "strong sensitizer" that the substance produce a "hypersensitivity which becomes evident on reapplication of the same substance." Some substances, however, can produce a sensitivity reaction as the result of the person's first known exposure. Some of these reactions occur because the person, without his or her knowledge, has been exposed to the substance in the past. Also, some substances have the ability to cross-react, so that a sensitivity to one substance will produce a sensitivity reaction upon exposure to a similar substance to which the person has not been previously exposed.

Some substances, however, have the ability to produce a sensitivity reaction solely as the result of a person's first exposure to the substance. This process is called active sensitization. Active sensitizers tend to be the more potent of the substances that can cause sensitization, and it may be that the ability of active sensitizers to persist in or on the body is sufficiently great, in comparison to the time needed for the development of sensitization, that one exposure serves as both application and reapplication. [8 at 4] The supplemental definition of strong sensitizer that the Commission is proposing clarifies in subsection (i) that active sensitizers are included within the class of substances that can be determined to be strong sensitizers. This view is consistent with the recommendation of the TAPAS. [8 at 4] The Commission interprets the relevant portion of the statutory definition of strong sensitizer, that the strong sensitizer shall produce a hypersensitivity that becomes evident on reapplication of the substance, as referring to the mechanism by which sensitivity is thought to develop rather than as intended to exclude from the category of strong sensitizers those substances that are capable of active sensitization In the first place, there is no reason to believe that the Congress intended to exclude from the category of strong sensitizers some of the strongest sensitizers that exist. Alos, it is likely that the physiological effect of active sensitizers is equivalent to reapplication of the sensitizer. In any event, even where a sensitivity reaction may occur on first exposure to an active sensitizer, the fact that the reaction is one of hypersensitivity will evidence itself on reapplication of the substance, thereby satisfying the statutory definition in this regard. Thus, the Commission concludes that including active sensitizers within the category of strong sensitizers is consistent with the definition of strong sensitizer in the FHSA.

Photodynamic. The statutory definition specifies that the hypersensitivity must be caused by an "allergic" or "photodynamic" process. The proposed supplemental definition discusses what is meant by allergic, as discussed above. As the Commission pointed out when the previous supplemental definition was revoked, photodynamic reactions should be considered as a type of phototoxic reaction. 49 FR 22464, 22465. [4] Phototoxic chemicals are thought to act through a mechanism similar to irritation and not to require prior exposure. How the present knowledge about how photodynamic chemicals function and are defined would relate to the statutory definition of strong sensitizer is a complex question that the Commission believes should be addressed in the context of a particular chemical. In addition, the Commission's staff is not aware of any household product subject to the FHSA that would cause significant exposure of consumers to a photodynamic chemical. Therefore, the Commission has decided not to attempt at this time to issue a supplemental definition concerning strong sensitizers that cause hypersensitivity by a photodynamic process. The Commission notes, however, that regardless of whether a photodynamic chemical may properly be considered a strong sensitizer, it, in an appropriate case, could be considered a hazardous substance under the FHSA by virture of its being toxic, FHSA section 2(f)(1)(A)(i), 15 U.S.C. 1261(f)(1)(A)(i).

Route of exposure. The proposed supplemental definition, at subsection (v), points out that the sensitivity reaction may occur after the sensitizer is applied to the body's tissues by contact, ingestion, or inhalation and that relevant exposure is not limited to skin contact.

Normal living tissue. The statutory definition of strong sensitizer specifies that the hypersensitivity is caused on "normal living tissue." The proposed supplemental definition, at subsection (v), makes explicit what is well known to allergists, dermatologists, toxicologists, internists, pulmonary specialists, etc.: that targets for hypersensitivity reactions include the skin and other organ systems, such as the respiratory or gastrointestinal tracts, either singularly or in combination.

Severity of reaction. One of the factors the Commission is required by the statutory definition of strong sensitizer to consider before determining that a particular substance is a strong sensitizer is the severity of reaction that would be caused by the substance. The proposed supplemental definition, at subsection (iii), points out that the minimal severity of reaction for this purpose is that the sensitizer produce a clinically important allergic reaction and gives examples of reactions that would be deemed clinically important. Such reactions would include physical discomfort, distress, hardship, and functional or structural impairment. The proposed definition further points out that these may not necessarily require medical treatment or produce loss of functional activities.

Significant potential for causing hypersensitivity. The statutory definition of strong sensitizer requires that, before designating a substance as a strong sensitizer, the Commission "upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity." The proposed supplemental definition at subsection (iv) points out that whether a substance has a significant potential for causing hypersensitivity is a relative determination that must be made separately for each substance under consideration. The determination may be based on the chemical or functional properties of the substance, documented

medical evidence of allergic reactions obtained from epidemiological surveys or individual case reports, controlled *in vitro* or *in vivo* experimental assays, or susceptibility profiles in normal (healthy) or allergic subjects.

The ultimate determination that a substance is a strong sensitizer. The ultimate determination that a substance is a strong sensitizer is one that must be made as a matter of the Commission's judgment after considering the factors discussed above. Subsection (ii) of the proposed supplementary definition notes that in making this determination the Commission shall consider the available data for a number of factors. These factors would include any or all of the following, as available:

Quantitative or qualitative risk assessment, frequency of occurrence and range of severity of reactions in normal or susceptible populations, the result of experimental assays in animals or humans (considering dose-response factors) with human data taking precedence over animal data, other data on potency or bioavailability of sensitizers, data on reactions to a cross-reacting substance or to a chemical that metabolizes or degrades to form the same or a cross-reacting substance, the threshold of human sensitivity, epidemiological studies, case histories, occupational studies, and other appropriate *in vivo* and *in vitro* test studies.

The Commission expects that the proposed supplemental definition will convey useful information concerning the Commission's views on the scope of the statutory definition and the types of information the Commission will consider in making any determinations that a substance is a strong sensitizer. The ultimate determination that a substance is a strong sensitizer, however, is largely the result of the exercise of Commission judgment and policy. Thus, it is not appropriate to attempt to fashion specific criteria by which to determine that substances are or are not strong sensitizers.

The Commission also notes that even where a chemical is determined to be a strong sensitizer, section 2(f)(1)(A) of the FHSA requires that in order for a strong sensitizer to be a hazardous substance, it must be capable of causing "substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." 15 U.S.C. 1261(f)(1)(A). This latter determination requires consideration of the route and level of exposure that can be expected to be presented by the substance as incorporated in the particular household product involved. Theoretically, a determination that a substance is a strong sensitizer could be made on the basis of the general attributes of the chemical as they relate to sensitization. In practice, however, the Commission expects that the nature and level of the exposure to the chemical from the use or reasonably foreseeable misuse of the product would be taken into consideration during a proceeding to determine whether a particular substance is a strong sensitizer.

Environmental Considerations

The supplemental definition proposed below would be an interpretive rule issued under section 10 of the FHSA (15 U.S.C. 1269) explaining the Commission's views on the current requirements of section 2 of the FHSA (15 U.S.C. 1261) concerning strong sensitizers and discussing the factors the Commission intends to use in future determinations that a substance is a strong sensitizer. If the proposed definition is issued, however, interested members of the public are free to argue in any future proceeding to declare a substance a strong sensitizer that other interpretations of the FHSA are in fact more appropriate. In addition, such arguments may be made in any judicial review of the Commission's determination that a substance is a strong sensitizer. Therefore, the Commission's proposed definition is intended to be informative and advisory concerning the Commission's views on the requirements of the FHSA. The definition, however, is not binding in and of itself. Therefore, no product will be directly affected by the issuance of this interpretative rule. Therefore, the Commission concludes that the supplemental definition proposed below, if issued, will have little or no potential for affecting the human environment and that neither an environmental assessment or an environmental impact statement is required. *See* 16 CFR Part 1021.

Regulatory Flexibility Act Certification

For the reasons explained in the preceding paragraph, no products will be directly affected by this proposed action. Therefore, the Commission certifies that the rule proposed below, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

Conclusion

PART 1500—[AMENDED]

For the reasons discussed the Commission proposes to amend 16 CFR Part 1500 to read as follows:

1. The authority citation for Part 1500 is proposed to be revised to read as follows:

Authority: 15 U.S.C. 1261–1276.

2. Section 1500.3 is proposed to be amended by adding paragraph (c)(5) to read as follows:

§ 1500.3 Definitions.

* * * * *

(c) * * *

(5) The definition of "strong sensitizer" in section 2(k) of the Federal Hazardous Substances Act (restated in 16 CFR 1500.3(b)(9)) is supplemented by the following definitions:

(i) *Sensitizer.* A "sensitizer" is a substance that will induce an immunologically-mediated (allergic) response, including allergic photosensitivity. This allergic reaction will become evident upon reexposure to the same substance. Occasionally, a sensitizer will induce and elicit an allergic response on first exposure by virture of active sensitization.

(ii) *Strong.* In determining that a substance is a "strong' sensitizer, the Commission shall consider the available data for a number of factors. These factors should include any or all of the following (if available): quantitative or qualitative risk assessment, frequency of occurrence and range of severity of reactions in healthy or susceptible populations, the result of experimental assays in animals or humans (considering dose-response factors), with human data taking precedence over animal data, other data on potency or bioavailability of sensitizers, data on reactions to a cross-reacting substance or to a chemical that metabolizes or degrades to form the same or a cross-reacting substance, the threshold of human sensitivity, epidemiological studies, case histories, occupational studies, and other appropriate *in vivo* and *in vitro* test studies.

(iii) *Severity of reaction.* The minimal severity of reaction for the purpose of designating a material as a "strong sensitizer" is a clinically important allergic reaction. For example, strong snsitizers may produce substantial illness, including any or all of the following: physical discomfort, distress, hardship, and functional or structural impairment. These may, but not necessarily require medical treatment or produce loss of functional activities.

(iv) *Significant potential for causing hypersensitivity.* "Significant potential for causing hypersensitivity" is a relative determination that must be made separately for each substance. It may be based upon the chemical or functional properties of the substance, documented medical evidence of allergic reactions obtained from epidemiological surveys or individual case reports, controlled in *vitro* or *in vivo* experimental assays, or susceptibility profiles in normal or allergic subjects.

(v) *Normal living tissue.* The allergic hypersensitivity reaction occurs in normal living tissues, including the skin and other organ systems, such as the respiratory or gastrointestinal tract, either singularly or in combination, following sensitization by contact, ingestion, or inhalation.

Dated: October 30, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

APPENDIX—List of Relevant Documents in the Record

1. Report to CPSC, "Strong Sensitizers Final Monograph," submitted by J.T. Maddock, M. Sttenfield, and D. Nell, Auerbach Associates, Inc., November 18, 1977.

2. Comment on proposed revocation of definition of strong sensitizer from Burlington Industries, Inc.

3. Memorandum to the Commission from the Directorate for Health Sciences, "Final Rule to Revoke the Regulatory Definition of Strong Sensitizer," dated April 13, 1984.

4. **Federal Register** notice to revoke the regulatory supplemental definition of strong sensitizer and remove and reserve 16 CFR 1500.3(c)(5). 49 FR 22464; May 30, 1984.

5. Directorate for Health Sciences memorandum, "Supplemental Definitions to the 'Strong Sensitizer' Definition in the Federal Hazardous Substances Act," dated June 26, 1985.

6. "Technical Advisory Panel on Allergic Sensitization [TAPAS] Paper concerning a Supplemental Definition to the Strong Sensitizer Definition in the Federal Hazardous Substances Act."

7. Minutes of the November 19–20, 1984, TAPAS meeting.

8. Minutes of the March 4, 1985, TAPAS meeting.

9. Draft minutes of the June 24, 1985, TAPAS meeting.

10. "Briefing Package on a Proposed Definition to Supplement the Federal Hazardous Substances Act Definition of Strong Sensitizer," dated September 23, 1985.

11. Memorandum to Commissioner Saundra Brown Armstrong from the Directorate for Health Sciences, "Applicability of the Draft Supplemental Definitions for Strong Sensitizer to Sensitization of Nails or Hair," dated October 22, 1985.

[FR Doc. 85–26352 Filed 11–6–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N–0042]

Anticaries Drug Products for Over-the-Counter Human Use; Extension of Time for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to December 30, 1985, the comment period for the notice of proposed rulemaking to establish conditions under which over-the-counter (OTC) anticaries drug products are generally recognized as safe and effective and not misbranded. This action responds to a request to extend the comment period for an additional 30 days to allow more time for interested persons to address important issues proposed by the agency and to allow greater participation by those affected by this rulemaking.

DATE: Written comments by December 30, 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: 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 30, 1985 (50 FR 39854), FDA issued a notice of proposed rulemaking to establish conditions under which anticaries drug products for OTC human use are generally recognized as safe and effective and not misbranded. This notice of proposed rulemaking, which was based on the agency's evaluation of the recommendations of the Advisory Review Panel on OTC Dentifrice and Dental Care Drug Products and public comments on those recommendations, is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until November 29, 1985, to comment on the notice of proposed rulemaking.

In response to the proposal, The Proprietary Association requested a 30-day extension of the comment period in order to allow adequate time for the association to address important issues proposed by the agency concerning OTC anticaries drug products. The Proprietary Association stated that the rulemaking for anticaries drug products is of great importance to the OTC drug industry and that extending the comment period will allow greater participation by all those who will be affected by the proposal.

FDA has carefully considered the request. The agency believes that greater participation by those affected by the proposal may be of assistance in establishing the conditions under which OTC anticaries drug products are generally recognized as safe and effective and not misbranded and is in the public interest. Thus, the agency considers a general extension of the comment period for 30 days to be appropriate. Accordingly, the comment period for submissions by any interested person is extended to December 30, 1985. Comments may be seen in the Dockets Management Branch, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 1, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–26563 Filed 11–6–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–269–84]

Residential Rental Property; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations that relate to the tax exempt status of industrial development bonds. Changes to the applicable tax law were made by the Tax Reform Act of 1984. These regulations affect all purchasers, beneficiaries, and governmental issuers of tax exempt industrial development bonds.

DATES; Written comments and requests for a public hearing must be delivered or mailed by January 6, 1985. The proposed provisions under § 1.103–8(b) (1), (3), (4), (5), (7) and (9) are proposed to be effective after April 30, 1968. The proposed provisions under § 1.103–8(b)(8)(v) are proposed to be effective after December 31, 1985.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-269-84], Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) [202-566-3740].

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(b) of the Internal Revenue Code of 1954. The proposed amendments reflect changes to section 103(b)(4) made by sections 614 and 628 (e) of the Tax Reform Act of 1984 (Pub. L. 98-369; 98 Stat. 914, 932). The proposed amendments would also clarify the regulations under section 103(b)(12) (C), relating to the definition of individuals of low and moderate income.

Explanation of Provisions

Section 103(a) provides that gross income does not include interest on the obligations of a State or political subdivision thereof. Section 103(b)(1) provides that any industrial development bond shall be treated as an obligation not described in section 103(a).

Section 103(b)(4)(A) and § 1.103-8 (b)(1) provide that section 103(b)(1) shall not apply to an obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide a residential rental project as defined in § 1.103-8(b)(4) in which 20 percent or more of the units provided with the proceeds of the issue are to be occupied by individuals or families of low or moderate income.

The notice of proposed rulemaking would amend § 1.103-8 (b)(4) to provide that a residential rental project will not fail to qualify as such merely because part of the building or structure in which such property is located is used for purposes other than similarly constructed rental units, e.g., commercial office space, owner-occupied residences. Thus, for example, a building the first floor of which is used for commercial purposes and the balance of which consists of rental units may qualify as a residential rental project.

In the case of such a mixed-use project, for purposes of determining whether substantially all of the proceeds are to be used to provide a residential rental project only the proceeds to be used to provide rental units that, in the aggregate, meet the low or moderate income occupancy requirement and other portions of the project allocable to such units are treated as providing a residential rental project. For this purpose, the cost of property benefitting, directly or indirectly, both the rental units qualifying for financing and the nonqualifying property must be properly allocated between the units and the nonqualifying property, with only the portion allocable to the units being treated as a cost of providing a residential rental project. In general, the proposed regulations provide that this allocation will be considered proper if made based on the ratio of the amount of floor space in the project to be used for nonqualifying property to the total floor space in the project. However, in those situations in which the use of this allocation method would not reasonably reflect the benefits to be received, directly or indirectly, from such property by the rental units and the nonqualifying property, the allocation may not be made under this method. In such circumstances the allocation may be made under any reasonable method. Comments are specifically requested concerning any other allocation methods that may be appropriate for this purpose.

Section 103(b)(4)(A) and § 1.103-8(b) provide that an obligationwill be treated as being described in section 103(a) if substantially all of the proceeds of the issue of which such obligation is a part are to be used to provide a project for residential rental property in which at least 20 percent of the units (15 percent in targeted areas) are to be occupied by individuals or families of low or moderate income. Section 1.103-8(b)(8)(v) defines low or moderate income as 80 percent of the median gross income for the area. The proposed regulations would amend the definition of low or moderate income to make clear that median gross income for an area is to be determined with adjustments for family size.

The proposed regulations would amend § 1.103-8(b)(3), relating to the transitional rules provided in the Mortgage Subsidy Bond Tax Act of 1980, to reflect the amendments made to those rules by the Tax Reform Act of 1984, which terminated most of those transitional rules for obligations issued after December 31, 1984.

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Analysis

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

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

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

List of Subjects in 26 CFR 1.61-1 through 1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.103-8 is amended by revising paragraph (b)(1), (b)(3) and paragraph (b)(4) (i) and (ii), by adding a new paragraph (b)(4)(v), by revising paragraph (b)(5), paragraph (b)(7)(ii), and paragraph (b)(8)(v), by revising *Example (3)* of paragraph (b)(9), and by adding new *Example (12)* and *Example*

(13) to follow *Example (11)* of paragraph (b)(9). These revised and added provisions read as follows:

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

* * * * *

(b) *Residential rental property*—(1) *General rule for obligations issued after April 24, 1979.* Section 103(b)(1) shall not apply to any obligation which is issued after April 24, 1979, and is part of an issue substantially all of the proceeds of which are to be used to provide a residential rental project in which 20 percent or more of the units in the project that are to be provided with the proceeds of the issue (other than those units to be provided with an insubstantial amount of the proceeds of the issue as permitted under paragraph (a)(3) of this section) are to be occupied by individuals or families of low or moderate income (as defined in paragraph (b)(8)(v) of this section). See paragraph (b)(4)(v) with respect to mixed-use projects. In the case of a targeted area project, the minimum percentage is 15 percent. See generally § 1.103-7 for rules relating to refunding issues.

* * * * *

(3) *Transitional rule.* For purposes of this section, obligations issued after April 24, 1979, may be treated as issued before April 25, 1979, if the transitional requirements of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 (94 Stat. 2870), as amended by section 614 of the Tax Reform Act of 1984 (98 Stat. 914), are satisfied.

(4) *Residential rental project*—(i) *In general.* A residential rental project is a building or structure, together with any facilities functionally related and subordinate thereto, containing one or more similarly constructed units that—

(*a*) Are not used on a transient basis, and

(*b*) Satisfy the requirements of paragraph (b)(5)(i) of this section and are available to members of the general public in accordance with the requirements of paragraph (a)(2) of this section.

Although a residential rental project may include other property, such as commercial office space, special rules apply to such mixed-use projects (see paragraph (b)(4)(v)). Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, nursing homes, sanitariums, and rest homes are not residential rental projects (but, with respect to obligations issued prior to January 1, 1986, only if such facilities are for use on a transient basis). In addition, trailer parks and courts for use on a transient basis are not residential rental projects.

(ii) *Multiple buildings and partial use of buildings.* (*a*) Proximate buildings or structures that have similarly constructed units are treated as part of the same project if they are owned for Federal tax purposes by the same person and they are financed pursuant to a common plan.

(*b*) Buildings or structures are proximate if they are located on a single tract of land. The term "tract" means any parcel or parcels of land that either are contiguous or are contiguous except for the interposition of a road, street, stream or similar property. Parcels are contiguous in their boundaries meet at one or more points.

(*c*) Similarly constructed units located in a single building and financed pursuant to a common plan of financing are treated as part of the same project.

(*d*) A common plan of financing exists if, for example, all such buildings or similarly constructed units are provided by the same issue or several issues subject to a common indenture.

* * * * *

(v) *Mixed-use projects. (a)* For purposes of this paragraph (b), a mixed-use project is a building or structure, together with any facilities functionally related and subordinate thereto, containing—

(*1*) One or more similarly constructed units rented or available for rental that, in the aggregate, meet the low or moderate income occupancy requirement of paragraph (b)(5)(ii), and

(*2*) Other property the use of which is unrelated to such units, *e.g.*, commercial office space, owner-occupied residences, and units that, in the aggregate, do not meet the low or moderate income occupancy requirement of paragraph (b)(5)(ii) ("nonqualifying property").

(*b*) For purposes of determining whether, in the case of a mixed-use project, substantially all of the proceeds of the issue are to be used to provide a residential rental project, only the proceeds to be used to provide the units described in paragraph (b)(4)(v)(a)(1) and the other portions of the project allocable to such units are treated as being used to provide a residential rental project. Other portions of the project allocable to such units include—

(*1*) The allocable portion of property benefitting both such units and the nonqualifying property (*e.g.*, common elements), and

(*2*) All property benefitting only such units (*e.g.*, reactional facilities used only by occupants of the units described in paragraph (b)(4)(v)(*a*)(*1*)).

(*c*) In determining whether, in the case of a mixed-use project, substantially all of the proceeds of an issue are to be used to provide a residential rental project, the cost of property that will benefit, directly or indirectly, both the units described in paragraph (b)(4)(v)(*a*)(*1*) and the nonqualifying property must be allocated between such units and the nonqualifying property. For example, in the case of a mixed-use project part of which is to be used for commercial purposes, the cost of the building's foundation must be allocated between the commercial portion of the building and the units described in paragraph (b)(4)(v)(*a*)(*1*). The allocation of the cost of such common elements may be made according to any reasonable method that properly reflects the proportionate benefit to be derived, directly or indirectly, by the units described in paragraph (b)(4)(v)(*a*)(*1*) and the nonqualifying property. Allocating the cost of such common elements based on the ratio of the total floor space in the building or structure that is to be used for nonqualifying property to all other floor space in the building or structure is, generally, a reasonable method; however, in the case of any common elements with respect to which an allocation according to this method does not reasonably reflect the relative benefits to be derived, directly or indirectly, by the units described in paragraph (b)(4)(v)(*a*)(*1*) and the nonqualifying property, the allocation may not be made according to this method. For example, this method would not be a reasonable method for making the allocation in the case of a residential rental project one-half of the floor space of which is used for shopping space where three-fourths of the parking lot for the building will be used to serve the shopping space and the balance of the parking lot will be used to serve tenants of the units described in paragraph (b)(4)(v)(*a*)(*1*); the cost of constructing the parking lot must be allocated based on the proportion of the parking lot to be used, directly or indirectly, by the tenants of the units described in paragraph (b)(4)(v)(*a*)(*1*) and by the owners and tenants of the nonqualifying portion of the project.

(5) *Requirements must be continuously satisfied*—(i) *Rental requirement.* Once available for occupancy, each unit (as defined in paragraph (b)(8)(i) of this section) in a residential rental project that was provided with the proceeds of an issue described in section 103(b)(4)(A) (other than those units provided with an insubstantial amount of the proceeds of

the issue as permitted under paragraph (a)(3) of this section) must be rented or available for rental on a continuous basis for the longer of—

(*a*) The remaining term of the obligation, or

(*b*) The qualified project period (as defined in paragraph (b)(7) of this section).

(ii) *Low or moderate income occupancy requirement.* Individuals or families of low or moderate income must occupy that percentage of completed units in the project that were provided with the proceeds of an issue described in section 103(b)(4)(A) (other than those units provided with an insubstantial amount of the proceeds of the issue as permitted under paragraph (a)(3) of this section) applicable to the project under paragraph (b)(1) of this section continuously during the qualified project period. For this purpose, a unit occupied by an individual or family who at the commencement of the occupancy is of low or moderate income is treated as occupied by an individual or family of low or moderate income even though the individual or family ceases to be of low or moderate income during the period of their occupancy. Moreover, such unit is treated as occupied by an individual or family of low or moderate income until reoccupied, other than for a temporary period not in excess of 31 days, at which time a redetermination of whether the unit is occupied by an individual or family of low or moderate income shall be made.

* * * * *

(7) *Qualified project period.* * * *

(ii) For obligations issued after September 3, 1982, a period beginning on the later of the first day on which at least 10 percent of the units in the project that are provided with the proceeds of the issue are first occupied or the date of issue of an obligation described in section 103(b)(4)(A) and this paragraph and ending on the later of the date—

(*a*) Which is 10 years after the date on which at least 50 percent of the units in the project that are provided with the proceeds of the issue are first occupied,

(*b*) Which is a qualified number of days after the date on which any of the units in the project that are provided with the proceeds of the issue are first occupied, or

(*c*) On which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of this paragraph (b)(7)(ii), the term "qualified number of days" means 50 percent of the total number of days comprising the term of the obligation with the longest maturity in the issue used to provide the project. In the case of a refunding of such an issue, the longest maturity is equal to the sum of the period the prior issue was outstanding and the longest term of any refunding obligations.

(8) *Other definitions.* * * *

(v) *Low or moderate income.* Individuals and families of low or moderate income shall be determined in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937, as amended, except that the percentage of median gross income that qualifies as low or moderate income shall be 80 percent of the median gross income for the area with adjustments for smaller and larger families. Therefore, occupants of a unit are considered individuals or families of low or moderate income only if their adjusted income (computed in the manner prescribed in § 1.167(k)–3(b)(3)) does not exceed 80 percent of the median gross income for the area with adjustments for smaller and larger families. With respect to obligations issued prior to January 1, 1986, a determination of low or moderate income shall be made in accordance with the requirements of this paragraph (b)(8)(v) except that median gross income for the area need not be adjusted for family size. Notwithstanding the foregoing, the occupants of a unit shall not be considered to be of low or moderate income if all the occupants are students (as defined in section 151(e)(4)), no one of whom is entitled to file a joint return under section 6013. The method of determining low or moderate income in effect on the date of issue will be determinative for such issue even if such method is subsequently changed. In the event programs under section 8(f) of the Housing Act of 1937, as amended, are terminated prior to the date of issue, the applicable method shall be that in effect immediately prior to the date of such termination.

(9) *Examples.* * * *

Example (1). The facts are the same as in example (1), except that the proceeds of the obligation are provided to N, a cooperative housing corporation. N uses the proceeds to finance the construction of a portion of a cooperative housing project. The balance of the project is financed with the proceeds of a note that is not described in section 103(a). Shares in the cooperative carrying the rights to occupy the units in the portion of the project financed with the proceeds of the obligation issued by City X will be sold to shareholders who will rent the units to other persons. The balance of the shares in the cooperative, carrying the rights to occupy more than half of the space in the project, will be sold to individuals who will occupy the units themselves. The project is a residential rental project within the meaning of section 103(b)(4)(A) and this paragraph (b).

* * * * *

Example (12). In July 1985, County X issues a $10 million issue of industrial development bonds to be used to finance the construction of a building to be owned by Corporation W. Corporation W will construct a 10 story building. The first 2 floors of the building will be made available for commercial use. The remaining 8 floors will consist of similarly constructed units that will be made available as residences on a rental basis to members of the general public. Corporation W uses substantially all of the proceeds of the issue to finance the 8 floors of the building to be made available as rental units, the portions of the building benefitting, directly or indirectly, only the rental units, and the portions of the building benefitting, directly or indirectly, both the rental units and the commercial space that are properly allocable to the rental units. The remainder of the building is financed other than with the proceeds of an obligation described in section 103 (a). Corporation W will make 20 percent of the rental units available to low or moderate income individuals, and all of the other requirements of this section are met. The obligations are used to provide a residential rental project within the meaning of section 103(b)(4)(A) and this section, and the obligations are described in section 103(a).

Example (13). The facts are the same as in example (12), except that Corporation W uses the proceeds of the issue to finance the entire building including the 2 floors to be available for commercial use. The cost of the 2 floors available for commercial use, including those portions of the building that benefit both the commercial space and the rental units that are properly allocable to the commercial space, is $2 million. Under paragraph (b)(4)(v) of this section, the building is a residential rental project. However, substantially all of the proceeds of the issue are not used to provide a residential rental project since, in making this determination, proceeds used to provide nonqualifying property are treated as not used to provide a residential rental project. Therefore, the obligations are not described in section 103(b)(4)(A) and this paragraph (b).

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-26601 Filed 11-4-85; 12:39 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-151-84]

Withholding Upon Dispositions of U.S. Real Property Interests by Foreign Persons, Public Hearing of Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the withholding that is required upon the disposition of a U.S. real property interest by a foreign person.

DATES: The public hearing will be held on Friday, January 17, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, December 27, 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, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–151–84), 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 or telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1445 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, December 31, 1984 (49 FR 50739)

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Friday, December 27, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-26602 Filed 11-6-85; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 10

Express Mail International Service to Mexico; Withdrawal of Proposed Service

AGENCY: Postal Service.

ACTION: Withdrawal of proposed service.

SUMMARY: On June 28, 1982 the Postal Service published in the **Federal Register** (47 FR 28111) a proposal to begin on August 16, 1982 Express Mail International Service with Mexico at certain published rates. The Express Mail International Service did not begin, and a final rule was never adopted. Since it is not clear at this time when the proposed service will be initiated, the proposal is hereby withdrawn. It will be republished at a future time.

EFFECTIVE DATE: November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Janet M. Mitchell, (202) 268–2436.

List of Subjects in 39 CFR Part 10

Postal Service, International relations.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-26619 Filed 11-6-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[Docket No. 9–85–31; A–9–FRL–2918–7]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for Weiser Lock, Huntington Beach, CA

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Weiser Lock. The Order requires the company to bring volatile organic compounds emissions from its metal parts coating lines in Huntington Beach, California into compliance with the South Coast Air Quality Management District's Rule 1107(6)(B), part of the Federally approved California State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by November 1, 1986. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments and requests for a public hearing must be received on or before December 9, 1985. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary or any proposed testimony to be offered at the hearing. If there is a significant public interest in a hearing, it will be held twenty-one days after prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Chief of the Compliance Section, Air Management Division, U.S. EPA, 215 Fremont Street, San Francisco, California 94105. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Abra Bennett, Compliance Section, Air Management Division, U.S. EPA, 215 Fremont Street, San Francisco, California 94105 at (415) 974–8057.

SUPPLEMENTARY INFORMATION: Weiser Lock operates ten metal parts coating lines in Huntington Beach, California. The proposed Order addresses volatile organic compounds (VOC) emissions from the coating lines at this facility, which are subject to the South Coast Air Quality Management District's (SCAQMD) Rule 1107, which is part of the Federally approved California SIP. Rule 1107 limits the VOC emissions from manufactured metal parts and products coatings. Rule 1107(6) specifies the date by which Weiser Lock must be in compliance with the Rule. The Order requires final compliance with Rule 1107 by September 1, 1986 by conversion to the use of either complying liquid coatings or powder coating, or by

November 1, 1986 by means of the installation of an add-on control device. Weiser Lock is to continue to evaluate its compliance options until December 31, 1985, at which time it will decide whether it will be able to convert to the use of complying coatings by September 1, 1986, or must purchase an add-on control device consisting of either a thermal or catalytic incinerator or carbon adsorption system and reach final compliance by November 1, 1986. The source has consented to the terms of this Order. The source has agreed to meet the Order's increments during the period of this informal rulemaking.

The proposed Order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded. However, Weiser Lock has been notified that its failure to achieve final compliance by the dates specified in the Order may result in a requirement to pay a noncompliance penalty under section 120 of the Act.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: September 30, 1985.

John Wise,

Acting Regional Administrator, Region IX.

PART 65—[AMENDED]

§ 65.400 [Amended]

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, by adding an entry to the table in § 65.400, Federal Delayed Compliance Orders issued under section 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order:

U.S. Environmental Protection Agency
Region IX

In the matter of: Weiser Lock, Huntington Beach, California; Proceeding Pursuant to section 113(d) of the Clean Air Act, as Amended (42 U.S.C. 7413(d)), Order NO. EPA–85———.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as Amended, 42 U.S.C. 7401 et. seq. (hereinafter the "Act"), and contains a schedule for compliance, interim control requirements and reporting requirements. Public notice, opportunity for public comment and thirty days notice to the South Coast Air Quality Management District have been provided in accordance with section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1).

Findings

1. On April 3, 1985, the United States Environmental Protection Agency ("U.S. EPA", or "Agency") issued a Notice of Violation pursuant to section 113(a)(1) of the Act, 42 U.S.C. 7413(a)(1) to Weiser Lock for violation of the California State Implementation Plan (SIP), SCAQMD Rule 1107, at its coating lines at its Huntington Beach, California facility. Rule 1107(6)(B) prohibits any person from applying any coating to manufactured metal parts and products which contain volatile organic compounds (VOCs) in excess of 275 grams per liter of coating, as applied, excluding water, when the coated products are dried at a temperature at or above 90°C (194°F). Rule 1107(6) requires that compliance with Rule 1107(6)(B) be achieved by January 1, 1985.

2. Weiser Lock owns and operates ten coating lines which are subject to Rule 1107.

3. Pursuant to section 113(a)(4) of the Act, opportunity to confer with U.S. EPA representatives was extended to Weiser Lock, and a conference was held on May 14, 1985. At the conference the company described the progress it was making towards reducing VOC emission from its coating lines by conversion to water base paints and the use of electrostatic application equipment.

4. The violation of SCAQMD Rule 1107 has continued beyond the 30th day after the date the Notice of Violation was received by the company.

5. It has been determined that although Weiser Lock has made significant efforts to achieve compliance with SCAQMD Rule 1107, it was not able to do so by the January 1, 1985 deadline in Rule 1107(6), and will be unable to achieve compliance prior to the dates set forth herein.

6. After a thorough investigation of all relevant facts, including the seriousness of the violations and the comnpany's good faith efforts to comply, and after opportunity for public comment, it has been determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of the Order comply with section 113(d) of the Act. Therefore, it is ordered and agreed that:

Compliance Program

A. Weiser Lock shall achieve and demonstrate compliance with Rule 1107 at the coating lines at its Huntington Beach, California facility. Weiser Lock shall comply by means of conversion to complying liquid coatings, conversion to powder coatings, installation of an add-on control device, or by means of the equivalency provision of Rule 1107(c) which provides for compliance by demonstrating that emission reductions obtained are at least equal to those which would be obtained by the use of coatings and operational techniques specified in Rule 1107.

B. Weiser Lock shall achieve and demonstrate compliance at its coating lines in accordance with the following schedule:

(1) Investigate Compliance Alternatives

Research and Development with liquid coating supplier—12/31/85
Experiments with powder coatings—12/31/85
Determine need for application equipment modification—12/31/85
Determine need for degreaser modification—12/31/85
Investigate potential for coating specification changes—12/31/85
Contact consultants to determine other compliance options—12/31/85
Re-evaluate thermal oxidation and carbon adsorption—12/31/85
Investigate catalytic incineration—12/31/85
Initiate joint research effort with other coater—12/31/85
Obtain and analyze bids for control devices—12/31/85
Consider relocation options—12/31/85

(2) Select final compliance option (a), (b), or (c) below—21/31/85

(a) Conversion to liquid complying coating
  (i) Purchase application equipment and booths—1/15/86
  (ii) Install equipment—6/15/86
  (iii) Purchase degreaser—1/15/86
  (iv) Install degreaser—7/1/86
  (v) Final compliance—9/1/86
(b) Conversion to powder coating
  (i) Order equipment—1/15/86
  (ii) Install equipment—6/15/86
  (iii) Purchase degreaser—1/15/86
  (iv) Install degreaser—7/1/86
  (v) Final compliance—9/1/86
(c) Add-on Control Device
  (i) Order equipment—1/15/86
  (ii) Design by vendor—3/15/86
  (iii) Construct equipment—8/31/86
  (iv) Install equipment—10/15/86

(v) Final compliance—11/1/86

C. Every 30 days, commencing July 1, 1985, Weiser Lock shall submit to U.S. EPA a status report which states whether or not each compliance schedule milestone scheduled for completion during the previous month was achieved, and which contains a forecast of progress anticipated during the future month.

D. If final compliance is achieved by means of conversion to the use of complying coatings, either liquid or powder, Weiser Lock shall submit the following information to U.S. EPA:

Identification of each coating material used, including the suppliers' name; coating identification code; coating density in pounds per gallon; solids content expressed as percent by weight; chemical composition of the volatile portion expressed as percent by weight of all solvents, both exempt and non-exempt; water content expressed as percent by weight of all solvents, both exempt and nonexempt; water content expressed as percent by weight; and total batch weight of as-received coating prior to solvent and/or solids addition at the coating line.

E. If final compliance is achieved by means of the installation of add-on abatement equipment, Weiser Lock shall submit the following to U.S. EPA: Manufacturer's specifications showing efficiency of the device and results of a source test conducted in conjunction with a materials balance demonstrating that emissions reductions achieved are at least equal to those that would have been achieved by the use of exclusively complying coatings.

F. Weiser Lock shall continue to maintain, at all times until final compliance is achieved, the level of emssion reductions currently achieved at the time of the issuance of this Order.

G. All submittals, notifications, and reports to U.S. EPA pursuant to this Order shall be made to the Chief, Compliance Section, Air Management Division, U.S. EPA, 215 Fremont Street, San Francisco, California 94105.

H. Nothing contained in these Finding or Order shall affect the responsibility of Weiser Lock to comply with all other State or Local laws or regulations or other Federal laws or regulations.

I. Weiser Lock is hereby notified that its failure to achieve Final compliance by the dates specified in this Order may result in a requirement to pay a noncompliance penalty in accordance with section 120 of the Act, 42 U.S.C. 7420.

J. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegates determines on the record, after notice and hearing, that an inability to comply with the applicable California SIP no longer exists.

K. Weiser Lock is protected by section 113(d)(10) of the Act against Federal enforcement action and citizen suits under section 304 of the Act for noncompliance with the California SIP until the date for final compliance in the order is past, where Weiser Lock is in compliance with the terms of this Order.

L. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. 7503.

M. This Order is effective upon promulgation in the **Federal Register.**

Dated: October 25, 1985.

Lee M. Thomas,

Administrator, United States Environmental Protection Agency.

Weiser Lock, by the duly authorized undersigned, hereby consents to the provisions of this Order and believes it to be a reasonable means by which its Huntington Beach, California Facility can achieve compliance with the South Coast Air Quality Management District's Rule 1107, which is part of the California State Implementation Plan. Weiser Lock further waives any and all rights under any provisions of law to challenge this Order.

Dated: October 9, 1985.

Joseph Fiori,

Weiser Lock.

[FR Doc. 85-26356 Filed 11-6-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 704 and 716

[OPTS-82021; FRL-2920-8]

P-Tert-Butylbenzoic Acid, P-Tert-Butyltoluene, P-Tert-Butylbenzaldehyde; Proposed Reporting and Recordkeeping Requirements, and Health and Safety Data Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule would establish reporting and recordkeeping requirements for the following three chemical substances: p-tert-butylbenzoic acid (P-TBBA, CAS No. 98-73-7), P-tert-butyltoluene (P-TBT, CAS No. 98-51-1), and p-tert-butylbenzaldehyde (P-TBB, CAS No. 939-97-9). Based on the data currently available to EPA, the Agency is primarily concerned with the possible human reproductive effects resulting from exposure to these substances. The purpose of these regulatory requirements is to monitor current and future uses of P-TBBA, P-TBT, and P-TBB, and to obtain data necessary to support a more detailed assessment of the potential health and environmental risks posed by these substances.

DATE: Written comments on this proposed rule should be submitted by December 9, 1985.

ADDRESS: Comments should bear the docket control number OPTS-82021 and should be submitted to the following address: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M Street SW., Washington, DC 20460.

All written commens on this proposed rule will be available for public inspection in Rm. E-107 at the address given above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Applicable Statutory and Regulatory Provisions

EPA is proposing this rule pursuant to sections 8(a) and 8(d) of TSCA (15 U.S.C. 2601 *et seq.*).

A. Section 8 (a) Reporting Rules

TSCA section 8(a) authorizes EPA to require persons who manufacture, import, or process a chemical substance to submit such reports on that substance as the Agency may require. The Agency is authorized to obtain a broad range of data under section 8(a), including information on chemical identity and structure, production, use, exposure, disposal, and health and environmental effects. Small manufacturers, importers, and processors, as defined by EPA, are exempt from section 8(a) reporting and recordkeeping requirements, with certain statutory exceptions.

EPA has codified general reporting provisions for chemical-specific section 8(a) rules at 40 CFR Part 704, Subpart A. These general provisions include a small manufacturer definition and exemption. The Agency is proposing that the reporting provisions in Part 704 apply to the section 8(a) reporting requirements of this rule, except as discussed in this preamble and provided in the rule.

B. Section 8(d) Health and Safety Data Reporting

Under the authority of TSCA section 8(d), EPA promulgated the model Health and Safety Data Reporting Rule. This model rule contains standardized requirements for persons to submit copies and lists of health and safety studies for certain designated chemical substances or mixtures. These requirements are codified at 40 CFR Part 716, Subpart A.

Generally, The section 8(d) model rule is applicable to persons who manufacture, import, or process (or propose to manufacture, import, or process) any chemical substance or mixture that is listed in the rule. The reporting requirements of the model rule are applicable as of the date a substance or mixture is listed in the rule, and remain in effect after the listing date. The model rule also is applicable to persons who manufactured, imported, or processed a listed substance or mixture (or proposed to do so) during the 10 years prior to the listing date. Most persons subject to the rule are required to submit two types of data to EPA:

1. Copies of unpublished health and safety studies (for the substances and mixtures listed in the rule) which are in the possession of the manufacturer, importer, or processor.

2. Lists of unpublished health and safety studies which are being conducted by (or for) the manufacturer, importer, or processor, or which are known to but not in the possession of the manufacturer, importer, or processor.

The section 8(d) model rule authorizes EPA to amend the list of substances and mixtures subject to the rule; the Agency may from time to time add substances or mixtures to the rule in order to gather data for chemical risk assessment, as it is proposing to do in this rule.

II. Summary of This Proposed Rule

This rule proposes reporting and recordkeeping requirements for the following chemical substances:

p-tert-butylbenzoic acid (P-TBBA, CAS No. 98-73-7),
p-tert-butyltoluene (P-TBT, CAS No. 98-51-1),
p-tert-butylbenzaldehyde (P-TBB, CAS No. 939-97-9).

The section 8(a) and section 8(d) reporting requirements would be the same for all three substances, and are summarized below.

1. *Section 8(a) reporting requirements.* This rule would require all persons who manufactured, imported, or processed any of the three subject chemical substances during their latest complete corporate fiscal year prior to the effective date of the final rule to notify EPA of their activities and provide the Agency with general exposure-related data (which are specified in the rule). In addition, the rule would require all persons who begin manufacturing or importing any of these subtances after the effective date of the final rule to notify EPA and submit specified exposure-related data. The rule also would require all persons who process P-TBBA, P-TBT, or P-TBB in any way other than as a non-isolated intermediate (as that term is defined in the rule) to provide EPA with data on such processing; this latter requirement would apply to persons who are engaging in such processing as of the effective date of the rule and to persons who commence such processing after that date.

The rule describes the specific type, amount, and format of the section 8(a) data to be reported by manufacturers, importers, and processors of P-TBBA, P-TBT, or P-TBB. In addition, the general section 8(a) reporting provisions at 40 CFR Part 704, Subpart A, including the small manufacturer exempt standards, would apply to this rule. The rule also would exempt small processors from the section 8(a) reporting requirements noted above, as required by TSCA; for purposes of this rule, the standards for defining small processors are the same as for small manufacturers, except that small processors would be held to an annual processing volume criterion rather than annual production volume.

Persons subjects to the section 8(a) reporting requirements for P-TBBA, P-TBT, and P-TBB would be required to submit their data to EPA within 60 days of becoming subject to the rule; persons cannot be subject to this rule until the final rule becomes effective.

Any firm submitting section 8(a) data under this rule can, at its discretion, claim such data to be Confidential Business Information (CBI). (EPA's threatment of section 8(d) data as CBI is subject to the restrictions of TSCA section 14(b).) The procedures for submitting a notice with confidential section 8(a) data are set forth at 40 CFR 704.7. Persons submitting claims of confidentiality must attest, among other things, that they have taken measures to protect the confidentiality of the information, that they intend to continue to take such measures, and that the CBI is not and has not been reasonably obtainable by other persons (other than government entities) without the consent of the CBI claimant.

This rule also proposes that the general section 8(a) reporting provisions of 40 CFR Part 704 (Subpart A) be amended in two ways: (1) By adding definitions of the terms "intermediate," "known to or reasonably ascertainable by," and "process for commercial purposes" to the list of generic definitions in 40 CFR 704.3, and (2) By amending two of the generic exemptions in 40 CFR 704.5 (for substances used solely for research and development and for substances produced as byproducts or impurities) to make them applicable to processors. In proposing these changes to the generic provisions of Part 704, the Agency wishes to ensure that all terms and exemptions that may be applicable to this rule are codified in the CFR. The definitions proposed in this rule are similar or identical to definitions which have been codified elsewhere by EPA (e.g., in 40 CFR Parts 712, 716, 720, and 721), and generally have been accepted both within EPA and by commenters on previous rules.

2. *Section 8(d) reporting requirements.* EPA is proposing the addition of P-TBBA, P-TBT, and P-TBB to the list of chemical substances subject to the section 8(d) model rule. Section 8(d) health and safety data reporting is summarized in Unit I.B. of this preamble, and is codified at 40 CFR Part 716.

III. Objectives and Rationale for the Proposed Rule

A. Current Data on Potential Health and Environmental Risk

P-TBBA has been demonstrated to cause adverse reproductive effects (testicular atrophy and reduced sperm counts) in laboratory animals and, based on epidemiological studies, is suspected of causing significant sperm count reductions in human males. The Substance is an irritant and has moderate acute toxicity. P-TBBA also has caused neurotoxic effects and liver and kidney damage in laboratory animals. EPA has no data on the substance's possible carcinogenicity, mutagenicity, or teratogenicity, and has only limited data that indicate tendency for P-TBBA to persist in the environment.

Based on information available to EPA, the substance currently is not manufactured in the United States (except possibly as a byproduct or in reagent quanitities that are not distributed in commerce). Current data indicate that P-TBBA is being imported into the United States for commercial use. Based on known uses of P-TBBA (used in certain metalworking fluids and as an intermediate in the manufacture of specialty chemicals), the Agency believes that there is a potential market

for the substance, although that market may be declining at present. When the substance was in production in the United States, the workers at manufacturing plant sites were the population at greatest risk.

Both P-TBT and P-TBB are similar in structure to P-TBBA and have caused moderately adverse reproductive effects in laboratory animals. Although EPA has less data on the health effects of these two substances than it does on P-TBBA, it is known that they readily metabolize into P-TBBA and thus are viewed by the Agency as presenting an equivalent degree of health concern. Furthermore, tests of P-TBT have demonstrated that the substance causes some adverse central nervious system effects and mucous membrane irritation in laboratory animals. As with P-TBBA, EPA lacks data on the carcinogenicity, mutagenicity, and teratogenicity of both P-TBT and P-TBB. The Agency also has limited information on the environmental effects of the two substances; EPA suspects that P-TBT tends to persists in the environment, while P-TBB is not expected to do so.

The TSCA Chemical Substances Inventory identified three major producers of P-TBT as of 1977, with total annual industry production of 2 to 20 million pounds. Current data indicate that P-TBT may not be produced currently for commercial purposes, although it may be imported for commercial use. P-TBT previously has been used in the production of P-TBBA; it now may be used as an intermediate in the manufacture of pharmaceuticals. The substance also may be uses as a modifier/regulator in alkyd resins, an oil additive, and a solvent, but EPA is not aware of these uses taking place at this time. The primary routes of human exposure to P-TBT are through inhalation and dermal contact, with workers facing the greatest potential exposure to the substance.

The Inventory identified two major producers of P-TBB in 1977, with a total annual industry production range of 100,000 to 1 million pounds. Current data indicate that at least one American company manufactures and imports the substance at present (quantities confidential). The substance is known to be used as a chemical intermediate in the manufacture of perfumes, and also may be used as an intermediate in the manufacture of pharmaceuticals and insecticides. The primary routes of exposure and the populations at risk are the same as for P-TBT.

In March 1985, EPA issued a Chemical Advisory for P-TBBA, P-TBT, and P-TBB. This one-page bulletin provides information to current and past manufacturers, importers, and processors of the substances on the potential health hazards posed by P-TBBA, P-TBT, and P-TBB. The Chemical Advisory also provides recommendations for reducing the potential for exposure to the substances. The Advisory was issued independently of this reporting rule.

B. Agency Objectives Concerning Potential Exposures

In view of the suspected human reproductive effects of the three subject chemical substances, as well as the potential for other health effects, EPA wants to ensure that it has complete and accurate information on current exposure to the substances and significant future exposures to them. The exposure data would enable the Agency to better assess the potential risk these substances may pose to human health or the environment, and thereby decide whether further regulatory action is required with regard to any of the three substances.

The Agency therefore is proposing section 8(a) reporting requirements for P-TBBA, P-TBT, and P-TBB that cover current manufacturers, importers, and processors of these substances. The proposed rule also includes requirements to ensure that EPA is notified of potential new exposures to the substances, whether by the future commencement of manufacture or importation, or by changes in the type of processing. The section 8(a) reporting requirements for current activities would better enable EPA to assess the current risk posed by the three substances; the initial reporting requirements also would provide a basis for comparing and assessing any section 8(a) data on future exposures and potential risks.

EPA is not proposing a section 5 significant new use rule (SNUR) for P-TBBA, P-TBT, and P-TBB at this time for a number of reasons, including the difficulty in developing SNUR reporting triggers (due to the probable ongoing nature of the manufacturing, importing, and processing activities), the general lack of data on health and environmental effects of the three substances, and the level of severity of the potential health effect which have been identified to date. While these latter effects (suspected reduction in sperm count, neurotoxicity, liver and kidney damage, and membrane irritation) certainly are severe enough to warrant Agency concern, EPA believes that they are not so severe as to require advance notification of significant changes in exposure to the substances (as with a SNUR), based on the circumstances of this case.

However, EPA reserves the right to promulgate a SNUR for these substances should the information presented in public comments on this proposed rule indicate that a SNUR is needed to protect human health and the environment effectively. Such a rule could be triggered by a significant future increase in the volume of P-TBBA, P-TBT, or P-TBB that a company manufactures or imports, or by the processing of one of these substances other than as a non-isolated intermediate. Respondents to the SNUR would be subject to the reporting requirements codified at 40 CFR Part 721. If EPA were to develop a SNUR for P-TBBA, P-TBT, and P-TBB, the Agency would not be able to obtain data on current manufacturing, importing, and processing activities involving the three substances unless it also developed section 8(a) reporting requirements for these activities. EPA solicits comments on this alternative regulatory approach.

C. Rationale for Section 8(d) Reporting Requirements

As noted above, EPA is concerned that P-TBBA, P-TBT, and P-TBB may present a potential health and environmental risk of unknown magnitude. These chemical substances have not been extensively studied by the scientific community, and EPA has limited data on their potential for adverse health and environmental effects. Although EPA has conducted a preliminary evaluation of the health and environmental risks posed by these substances as part of its ongoing chemical assessment activities, the Agency seeks to ensure that it has all existing health and safety data before undertaking any in-depth risk assessment and/or further regulatory action, if any. There may be other health studies, currently unknown to the Agency, which could provide valuable information about the degree of exposure necessary to cause health or environmental effects. EPA therefore has determined that the current lack of data on P-TBBA, P-TBT, and P-TBB is sufficient justification to require section 8(d) health and safety data reporting for these substances.

D. Possible Follow-Up Regulatory Action Under TSCA

If the sections 8(a) and 8(d) data submitted in response to this rule indicate that EPA should monitor significant new exposures to the substances and be able to take immediate follow-up control action if

necessary, the Agency may develop a section 5 SNUR for one or more of the subject chemicals. If the reported data indicate that P–TBBA, P–TBT, or P–TBB may pose an unreasonable risk to health or the environment, and the Agency wishes to obtain additional health data on the substance(s), EPA may develop a section 4 test rule. And if the data from this sections 8(a)/8(d) rule indicate that the substances do pose an unreasonable risk to health or the environment, EPA could take follow-up action under TSCA section 6 (control rule) or 7 (civil action to prevent imminent hazard) to prevent the risk.

IV. Submission of Additional Data

EPA recognizes that this proposed rule does not require persons to develop any particular test data before submitting a section 8(d) report to the agency. Rather, persons subject to the rule are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health and environmental risks that may be posed by P–TBBA, P–TBT, and P–TBB (and the uncertainty of those potential risks), EPA encourages respondents to this rule to provide the Agency with any relevant test data they may wish to develop. Generally, test data would improve EPA's ability to conduct a reasoned evaluation of the health and environmental effects of a particular chemical substance or use of that substance. Persons who develop test data voluntarily should provide data that conform with the standards of TSCA good laboratory practices, which are codified at 40 CFR Part 792 and were published in the **Federal Register** of November 29, 1983 (48 FR 53923). EPA encourages persons who intend to conduct testing of P–TBBA, P–TBT, or P–TBB to consult with the Agency before selecting a testing protocol.

V. Economic Impact

EPA's analysis of the economic impact of the reporting requirements of this rule is contained in a document entitled "Economic Analysis for Proposed sections 8(a) and 8(d) Rules for P–TBBA, P–TBT, and P–TBB," prepared by the Economics and Technology Division of the EPA Office of Pesticides and Toxic Substances (OPTS). This document is contained in the administrative record for this rule (OPTS–82021). The Agency's analysis is summarized below.

A. Section 8(a) Reporting Requirements

EPA estimates that the cost of submitting a section 8(a) report in response to this rule would be between $1,814 and $3,704. The Agency is not able to determine the total cost of industry compliance with the section 8(a) reporting requirements, because it is not possible to estimate accurately the number of companies that will submit section 8(a) reports in response to the rule; a major part of the rule is forward-looking, with reporting requirements that will be triggered by events that are not currently taking place. However, in view of the estimated cost-per-report figures and the likely amount of current and future industrial activity involving the three subject chemicals, EPA expects the total compliance burden is further reduced through the small business exemptions that are applicable to this rule.

B. Section 8(d) Reporting Requirements

EPA estimates that the total industry cost of compliance with the section 8(d) reporting requirements for P–TBBA, P–TBT, and P–TBB would be approximately $15,000. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the section 8(d) requirements. Although EPA has used the best available data to make its economic projections, much of that information is not current. Therefore, the Agency has chosen to overestimate rather than underestimate the regulatory impact of this rule.

The total industry cost estimate is broken down as follows:

Corporate review	$2,736
File search	5,352
Title listing	152
Photocopying	680
Managerial review	5,016
Ongoing reporting	912
Total	14,848

Based on this total industry cost estimate, the approximate cost for each company required to make an initial submission of health and safety data would be $1667.

C. Costs Versus Benefits of the Rule

The cost of this rule is very low in comparison with its potential benefits. The section 8(a) reporting requirements would provide health and environmental benefits to society by enabling the Agency to monitor exposure resulting from manufacture, importation, and processing of the three substances in the United States. Section 8(d) health and safety studies concerning P–TBBA, P–TBT, and P–TBB would improve EPA's ability to identify potential public health and environmental problems with regard to these substances, thereby improving the Agency's ability to assess the potential risks posed by the substances. In addition, the rule could encourage innovation by companies that seek new methods to control release of and exposure to the subject chemical substances, or who elect to develop alternative products or processes that do not require these substances.

The proposed rule contains no regulatory control measures; if necessary, any such follow-up regulatory action for P–TBBA, P–TBT, or P–TBB will be taken separately from this rule.

VI. Rulemaking Record

EPA has established an administrative record for this rulemaking (docket control number OPTS–82021). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional relevant information as it is received. The record now includes the following:

1. Chemical Hazard Information Profiles for P–TBBA (May 24, 1982), P–TBT (May 27, 1982), and P–TBB (April 1982), prepared for EPA by the Chemical Effects Information Center, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

2. Economic Analysis for Proposed sections 8(a) and 8(d) Rules for P–TBBA, P–TBT, and P–TBB, prepared by the Economics and Technology Division, OPTS, U.S.E.P.A., 1985

3. The EPA Chemical Advisory for P–TBBA, P–TBT, and P–TBB, issued in March 1985.

4. Other relevant factual information and support documents.

The Agency will accept additional materials for inclusion in the record at any time between the date of publication of this proposed rule and the designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation of the final rule.

The record is available to the public in the OTS Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E–107 401 M Street SW., Washington, DC.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule would not be a

"major" rule because it would not have an impact on the economy of $100 million or more; the rule therefore would not have a significant effect on competition, costs, or prices. While the expense of submitting data to EPA and the uncertainty of possible Agency regulation may discourage some innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value. Moreover, the rule may encourage respondents to develop new methods for controlling release of and exposure to P–TBBA, P–TBT, and P–TBB.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), EPA certifies that this proposed rule, if promulgated, would not have a significant impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this rule are likely to be small businesses. However, "small" manufacturers and importers (as defined in 40 CFR 712.25) and "small" processors (as defined in this rule) would be exempt from reporting section 8(a) data on these substances. In addition, EPA believes that the number of respondents to this rule will be small; therefore, the number of respondent firms that approach but do not meet the small business exemption standards will be minimal.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule, under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Chemical-specific section 8(a) reporting requirements have been reviewed and approved by OMB and assigned OMB control number 2070–0067. The information collection requirements of the section 8(d) model rule have been reviewed and approved by OMB and assigned OMB control number 2070–0004. Comments on these information requirements should be submitted to the OMB Office of Information and Regulatory Affairs and marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 704 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: October 31, 1985.

J.A. Moore,

Assistant Administrotor for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

PART 704—[AMENDED]

1. In Part 704:

a. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. In § 704.3, by alphabetically adding the following definitions:

§ 704.3 Definitions.

* * * * *

"Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions.

* * * * *

"Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similiarly situated might be expected to possess, control, or know.

* * * * *

"Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it was manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

* * * * *

"Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities also are processed for commercial purposes.

* * * * *

c. By revising paragraphs (a) and (b) of § 704.5 to read as follows:

§ 704.5 Exemptions.

* * * * *

(a) *Research and development.* Persons who manufacture, import, or process and persons who propose to manufacture, import, or process the specified chemical substance solely for research and development.

(b) *Byproducts and impurities.* Persons who manufacture, import, or process and persons who propose to manufacture, import, or process the specified chemical substance as a byproduct or impurity.

* * * * *

Subpart B—Specific Chemical Reporting Requirements

d. By redesignating Subpart D as Subpart B, and adding § 704.75 and OMB control number 2070–0067 to Subpart B to read as follows:

§ 704.75 P-tert-butylbenzoic acid (P–TBBA), p-tert-butyltoluene (P–TBT) and p-tert-butylbenzaldehyde (P–TBB).

(a) *Definitions.* (1) "P–TBBA" means the chemical substance p-tert-butylbenzoic acid, CAS No. 98–73–7.

(2) "P–TBT" means the chemical substance p-tert-butyltoluene, CAS No. 98–51–1.

(3) "P–TBB" means the chemical substance p-tert-butylbenzaldehyde, CAS No. 939–97–9.

(4) "Small processor" means a processor that meets either the standard in paragraph (a)(4)(i) of this section or the standard in paragraph (a)(4)(ii) of this section.

(i) *First standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company, if any, are less that $40 million. However, if the annual processing volume of a particular chemical substance at any individual site owned or controlled by the processor is greater than 45,400 kilograms (100,000 pounds), the processor shall not qualify as small for purposes of reporting on the processing of that chemical substance at that site, unless the processor qualifies as small under paragraph (a)(1)(ii) of this section.

(ii) *Second standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $4 million, regardless of the quantity of the particular chemical substance processed by that company.

(iii) *Inflation index.* EPA shall use the Inflation Index described in the definition of "small manufacturer" that is set forth in § 704.3, for purposes of adjusting the total annual sales values

of this small processor definition. EPA shall provide **Federal Register** notification when changing the total annual sales values of this definition.

(b) *Persons who must report.* Except as provided in paragraph (c) of this section, the following persons are subject to the reporting requirements of this rule; a person may become subject to this rule more than once, for more than one substance or under more than one of the criteria listed in this paragraph (b).

(1) Persons who manufactured, imported, or processed P–TBBA, P–TBT, and/or P–TBB for commercial purposes during the person's latest complete corporate fiscal year prior to (the effective date of the final rule). For purposes of this provision, processors of P–TBBA, P–TBT, and/or P–TBB shall include only those persons who processed the substances other than as non-isolated intermediates.

(2) Persons who commence manufacture or importation of P–TBBA, P–TBT, and/or P–TBB for commercial purposes after (the effective date of the final rule). This provision is applicable to persons who cease manufacture or importation of P–TBBA, P–TBT, and/or P–TBB after (the effective date of the final rule) and then subsequently resume manufacture or importation of the substance(s).

(3) Persons who process P–TBBA, P–TBT, and/or P–TBB for commercial purposes in any way other than as a non-isolated intermediate after (the effective date of the final rule).

(c) *Persons not subject to this rule.* In addition to the persons described in § 704.5, small processors, as defined in paragraph (a)(1) of this section, are not subject to this rule.

(d) *Information to report.* Persons subject to this rule as described in paragraph (b) of this section shall report information to EPA as specified in this paragraph (d). Respondents to this rule shall report all information that is known to or reasonably ascertainable by the person reporting.

(1) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report their name and headquarters address.

(2) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report the name, address, and office telephone number (including area code) of their principal technical contact.

(3) All manufacturers and processors specified in paragraph (b) of this section shall report the name and address of each plant site where P–TBBA, P–TBT, and/or P–TBB is manufactured or processed. All importers specified in paragraph (b) of this section shall identify central distribution sites, if any.

(4) All manufacturers, importers, and processors specified in paragraph (b)(1) of this section only shall report the information described in this paragraph (d)(4). Respondents to this paragraph (d)(4) shall report separately for each substance that they manufacture, import, or process, and for each plant site at which they do so. However, if the information to be reported in response to this paragraph (d)(4) is the same for different plant sites, the respondent need not report separately for each site, but need only notify EPA that the information is the same for each site. The information to be reported under this paragraph (d)(4) shall cover the respondent's latest complete corporate fiscal year prior to (the effective date of the final rule). Respondents to this paragraph (d)(4) shall report the following information:

(i) The total quantity (by weight) of P–TBBA, P–TBT, or P–TBB manufactured, imported, or processed for commercial purposes (per plant site).

(ii) a narrative description of the manufacturing, importing, or processing operation(s) involving P–TBBA, P–TBT, or P–TBB (at each plant site).

(iii) A narrative description of worker activities involving P–TBBA, P–TBT or P–TBB (at each plant site), including the number of workers potentially exposed to each substance and, if applicable, the number of workers potentially exposed to more than one substance.

(iv) The potential routes of workers exposure to P–TBBA, P–TBT or P–TBB (at each plant site) (e.g., inhalation, ingestion, dermal absorption).

(v) Available monitoring data from employee breathing zones with potential exposure to P–TBBA, P–TBT or P–TBB (at each plant site), including a description of the method of monitoring, the number of samples taken, and the potential number of workers similarly exposed for each worker job category. Respondents to this paragraph (d)(4)(v) shall submit data showing a range of 8-hour time weighted averages (TWAs), provided that the data are available in that form. Respondents also shall submit a calculated geometric mean of these data, with an explanation of the method by which the mean was derived. However, if the monitoring data are not available in the form of 8-hour TWAs, respondents shall submit raw sample data results and the duration time of sampling for each job category.

(vi) A narrative description of any personal protective equipment and/or engineering controls used to prevent exposure to P–TBBA, P–TBT or P–TBB (at each plant site).

(vii) A listing of the estimated quantities of P–TBBA, P–TBT, or P–TBB released directly into air, water, or land from each plant site.

(viii) A narrative description of the times during the manufacturing, importing, or processing operations involving P–TBBA, P–TBT, or P–TBB when environmental release occurs (at each plant site).

(ix) A narrative description of any engineering controls used to prevent environmental release of P–TBBA, P–TBT, or P–TBB (at each plant site).

(x) A narrative description of all known end uses of any P–TBBA, P–TBT, or P–TBB that is manufactured, imported, or processed by the respondent. The narrative need not include customer identity.

(xi) A narrative description of the methods used at each plant site for disposing of wastes generated during the manufacture, importation, or processing of P–TBBA, P–TBT, or P–TBB, including the quantity and content of such wastes (per plant site), the method of disposal, and an identification of the disposal site(s).

(5) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report the information described in this paragraph (d)(5). Respondents to this paragraph (d)(5) shall report separately for each substance that they intend to manufacture, import, or process during the first 2 years following the date on which they became subject to this rule. The data reported under this paragraph (d)(5) shall cover that 2-year period. Respondents to this paragraph (d)(5) shall report separately for each plant site at which they intend to manufacture, import, or process each substance. Respondents need not comply with this paragraph (d)(5) if the information to be reported is identical to that reported by the respondent under paragraph (d)(4) of this section, provided that the respondent makes note of that fact to ERA. Respondents to this paragraph (d)(5) shall report the following information:

(i) An estimate of the total quantity (by weight) of P–TBBA, P–TBT, or P–TBB that the respondent intends to manufacture, import, or process for commercial purposes (per plant site) during each of the first 2 years following the date on which the respondent becomes subject to this rule.

(ii) A narrative description of the intended manufacturing, importing, or processing activities involving P–TBBA, P–TBT, or P–TBB (at each plant site) during the first 2 years following the date on which the respondent becomes

subject to this rule. The description shall include a summary of the intended manufacturing, importing, or processing operation(s); a summary of intended worker activities involving the substances, including an estimate of the number of persons anticipated to be exposed annually to P-TBBA, P-TBT, or P-TBB (per plant site) during the 2-year period; the anticipated routes of worker exposure to the substances (e.g., inhalation, ingestion, dermal absorption); and a sumary of any personal protective equipment and/on engineering controls that the respondent intends to use to prevent exposure to the substances.

(iii) A narrative description of anticipated environmental releases of P-TBBA, P-TBT, or P-TBB (at each plant site) from the manufacture, importation, or processing of these substances during the first 2 years following the date on which the respondent becomes subject to this rule. The narrative shall include the anticipated quanities of each substance released directly into air, water, or land, the anticipated routes of environmental release, and any intended engineering controls to be used to prevent environmental release of the substances.

(iv) A narrative description of all anticipated end uses of P-TBBA, P-TBT, or P-TBB resulting from the respondent's manufacture, importation, or processing of the substances during the first 2 years following the date on which the respondent becomes subsject to this rule. The summary need not include customer identity.

(v) A narrative summary of the anticipated disposal of wastes generated from the manufacture, importation, or processing of P-TBBA, P-TBT, or P-TBB during the first 2 years following the date on which the respondent becomes subject to this rule. The summary shall include the anticipatted quantity and content of such wastes (per plant site), the intended method of disposal, and an identification of intended disposal site(s).

(e) *When to report.* Persons subject to this rule must submit the requisite information to EPA within 60 days of becoming subject to the rule under the standards set forth in paragraph (b) of this section.

(f) *Certification.* Persons subject to this rule must attach the following statement to any information submitted to EPA in response to this rule: "I hereby certify that, to the best of my knowledge and belief, all of the attached information is complete and accurate." This statement shall be signed and dated by the company's principal technical contact.

(g) *Recordkeeping.* Persons subject to the reporting requirements of this section must retain documentation of information contained in their reports for a period of 5 years from the date of the submission of the report.

(h) *Where to send reports.* Reports must be submitted by certified mail to the United States Environemental Protection Agency, Document Processing Center, P.O. Box 2070, Rockville, MD 20852. ATTN: P-TBBA Notification, P-TBT Notification, and/or P-TBB Notification (as appropriate).

(Approved by the Office of Management and Budget under control number 2070-0067.)

PART 716—[AMENDED]

2. In Part 716:

a. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. By adding paragraph (a)(14) to § 716.17 to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(14) As of December 23, 1985; [date 44 days after date of publication of the final rule in the **Federal Register**], the following chemical substances are added to this subpart.

Substances	CAS Nos.
p-tert-butylbenzoic acid	98-73-7
p-tert-butyltoluene	98-51-1
p-tert-butylbenzaldehyde	939-97-9

* * * * *

(Approved by the Office of Management and Budget under control number 2070-0004.)

[FR Doc. 85-26616 Filed 11-6-85; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 172

[CGD 80-159]

Damage Stability and Flooding Protection for Great Lakes Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to amend the stability requirements for cargo vessels operating on the Great Lakes of North America. This proposal would add a new Subpart H to Part 172 of 46 CFR Subchapter S, Subdivision and Stability Regulations, specifiying damage stability requirements for new Great Lakes Bulk Carriers. The requirements being proposed are based on a recommendation by the National Transportation Safety Board, extensive studies by the Maritime Administration and a major organization engaged in design, construction, and operation of Great Lakes vessels, a public hearing, and the results of three (3) Advanced Notices of Proposed Rulemaking. The purpose of this Notice is to identify the specific standards that the Coast Guard is proposing to ensure a greater degree of safety.

DATES: Comments must be receive on or before January 6, 1986.

ADDRESSES: Written comments should be sent to Commandant (G-CMC) (CGD 83-159), U.S. Coast Guard Headquarters, Washington, DC 20593. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC), Room 2110, Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert M. Letourneau, Office of Merchant Marine Safety (G-MTH-5), Room 1306, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-2606.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments are solicited not only on the technical merits of the proposed standard, but also on the economic environmental and personnel safety effects that such a regulation would have. Persons submitting comments should include their names and addresses, identify this proposed rule notice (CGD 80-159) and the specific sections of the proposal to which the comments apply, and give reasons for the comments. The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final rulemaking action is taken on this proposal. No public hearing is planned, but one will be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the final rulemaking process.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Robert M. Letourneau, Office of Merchant Marine Safety, and Commander Ronald C. Zabel, Office of the Chief Counsel.

Background

The accidents on the Great Lakes in the past 25 years involving sinkings having the greatest loss of life have been the CARL BRADLEY, the DANIEL T. MORRELL, and the EDMUND FITZGERALD. Each of these vessels sank within a very short time after structural or other failure leading to massive loss of buoyancy due to flooding. There have never been any Coast Guard regulations addressing damage stability standards for this class of vessel.

The Coast Guard Marine Board of Investigation's report on the loss of the Edmund Fitzgerald (Report No. USCG 16732/64216, 28 July 1977) indicated that a damage stability standard that includes at least a minimum level of subdivision may have prevented the loss of the ship or at least slowed the sinking enough to allow the crew to safely abandon ship.

A minimum standard would also lessen the risk of a total stoppage or restriction of vessel traffic in a restricted channel due to the sinking of a vessel, such as occurred in 1972 when the SIDNEY E. SMITH, JR. sank in the St. Clair River. The increase in size of vessels seriously increases the risk that a collision or grounding might block a channel to navigation. In areas where the vessel operates with small bottom clearance, a damaged vessel might settle on the bottom even with watertight subdivision, but salvage would be much easier and any traffic blockage would usually be of shorter duration.

On March 16, 1978, the Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) at 43 FR 10946 to solicit comments concerning the development of damage stability standards for Great Lakes bulk dry cargo vessels. That ANPRM indicated that a minimum level of subdivision was under consideration, solicited comments on specific questions of technical and economic nature, and referred to the ongoing Maritime Administration (MARAD) study of economic benefits of watertight subdivision of Great Lakes vessels. Nineteen comments were received in response to this ANPRM.

The MARAD study, entitled "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers" was completed in December 1978. A copy of the study may be obtained from the National Technical Information Service, Springfield, VA 22151 (Report No. PB 295086). This study recommeded a one compartment subdivision and damage stability standard.

A second ANPRM was published on August 14, 1980, at 45 FR 54095. It discussed comments received to the first ANPRM and the results of the MARAD study and solicited further comments. Review of the response to this second ANPRM indicated that not all interested parties had sufficient time to review it. In response to industry requests, the comment period was extended an additional 108 days to May 1, 1981 to allow all persons connected with the Great Lakes bulk fleet, as well as other interested parties, to develop meaningful comments prior to the Coast Guard's regulatory drafting efforts.

In addition, an open public conference was held on December 11, 1980, in Cleveland, Ohio. In that conference, representatives of all segments of the Great Lakes bulk carrier industry met with Coast Guard representatives to discuss: (1) The background of subdivision levels of safety in the Great Lakes fleet; (2) the feasibility of using bulkheads to produce various levels of subdividion safety; and (3) possible alternatives to subdivision safety. Because the comments received on both ANPRMs had been not specific enough and as a result of the public conference, it was determined that a third ANPRM would be necessary before undertaking the rulemaking process.

A third ANPRM was published on February 28, 1983, at 48 FR 8312. That ANPRM presented a possible set of damage stability standards for Great Lakes vessels for evaluation purposes in order to generate specific comments. The damage stability standards in that ANPRM were similar to those required by the 1966 International Convention on Load Lines for Type A and reduced freeboard Type B vessels. In that ANPRM the Coast Guard was particulary interested in comments and figures regarding the economic impact of such a proposal as it would affect newly constructed vessels. Comments were also requested on the technical details of the proposal such as extents of damage and survival conditions. Due to the need for background research in order to adequately respond to the issues raised, the comment period was extended three months to August 1, 1983. Four comments were received in response to the third ANPRM.

Since the publication of the third ANPRM, the stability regulations affecting various class of vessels were consolidated into a new Subchapter S of Title 46 CFR. Because of this the proposed damage stability regulations are to be included in the new Subchapter as an addition to Part 172—Special Rules Pertaining to Great Lakes Dry Bulk Cargo Vessels. When referenced in the preamble, the Section numbers used in the third ANPRM appear in parentheses after the New Section number.

Discussion of Comments on the Advance Notice

The Coast Guard has reviewed the response to the three ANPRMs, the MARAD study and a study submitted in response to the third ANPRM by a commenter representing a major segment of the Great Lakes Dry bulk carrier industry entitled, "Study of Great Lakes Vessel Casaulties and the Impact of Proposed U.S. Coast Guard Stability Requirements" (industry study).

The Coast Guard has decided to propose construction standards for damage stability for new Great Lakes dry bulk carriers. The standards proposed in the third ANPRM have been modified to make them more suited to the type of vessels operating in the Great Lakes dry bulk carrier industry. They are less burdensome than those proposed in the third ANPRM. However, if these regulations are implemented, new vessels will be designed with a considerable increase in vessel safety.

General Comments

The question addressed to port authorities concerning blockage of harbors or channels was not responded to by any port authority. However, one industry commenter noted that if there were any serious concern for blockage of channels due to grounding, that it would be necesary to set subdivision standards for non U.S. Flag vessels in the U.S. ports because a large part of the traffic on the Great Lakes consists of Canadian and other flat vessels. This commenter stated however, that the issue of U.S. flag or foreign flag ships blocking harbors should not be a factor in the decision process concerning subdivision and stability of U.S. flag vessels. The U.S. Coast Guard concurs.

The question addressed to steamship companies concerning the present validity of the economic data in MARAD study was not directly responded to but the industry study (1983) indicated that the economic data for ship construction has changed little since the MARAD study (1978).

One commenter suggested that the proposed standards should be applied to Great Lakes barges and also ocean

going vessels as well as Great Lakes ships. The Coast Guard partially concurs with these comments. The Coast Guard is sympathetic to a similar requirement for ocean going vessels and is actively pursuing this goal at the International Maritime Organization. The Coast Guard concurs that this rule should apply to bulk dry cargo barges on the Great Lakes.

One commentor has supplied information that shows that a significant voluntary increase in the subdivision level of safety of Great Lakes dry bulk carriers has already occurred since 1970. The STEWARD J. CORT was built with internal compartmentation such that a full two compartment standard was achieved. However, this vessel was designed specifically to carry only low volume/high weight cargo such as iron ore. Of the 25 new bulk carriers constructed since 1970, one (the STEWARD J. CORT) met a two compartment standard and seventeen met a one compartment subdivision standard with a side penetration equal to 20% of the vessel's beam (B/5 side penetration). Those which met a one compartment standard did so by virtue of meeting the Maritime Administration standards for loan guarantees (MARAD Standards). For the remaining seven vessels, either the effect of flooding is unknown or the vessels have been shown to have very little resistance to the effects of flooding once the main hull is breached. During the same period several older vessels were modernized under MARAD programs. All but one of these existing vessels were able to meet the MARAD standard. The exemption granted to the single vessel involved lesser side penetration from a collision.

One commenter suggested that two compartment subdivision should be considered. The opinion of the commenter is that one compartment subdivision has a one-out-of-three chance that damage will involve a transverse bulkhead, and that two compartment subdivision greatly reduces the probability of sinking. The MARAD study discussed two compartment subdivision but concluded that it would represent a much larger economic disbenefit to ship owners. The study recommended a one compartment standard and the Coast Guard concurs.

The industry study expressed concern that the two million dollar one-time-cost for each existing ship does not reflect loss of shipping season time, scheduling difficulties, and the dearth of repair facilities large enough to complete the necessary bulkhead alterations. There are about 120 vessels in the U.S. Great Lakes Dry Bulk Carrier fleet. Only one shipyard in the Great Lakes is available for handling this type of modification. Requiring damage stability standards on existing vessels would totally disrupt the U.S. Great Lakes shipping industry. The Coast Guard concurs and has proposed damage stability standards for new vessels only. The additional cost for imposing damage stability standards for a new vessel is estimated at one million dollars (about 1% of the cost of the vessel).

Comments Concerning Specific Sections

Section 172.235 (§ 93.60–20)

The extent of damage for side collisions contained in the Coast Guard third ANPRM are very similar to those of the MARAD standards. The side penetration depth in the MARAD standard is B/5. The Maritime Administration believes that a B/5 standard should be used since seventeen Great Lakes ships were built under MARAD program (since 1970) and have been economically and safely operated in compliance with a one compartment standard. Additionally MARAD argues that B/5 is used for ocean going ships, which also use the Great Lakes and that it was adopted by the International Maritime Organization (IMO) in several international conventions and codes. The IMO criteria was based on statistical analysis of shipping accidents which occurred during the 1960's in harbors or approaches to harbors which are areas of operation simnilar to the operating scenario of the Great Lakes.

The industry study generally agrees with the ANPRM published on February 28, 1983, with the exception of penetration depths required to satisfy the proposed regulations. The study shows that B/5 penetration depths are not characteristic of Great Lakes experience during the last two decades and consequently do not properly address the effects of damage in the Great Lakes environment. The study shows that the three deepest side penetrations experienced in thirty years for the entire bulk carrier fleet were only eight feet, six feet and four feet. For vessels with beams ranging from 75 feet to 105 feet, the B/5 standard previously proposed would have required side penetration between 12 and 21 feet.

In the case of grounding bottom damage, the industry study shows that for cases of bottom damage where penetration exceeded 18 inches, the mean vertical penetration related to beam is about B/25. Had all the cases of vertical penetration less than eighteen inches been included, this ratio would have been considerably smaller. The study indicates that a vertical penetration depth of B/15 (as proposed in the ANPRM published February 28, 1983) represents an assumed mean extent of vertical damage for ocean service. The study recommends a vertical penetration for bottom grounding of 2 feet 6 inches, which for a vessel with a 75-foot beam, would be B/30.

The Canadian government is proposing double-skin protection requirements for Canadian Great Lakes bulk carriers. These standards would require Canadian ships to be fitted with side tanks at least 1.25 meters in width and double bottom tanks at least 0.75 meters in depth.

The Coast Guard believes that the horizontal and vertical penetration depths should reflect Great Lakes service history and also allow U.S. vessels to remain competitive with foreign flag vessels. Since only two transverse penetrations exceeded four feet and the Canadian proposal makes use of a similar minor side damage penetration of 1.25 meters, the Coast Guard has decided to adopt a transverse extent of damage of 4 feet 2 inches (1.25 meters) instead of the B/5 standard recommended by MARAD. Likewise, the Coast Guard has adopted 2 feet 6 inches (0.75 meters) as the bottom grounding vertical penetration.

Section 172.245(b) (§ 93.60–30(b))

One commentor suggested that the maximum angle of heel should not be limited to 17 degrees, but rather the same criteria should be used as for tank vessels. The Coast Guard does not agree with this suggestion because of the difference in design. Tank vessels have watertight decks with small openings whereas bulk carriers have large hatch openings. Also the operational nature of tank vessels differs from Great Lakes bulk carriers. Tank vessel rules allow 25 degrees of heel after damage. This limit considers the effects of the heeling moment contributed by the free surface of the liquid cargoes. Great Lakes bulk carriers can not be allowed to heel 25 degrees because the bulk cargo may shift, resulting in excessive heeling moments and an adverse stability situation.

Section 172.245(c) (§ 93.60–30(c))

One commentor recommended that the Coast Guard investigate the range of stability and the maximum righting arm for existing one compartment Great Lakes bulk carriers to determine if the proposed standards can be achieved by Great Lakes vessels whose proportions differ significantly from ocean vessels.

The Coast Guard has investigated the proposed standards as suggested above and found that they could be achieved by such vessels.

Section 172.245(e) (§ 93.60–30(e))

Two commenters suggested that retractable inflatable seals between the hopper cargo hold bottom and the gates leading to the conveyor belt tunnels may be used as an alternative to watertight bulkhead doors for achieving subdivision in conveyor type self-unloaders. This method of preventing progressive flooding is currently in use on several dry bulk vessels. The Coast Guard has observed the operation of this seal on existing vessels. Integrity of the seals is tested at each use in service by internal pneumatic pressure. Check valves in the system prevent loss of air pressure if the lines should rupture. The commenters suggest acceptance of such seals. The Coast Guard concurs and has modified the survival conditions to reflect the acceptance of such retractable inflatable seals to prevent progressive flooding.

Operational Requirements

Operational requirements to inspect and test the inflatable seals and the watertight door seals required by § 172.245(e), will be included in the final rule as amendments to Parts 91 and 97 of Subchapter I. The Coast Guard intends to require such tests and inspections by the crew at each port visit and in the presence of a Coast Guard inspector at each inspection for certification.

Regulatory Evaluation

These proposed regulations are considered to be non major under Executive Order 12291 and nonsignificant order DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The current economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The increased cost to construct a new Great Lakes bulk dry cargo ship to conform to the proposed standards is minimal in relation to the total cost of the vessel. The estimated cost of constructing a new Great Lakes bulk carrier is 100 million dollars. The cost of complying with these proposed regulations would be approximately one million dollars, adding only one percent to the cost of building the ship. In exchange for this minimal cost the risk of catastrophic loss of life from a sudden sinking is substantially reduced. A review of the MARAD and industry studies reveals that in the past 15 years, 25 new U.S. bulk carriers have been constructed. All but seven of these meet the one compartment subdivision standards through MARAD requirements for loan guarantees. Any new shipbuilding may be included in a MARAD loan guarantee program. This proposal would have no impact on a ship built with MARAD loan guarantees as the MARAD damage stability standards exceed that contained in this proposal. Specifically the depth of damage presumed is greater in the MARAD rule. At the present time, no new shipbuilding is taking place for this class of vessels. This, the current impact of the proposal is nil. For vessels built in the future, not built with MARAD loan guarantees, it is expected that the benefits of this proposal will far exceed the minimal cost.

Regulatory Flexibility Act

Since the impact of this proposal is expected to be minimal and anyone building is a 100 million dollar ship could not be reasonably considered a small entity, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rulemaking could result in a minor increase in information collection requirements for submittal of stability calculations required by § 91.55–5 in Subchapter I of Title 46, Code of Federal Regulations. The information collection requirements of Subchapter I have been previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq) and have been assigned OMB Approval Number 2115–0130. The actual increase in burden is dependent on whether new construction takes place. Since no new construction is contemplated at this time no information collection increase will occur. If new construction were to commence it would only be at the rate of one or two ships per year becuase only one shipyard remains in operation on the Great Lakes. Two ships annually, is considered to be so insignificant that no further approval is necessary.

List of Subjects in 46 CFR Part 172

Marine Safety, Subdivision, Stability, Tank Vesels, Cargo Vessels, Passenger Vessels, Sailing Vessels, Great Lakes, Barges, Grain Hazardous Materials Transportation, Gases, and Natural Gas.

PART 172—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 172, Title 46, Code of Federal Regulations, as follows:

1. The authority citation for Part 172 is revised to read as follows:

Authority: 43 U.S.C. 1333(d); 46 U.S.C. 3306 and 3703; 46 App U.S.C. 86 and 88a; 50 U.S.C. 198; E.O. 12234, 45 FR 58801; 49 CFR 1.46 (b), (n)(6), (z).

2. By adding entries for a new Subpart H to the table of contents for Part 172 to read as follows:

Subpart H—Special Rules Pertaining to Great Lakes Dry Bulk Cargo Vessels

3. By adding § 172.005 a new paragraph (g) to read as follows:

§ 172.005 Applicability.

* * * * *

(g) Any dry bulk cargo carried in a new Great Lakes vessel.

4. By adding a new Subpart H to Part 172 to read as follows:

Subpart H—Special Rules Pertaining Great Lakes Dry Bulk Cargo Vessels

§ 172.215 Specific Applicability.

This subpart applies to each new Great Lakes vessel of 1600 gross tons or more carrying dry cargo in bulk.

§ 172.220 Definitions.

(a) As used in this subpart "Length (L)", "Breadth (B)", and "Molded Depth (D)" are as defined in § 45.3 of this chapter.

(b) As used in this part "new Great Lakes Vessel" means a vessel operating solely within the limits of the Great Lakes as defined in this Subchapter that:

(1) Was contracted for on or after (the effective date of this regulation) or delivered on or after (two years after the effective date of this regulation).

(2) Has undergone a major conversion under a contract made on or after (the effective date of these regulations) or completed a major conversion on or after (one year of the effective date of these regulations).

§ 172.225 Calculations.

(a) Each vessel must be shown by design calculations to meet the survival conditions in § 172.245 in each condition of loading and operation, assuming the damage specified in § 172.230.

(b) When doing the calculations required by paragraph (a) of this section, the virtual increase in the vertical center of gravity due to a liquid in a space must be determined by calculating either—

(1) The free surface effect of the liquid with the vessel assumed heeled five degrees from the vertical; or

(2) The shift of the center of gravity of the liquid by the moment of transference method.

(c) In calculating the free surface effect of consumable liquids, it must be assumed that, for each type of liquid, at least one transverse pair of wing tanks or a single centerline tank has a free surface. The tank or combination of tanks selected must be those having the greatest free surface effect.

(d) When doing the calculations required by paragraph (a) of this section, the buoyancy of any superstructure directly above the side damage must not be considered. The unflooded parts of superstructures beyond the extent of damage may be considered if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

§ 172.230 Character of Damage.

(a) Design calculations must show that each vessel can survive damage—

(1) To any location between adjacent main transverse watertight bulkheads;

(2) To any location between a main transverse bulkhead and a partial transverse bulkhead in a way of a side wing tank provided that the bulkhead spacing does not exceed 100 feet; and

(3) To a main or wing tank transverse watertight bulkhead spaced closer than the longitudinal extent of collision penetration specified in Table 172.235 from another main transverse watertight bulkhead; and

(4) To a main transverse watertight bulkhead or a transverse watertight bulkhead bounding a side tank or double bottom tank if there is a step or a recess in the transverse bulkhead that is longer than 3.05 meters and that is located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this paragraph.

§ 172.235 Extent of damage.

For the purpose of the calculations required in § 172.255—

(a) Design calculations must include both side and bottom damage, applied separately; and

(b) Damage must consist of the penetrations having the dimensions given in Table 172.235 except that, if the most disabling penetrations would be less than the penetrations described in this paragraph, the smaller penetration must be assumed.

TABLE 172.235—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	(1/3) L2/3 or 14.5 m whichever is less.
Transverse extent	1.25 m*.
Vertical extent	From the baseline upward without limit.
Grounding Penetration Forward of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal	(1/3) L2/3 or 14.5 m whichever is less.
Transverse	B/6 or 10 m whichever is less but not less than 5M*.
Vertical extent	0.75 m from the baseline.
Grounding Penetration At Any Other Longitudinal Position	
Longitudinal	L/10 or 5 m whichever is less.
Transverse	1.25 m.
Vertical extent	0.75 m from the baseline.

* Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.

§ 172.240 Permeability of spaces.

When doing the calculations required in § 172.225—

(a) The permeability of a floodable space, other than a machinery or cargo space, must be assumed as listed in Table 172.240;

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85% unless the use of an assumed permeability of less than 85% is justified in detail; and

(c) Calculations in which a cargo space that is normally filled in the full load conditions is treated as a floodable space must be based on an assumed cargo space permeability of 60% unless the use of an assumed permeability of less than 60% is justified in detail. If the cargo space is not normally filled in the full load condition, a permeability of 95% must be assumed.

TABLE 172.240—PERMEABILITY

Spaces and tanks	Permeability (percent)
Storeroom spaces	60
Accommodations spaces	95
Voids	95
Consumable liquid tanks	95 or 0*
Other liquid tanks	95 or 0**
Cargo	60
Machinery	85

* Whichever results in the more disabling condition.
** If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

§ 172.245 Survival conditions.

A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Final waterline.* The final waterline, in the final codition of sinkage, heel, and trim must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, or an opening that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a:

(1) Watertight manhole cover;

(2) Flush scuttle;

(3) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(4) Class 1 door in a watertight bulkhead within the superstructure;

(5) Remotely operated sliding watertight door;

(6) Side scuttle of the non-opening type; or

(7) Retractable inflatable seal.

(b) *Heel angle.* The maximum angle of heel must not exceed 15 degrees, except that this angle may be increased to 17 degrees if no deck edge immersion occurs.

(c) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a vessel must meet the following conditions:

(1) The righting arm curve must be positive.

(2) The maximum righting arm must be at least 10 cm.

(3) Each submerged opening must be weathertight.

(d) *Metacentric height.* After flooding, the metacentric height must be at least 50 mm when the vessel is in the equilibrium position.

(e) *Progressive flooding.* In the design calculations required by § 172.225, progressive flooding between spaces connected by pipes, ducts or tunnels must be assumed unless:

(1) Pipes within the assumed extent of damage are equipped with such arrangements as stop check valves to prevent progressive flooding to other spaces with which they connect; and,

(2) Progressive flooding through ducts or tunnels is protected against by:

(i) Retractable inflatable seals to cargo hopper gates; or

(ii) Watertight doors in bulkheads in way of the conveyor belt.

J.W. Kime,

Commodore, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

November 4, 1985.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To List the Waccamaw Silverside As a Threatened Species and Designated Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a fish—the Waccamaw silverside (*Menidia extensa*)—as a threatened species and designate its critical habitat under provisions of the Endangered Species Act of 1973, as amended. The species is known only from Lake Waccamaw and the upper Waccamaw River in Columbus County, North Carolina. Recently completed research indicates nutrient loading has increased in Lake Waccamaw. If this trend continues, habitat changes in the lake could jeopardize the survival of this species. Due to the species' limited distribution, its survival could also be threatened by any other factors that degrade water or habitat quality. Comments and information pertaining to this proposal are sought from the public.

DATES: Comments from all interested parties must be received by January 6, 1986. Public hearing requests must be received by December 23, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Station, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nora Murdock at the above address (704/259-0321 or FTS 8/672-0321).

SUPPLEMENTARY INFORMATION:

Background

The Waccamaw silverside (*Menidia extensa*) is known only from Lake Waccamaw and the upper Waccamaw River in Columbus County, North Carolina. It was described by Hubbs and Raney (1946). This fish, also known as a "skipjack" or "glass minnow," inhabits open water throughout Lake Waccamaw, where schools are commonly found near the surface over shallow, dark-bottomed areas (Lee *et al.*, 1980). The silverside has not been taken outside the lake, with the exception of the Waccamaw River immediately below the Lake Waccamaw dam during periods of very high water (Lindquist and Yarbrough, 1982).

The Waccamaw silverside is a long, slim, almost transparent fish with a silvery stripe along each side. Its body is laterally compressed, the eyes are large, and the jaw is sharply angled upward. Adults of the species, approximately 6.5 centimeters (2.5 inches) in length, feed on zooplankton (Lindquist and Yarbrough, 1982). They are sexually mature at one year of age and spawn from April through June. Most silversides die shortly after spawning, but a few may survive a second winter. Since this fish is a shortlived species, it is subject to sudden extirpation should its habitat deteriorate to the point where reproduction fails (Lindquist and Yarbrough, 1982). The silverside, although limited in distribution, is an important prey species for larger fishes in Lake Waccamaw (Lindquist and Yarbrough, 1982).

Lake Waccamaw, the principal habitat of the species, is considered unique. It is a registered North Carolina Natural Heritage Area and has been proposed as a National Natural Landmark. The lake and its drainage have a diverse fish fauna (56 species), including many popular game fish (Shute *et al.*, 1981). Tuelings and Cooper (1977) listed 17 species of plants and animals from in and around Lake Waccamaw, which were considered of special concern by biologists. Bailey (1977) commented that Lake Waccamaw ". . . apparently served as a minor center of evolutionary differentiation [for fish], and a refuge for earlier forms." Fuller (1977) stated that "The Waccamaw basin in southeastern North Carolina and northeastern South Carolina supports more unique non-marine mollusks than any other locale in the state [North Carolina]."

Lake Waccamaw occupies approximately 3,618 hectares (8,934 acres) and has an average depth of only 2.3 meters (7.5 feet) (Shute *et al.*, 1981). Although it is fed by acidic swamp streams, the lake has a virtually neutral pH (Davis and Louder, 1969; Porter, 1985). Dr. Charles Yarbrough (personal communication, July 26, 1984) characterized Lake Waccamaw as "an island of neutrality in an acid sea." This neutral condition, unusual among North Carolina's coastal plain lakes, is believed to be caused by the buffering effect of the calcareous Waccamaw Limestone formation, which underlies the lake and is exposed on the north shore (Frey, 1951).

Studies of Lake Waccamaw and its fish and mussel fauna, funded through the North Carolina Wildlife Resources Commission, were conducted from 1979 through 1981 (Lindquist and Yarbrough, 1982; Porter, 1985). Those studies and other research (Lindquist, 1981; Casterlin *et al.*, unpublished manuscript), indicate the lake is experiencing increases in nutrient loading. If this trend continues, the overall water quality will deteriorate, and the lake's ecosystem will be adversely altered. These changes will threaten Lake Waccamaw's fauna, including the silverside. In the proceedings of the 1975 Symposium on Endangered and Threatened Biota of North Carolina (Cooper, 1977), the silverside is categorized as "endangered."

The Waccamaw silverside was included in a March 18, 1975, Notice of Review published in the **Federal Register** (40 FR 12297). In the **Federal Register** of December 30, 1977 (42 FR 65209) the Service proposed endangered status and critical habitat for this species. On March 30, 1978, the time period for receiving comments on the proposal was extended 90 days. Considerable opposition was expressed with regard to the proposal.

The North Carolina Wildlife Resources Commission and the Governor of the State recommended that the proposal be postponed pending further studies of the lake and its fauna. The 1978 amendments to the Endangered Species Act required that proposals for listing species be withdrawn if the listing was not made final within two years of the proposal; accordingly, the proposal to list this species was withdrawn on January 24, 1980 (45 FR 5782).

On December 30, 1982, the Service announced in the **Federal Register** (47 FR 58454) that this fish, along with 147 other fishes, was being considered for possible addition to the List of Endangered and Threatened Wildlife. On June 22, 1984, the Service announced that a status review was being conducted on this species, as well as a second species of fish, the Waccamaw killifish (*Fundulus waccamensis*), and a mussel, the Waccamaw spike (*Elliptio waccamawensis*). By letter and through personal contacts, the Service solicited data on the status and location of the species and their habitat, current and planned activities that might adversely affect the species or their habitat, and possible impacts to Federal activities if critical habitat were designated.

A total of 23 replies were received by the Service in response to the status review. Two respondents opposed the listing of the species and indicated that they did not think these species were

endangered or threatened. Two other respondents, while not opposing the listing, pointed out potentials for conflict with planned or ongoing activities. These potential conflicts included highway construction in the vicinity of the lake and aquatic weed control programs administered by the U.S. Army Corps of Engineers. Twelve respondents indicated that they had no problem with the listing of these species and their critical habitat. Seven respondents supported the listing. Among those supporting the listing were the North Carolina Department of Natural Resources and Community Development (NCDNRCD), Conservation Council of North Carolina, North American Native Fishes Association, Southeastern Natural Resources Center, and the National Wildlife Federation.

During the status review process, information was obtained on the Waccamaw killifish and the Waccamaw spike, which must be further evaluated before a decision can be made on proposing these species for listing. Therefore, the Service, after receiving sufficient new information through the 1984 status review is presently proposing to list only the Waccamaw silverside as a threatened species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Waccamaw silverside (*Menidia extensa*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The water quality of Lake Waccamaw is a major concern. Nutrient loading in Lake Waccamaw has increased since 1973 (National Technical Information Service, 1973; Lindquist and Yarbrough, 1982). This trend, as well as the sensitive, unusual nature of this shallow lake, has led some researchers to state that ". . . a clear danger of eutrophication exists and any increase in nutrient loading could tip the uneasy balance" (Lindquist and Yarbrough, 1982; Casterlin *et al.*, unpublished manuscript). Algal pollution indices indicate that any significant increase in nutrient levels entering the lake could precipitate water quality conditions that would threaten the species (Casterlin *et al.*, unpublished manuscript). The lake's environmental quality and its fauna could also be threatened by habitat alteration resulting from development and land use in Lake Waccamaw and its watershed (especially Big Creek) if these activities are not planned and implemented with the protection of the Lake Waccamaw ecosystem in mind. The short life cycle of the fish (1 to 2 years) and its dependence on the unique habitat conditions present in Lake Waccamaw make it extremely vulnerable to any change in its environment.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no evidence that overutilization is or will be a problem for this species. The silverside population numbers in the millions. In addition, the one- to two-year life cycle of the fish results in a virtually complete turnover of the population every year. Therefore, the taking of individuals for bait and for scientific purposes is not a threat to this species.

C. *Disease or predation.* Currently, there is no evidence of threats to these species from disease or predation. Although the silverside is one of the principal forage species for Lake Waccamaw's game fish, the high population levels of the silverside and the presence of other prey species in large numbers are sufficient to sustain this predation pressure without the species being threatened.

A recent application by the Waccamaw Siouan Development Association for a permit to propagate hybrid bass at several sites in the Lake Waccamaw watershed was denied by the North Carolina Wildlife Resources Commission, but is undergoing further review. Escape of non-native predators from such a project into the system could upset the existing predator-prey relationships in the lake to the detriment of the Waccamaw silverside and other fishes now present in the lake.

D. *The inadequacy of existing regulatory mechanisms.* Lake Waccamaw is the property of the State of North Carolina. The North Carolina Department of Natural Resources and Community Development and the Division of Parks administers the lake by authority of North Carolina General Statute, Chapter 113, Section 35, Subchapter 12C of the State Lakes Regulations. Through the above statute and implementing regulations, the North Carolina Parks Department reviews and issues special use permits for scientific research, educational, and noncommercial activities on the lake. By the same authority, the Parks Department regulates commercial activities, construction of piers, boat docks, drainage ditches, and similar activities on the lake. The North Carolina Wildlife Resources Commission, by authority given in North Carolina General Statute, Chapter 113, regulates the taking of the Waccamaw silverside and issues collection licenses for the taking of nongame species as provided in subchapter 272.4 and 292 of Chapter 113. Although these statutes provide protection to individual fish, they do not afford protection for the habitat upon which the species depend. Sicentific of commercial collecting do not pose threats to the species that would require Federal regulation (see "Special Rules" section of this proposal). However, additional protection would be provided the species and its habitat by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may affect the species or its critical habitat.

E. *Other natural or manmade factors affecting its continued existence.* The Waccamaw silverside has a very short life cycle, usually dying shortly after spawning as a one-year-old. Therefore, if a year class of the silverside fails to reproduce in any one year, the species could be lost. The continued increase in nutrient loading could result in serious deterioration of water quality which, even on a short-term basis, could precipitate the extinction of this fish.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to propose to list the Waccamaw silverside as a threatened species with special rules to allow take in certain instances permitted under State law. Present population levels of this species and environmental conditions in its habitat are good, and the species is not in any immediate danger of extinction. However, if present nutrient loading continues to increase and the lake's habitat and water quality deteriorate, the species could become extinct. As the species is not threatened with extinction in the foreseeable future, endangered status is not appropriate. See the "Critical Habitat" section of this proposal for a discussion of why critical habitat is being proposed.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) The specific areas within the geographical area occupied by a species, at the time it is

listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being proposed for the Waccamaw silverside to include Lake Waccamaw [approximately 3,618 hectares (8,934 acres)] and Big Creek from its mouth at the head of Lake Waccamaw upstream approximately 0.6 kilometers (0.4 mile) to where the creek is crossed by County Road 1947 in Columbus County, North Carolina (see "Regulations Promulgation" section of this proposal for a precise description of critical habitat). The good water quality of Big Creek and Lake Waccamaw is one of the most important factors in the continued survival of this species. The clean sand bottom of the lake is used by the fish during spawning.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Activities that presently occur within the proposed critical habitat include, in part, fishing, swimming, water skiing, boating, scientific research, and nature study. These activities do not appear to be adversely impacting the habitat. Other activities that do or could occur in the watershed of Lake Waccamaw and could impact the proposed critical habitat include, in part, indiscriminate logging, land use changes, stream alterations, such as channelization or impoundment, bridge and road construction, improper pesticide/herbicide application, and point and nonpoint pollution discharges.

There are also activities with Federal involvement that do or could occur and that may be affected by designating critical habitat. These activities include, in part, construction and/or upgrading of waste treatment systems, stream alterations, bridge and road construction (including the proposed relocation of U.S. Highway 74 from west of Hallsboro to east of Bolton), filling of wetlands, discharges of municipal and industrial wastes, and State park acquisition and development. Some of these activities could degrade the water and substrate quality of Lake Waccamaw by increasing siltation and/or nutrient loading, or by altering water temperature and pH, if they are conducted without consideration of the protection of Lake Waccamaw's environmental quality.

Private activities with no Federal involvement will not be affected by this critical habitat proposal, even if they result in the degradation or destruction of the designated critical habitat. However, if a Federal agency is involved in activities that may affect the critical habitat, section 7(a)(2) of the Act, as amended, requires that agency to consult with the Service to ensure that actions it authorizes, funds, or carriers out are not likely to destroy or adversely modify critical habitat.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service will consider the critical habitat designation in light of all additional relevant information obtained during the rulemaking process before issuing any final rule.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions agaist taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatended and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. It has been the experience of the Service that nearly all section 7 consultations are resolved so that the species is protected and the project objectives are met. The Service is presently aware of only one proposed Federal project (the relocation of U.S. Highway 74) that may affect the Waccamaw silverside and its proposed critical habitat. The Service has been in contact with the Federal Highway Administration and Department of Transportation in North Carolina concerning the potential impacts of this project on the species and its habitat.

Section 9(a)(1) of the Act lists prohibited acts which apply to any fish or wildlife species listed as endangered. Section 4(d) of the Act provides that these same prohibitions may, by regulation, be applied to a threatened species. The Service does not believe that it is necessary and advisable to the conservation of the Waccamaw silverside to apply all of the prohibitions listed under section 9(a)(1).

The Waccamaw silverside is threatened by alteration and/or degradation of water and habitat quality, not by intentional, direct taking of the species or by commercialization. Individuals of the species are estimated to number more than a million, with virtually the entire population being replaced each year by a new generation. State regulations governing the take of this and other Lake Waccamaw species presently exist, and the Service has concluded that these regualtions are sufficient to protect the Waccamaw silverside from any threat which may arise from excessive collecting. The Service believes that the imposition of additional prohibitions would result in needless conflict with ongoing activities in Lake Waccamaw (i.e., bait seining) and would not promote the conservation of the species.

Section 4(d) requires that the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Service believes that enforcement of State regulations governing take will be sufficient to

protect this species. However, to support State regulations governing take and provide for the conservation of the species, the Service proposes a special rule (see "Special Rule" section) that would provide the protection of the Endangered Species Act only when State laws governing the species were violated. The Service believes this special rule is consistent with the purposes of the Act and would facilitate the conservation of the Waccamaw silverside.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Waccamaw silverside;

(2) The location of any additional populations of the Waccamaw silverside and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on the Waccamaw silverside; and

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

This proposal serves as a notification to Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of the proposed critical habitat.

Final promulgation of the regulations on the Waccamaw silverside will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Such requests must be made in writing and addressed to Warren T. Parker, Endangered Species Field Station, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Nora Murdock, Endangered Species Field Station, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704–259–0321 or FTS 8/672–0321).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "FISHES," to the List of Endangered and Threatened Wildlife.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Silverside, Waccamaw	*Menidia extensa*	U.S.A. (NC)	Entire	T		17.95(e)	17.44( )

3. It is further proposed to add the following as special rules to § 17.44:

§ 17.44 Special rules—fishes.

* * * * *

( ) Waccamaw Silverside (*Menidia extensa*)

(1) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (1) through (3) above.

* * * * *

4. It is further proposed to amend § 17.95(e) for "FISHES," by adding critical habitat for the Waccamaw silverside as follows: [The position of this entry under § 17.95(e) follows the same sequence as the species occurs in § 17.11).

§ 17.95 Critical habitat—fish and wildlife.

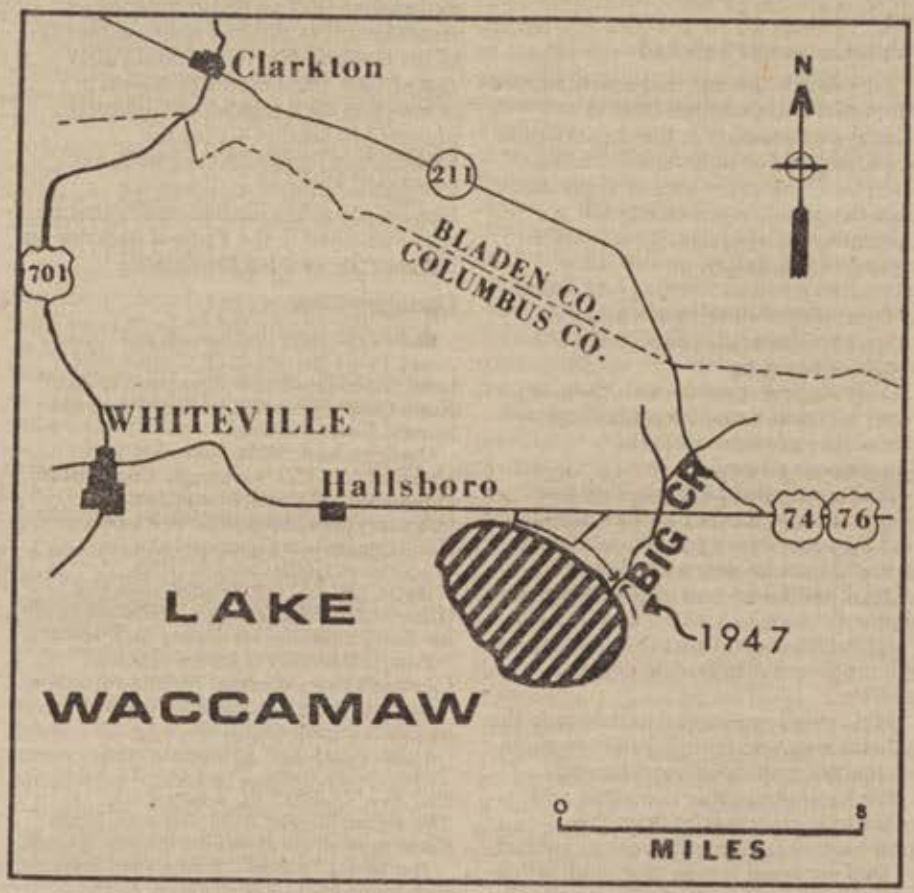
(e) * * *

Waccamaw Silverside (*Menidia extensa*)

North Carolina. Columbus County. Lake Waccamaw in its entirety to mean high water level, and Big Creek from its mouth at Lake Waccamaw upstream approximately 0.6 kilometers (0.4 mile) to where the creek is crossed by County Road 1947.

WACCAMAW SILVERSIDE

Columbus County, NORTH CAROLINA



Constituent elements include high quality clear open water, with a neutral pH and clean sand substrate.

* * * * *

Dated: October 9, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-26565 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 216
Thursday, November 7, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration and Committee on Governmental Tort Claims; Public Meetings

Committee on Administration

Date: Friday, November 15, 1985.
Time: 10:00 A.M.
Location: 2120 L Street, NW., Hearing Room 1, Lower Level, Washington, DC.
Agenda: (1) Professor Burnele Powell's examination of declaratory orders as a means of agency advice-giving, and (2) Malcolm Mason's study on improvements in the drafting of federal grant statutes.
Contact: Charles Pou, Jr., 202–254–7065.

Committee on Governmental Tort Claims

Date: Thursday, December 12, 1985.
Time: 9:30 A.M.
Location: 2120 L Street, NW., Suite 500, Washington, DC.
Agenda: Implementation of prior Administrative Conference recommendations in the area and development of recommendations for further Conference research, statutory change, agency reform, or other action leading to a rationalization of the current system.
Contact: Charles Pou, Jr., 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Richard K. Berg,
General Counsel.
November 4, 1985.
[FR Doc. 85–26661 Filed 11–6–85; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Fort Belknap Reservation Indian Tribe in Montana

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Fort Belknap Indian Tribe of the Fort Belknap Reservation in Montana has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Fort Belkanp Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on November 1, 1985.

Milton J. Hertz,
Acting Administrator, Agricultural Stabilization and Conservation Service.
[FR Doc. 85–26580 Filed 11–6–85; 8:45 am]
BILLING CODE 3410-05-M

Feed Grain Donations for the Rocky Boy's Reservation Indian Tribe in Montana

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Rocky Boy's Indian Tribe of the Rocky Boy's Reservation in Montana has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Rocky Boy's Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on November 1, 1985.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-26581 Filed 11-6-85; 8:45 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Rosebud Sioux Reservation Indian Tribe in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Rosebud Sioux Indian Tribe of the Rosebud Sioux Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Rosebud Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on November 1, 1985.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-26578 filed 11-6-85; 8:45 am]

BILLING CODE 3410-05-M

Feed Grain Donations for the Standing Rock Sioux Reservation Indian Tribe in South Dakota and North Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Standing Rock Sioux Indian Tribe of the Standing Rock Sioux Reservation in South Dakota and North Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Standing Rock Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on November 1, 1985.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-26579 Filed 11-6-85; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Intent To Prepare an Environmental Impact Statement; Wing Creek/Twenty Mile Development Plan; Nezperce National Forest, Idaho County, ID

The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement for a proposal to harvest approximately 60 million board feet (MMBF) of timber over the next 10 years, from about five different timber sales, located within a portion of the Gospel-Hump Multipurpose Resource Development Area. This area is located within the Elk City and Clearwater Ranger Districts, Nezperce National Forest.

The Endangered American Wilderness Act became law on February 24, 1978. Section 4 of the Act addressed about 350,000 acres in North-central Idaho known as the Gospel-Hump area. About 206,000 acres were set aside as wilderness; a contiguous 45,000 acres became available for resource uses other than wilderness; and a third portion of 92,000 acres was to be planned for multipurpose resource development. This Impact Statement is not designed to meet the requirement of the Endangered American Wilderness Act which requires that a Plan be developed prior to implementing management activities within the Gospel-Hump Multipurpose Development Area. That requirement is currently being addressed within the Nezperce National Forest Plan, which is being prepared under the National Forest Management Act. The Draft Forest Plan has been released, with a Final Plan scheduled to be released in early 1986. This Impact Statement will be designed to tier to the Final Forest Plan when it is released.

A range of alternatives for the proposed timber sales will be considered. One of these will be nondevelopment of this area. Other alternatives will consider both development in different portions of the area and different levels of harvest based upon a range of resource considerations.

Federal, State, local agencies, and other individuals or organizations who may be interested in or affected by the Decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

4. Determination of potential cooperating agencies and assignment responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential timber sale areas.

The Clearwater District Ranger will hold a public meeting at the District office located in the Nezperce National Forest Supervisor's Office, Grangeville, Idaho, at 7:30 p.m., December 10, 1985. The Elk City District Ranger will hold a public meeting at the Elk City School at 7:30 p.m., December 11, 1985.

Tom Kovalicky, Forest Supervisor, Nezperce National Forest, Grangeville, Idaho, is the responsible official.

The analysis is expected to take about 3 months. The Draft Environmental Impact Statement should be available for public review by March 15, 1986, or 30 days after the effective date of the Nezperce Forest Plan, whichever is later. The Final Environmental Impact Statement is scheduled to be completed by June 1, 1986.

Written comments and suggestions concerning the analysis should be sent to either Bob Castaneda, District Ranger, Elk City Ranger District, P.O. Box 416, Elk City, Idaho 83525, or to Frank Votapka, Acting District Ranger, Clearwater Ranger District, Route 2, Box 475, Grangeville, Idaho 83530, by December 16, 1985.

Questions about the proposed action and Environmental Impact Statement should be directed to Rodney Windell, Supervisory Forester, Clearwater Ranger District, Grangeville, Idaho 83530, phone 208–983–1963.

Dated: October 29, 1985.

Tom Kovalicky,

Forest Supervisor.

[FR Doc. 85–26552 Filed 11–6–85; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Impact Statements; Big Creek-Hurricane Creek Watershed, MO

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Paul F. Larson, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the Big Creek-Hurricane Creek Watershed project is available. Single copies of this record of decision may be obtained from Paul T. Larson at the address shown above.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314–875–5214.

Dated: October 29, 1985.

(Catalog of Federal Domestic Assistance Program No. 10.094, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable.)

Paul F. Larson,

State Conservationist.

[FR Doc. 85–26596 Filed 11–6–85; 8:45 am]

BILLING CODE 3410–16–M

Environmental Impact Statements; Kasson South Park Land Drainage RC&D Measure, MN

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 650); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kasson South Park Land Drainage RC&D Measure, Dodge County, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Donald G. Ferren, State Conservationist, Soil Conservation Service, 316 North Robert Street, Room 200, St. Paul, Minnesota, 55101, telephone 612/725–7675.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Donald G. Ferren, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage. The planned works of improvement include conservation practices such as tile drains, critical area planting and waterway.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy request at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Donald G. Ferren.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: September 23, 1985.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Donald G. Ferren,

State Conservationist.

[FR Doc. 85–26595 Filed 11–6–85; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 10:30 p.m. on December 15, 1985 and convene at 9:00 a.m. and adjourn at 6:00 p.m. on December 16, 1985, at the Downtowner Motor Inn, 300 Quintard Avenue, Anniston, Alabama. The purpose of the meetings is to hold a Committee briefing for and conduct a community forum on blacks in the electoral process in Butaw, Alabaster and Anniston.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Louis Westerfield or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391, (TDD 404/221–4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

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

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–26584 Filed 11–6–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

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

DOC has submitted to OMB for clearance the following proposal for collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Travel and Tourism Administration
Title: In-Flight Survey of International Air Travelers
Form Number: Agency—N/A; OMB—0605-0007
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 165,600 respondents; 27,600 reporting hours
Needs and Uses: The information is used to provide consumer marketing data on international travelers.
Affected Public: Individuals
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395-3785.

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

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

Dated: October 31, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85-26613 Filed 11-6-85; 8:45 am]

BILLING CODE 3510-CW-M

Minority Business Development Agency

Financial Assistance Application Announcements; New York

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve months is estimated at $302,300 for the project performance of April 1, 1986 to March 31, 1987. The MBDC will operate in the Queens, N.Y. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $302,300 in Federal funds and a minimum of $53,347 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resource available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before December 12, 1985.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Gina A. Sanchez,

Regional Director, New York Regional Office.

October 31, 1985.

[FR Doc. 85-26585 Filed 11-6-85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; New York

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve months is estimated at $170,000 for the project performance of April 1, 1986 to March 31, 1987. The MBDC will operate in the Rochester, NY Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $170,000 in Federal funds and a minimum of $30,000 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated

cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before December 12, 1985.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Gina A. Sanchez,

Regional Director, New York Regional Office.

October 31, 1985.

[FR Doc. 85–26588 Filed 11–6–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; Puerto Rico

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve months is estimated at $590,000 for the project performance of April 1, 1986 to March 31, 1987. The MBDC will operate in the San Juan, P.R. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $590,000 in Federal funds and a minimum of $104,118 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before December 12, 1985.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number, (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Gina A. Sanchez,

Regional Director, New York Regional Office.

October 31, 1985.

[FR Doc. 85–26589 Filed 11–6–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcments; Puerto Rico

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available finds. The cost of performance for the first twelve months is estimated at $230,000 for the project performance of April 1, 1986 to March 31, 1987. The MBDC will operate in the Mayaquez, P.R. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $230,000 in Federal funds and a minimum of $40,588 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firms's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on

such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before December 12, 1985.

Address: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number, (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development. (Catalog of Federal Domestic Assistance)

Gina A. Sanchez,

Regional Director, New York Regional Office.

October 31, 1985.

[FR Doc. 85–26585 Filed 11–6–85; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement; Puerto Rico

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve months is estimated at $290,000 for the project performance of April 1, 1986 to March 3, 1987. The MBDC will operate in the Ponce, P.R. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $290,000 in Federal funds and a minimum of $51,176 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before December 12, 1985.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number, (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Gina A. Sanchez,

Regional Director, New York Regional Office.

October 31, 1985.

[FR Doc. 85–26586 Filed 11–6–85; 8:45 am]

BILLING CODE 3510-21-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Endotronics, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Endotronics, Inc., having a place of business in Coon Rapids, Minnesota, an exclusive right in the United States, subject to two existing nonexclusive licenses, to manufacture, use, and sell products embodied in the inventions entitled "Cell Culture on Semi-Permeable Tubular Membranes," U.S. Patent Numbers 3,821,087 and 3,883,393. The patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.9. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed licenses must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85–26553 Filed 11–6–85; 8:45 am]

BILLING CODE 3512-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

November 4, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 8, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

CITA directives dated December 21, 1984, January 29, 1985 and June 3, 1985, (see 49 FR 50237, 50 FR 4720, and 24016), established restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported

during 1985. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, and at the request of the Government of the Republic of Korea, the limits for Categories 300/301, 313, 314, 317, 320, 331, 333/334, 335, 336, 337, 341, 345, 347/348, 410, 433/434, 435, 440, 442, 443, 444, 445/446, 447, 448, 612, 613, 614pt., 631, 633/634/635, 636, 640pt., 641, 642, 643, 647, and 659pt. (headwear in T.S.U.S.A. numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000, 703.1610, 703.1620, 703.1630, 703.1640, and 703.1650), are being increased to account for swing or shift. The limits for Categories 315, 319, 353/354/653/654, 436, 438, 605pt. (cordage in T.S.U.S.A. numbers 316.5500, and 316.5800) 614pt. (only in T.S.U.S.A. numbers 338.1000, 338.1505, 338.1508, 338.1511, 338.1525, 338.1528, 338.1531, 338.1552, 338.1554, 338.1556, 338.1558, 338.1562, 338.1564, 338.1568 and 338.1572), 669pt. (cordage in T.S.U.S.A. numbers 348.0065, 348.0075, 348.0565, and 348.0575) 644, 649 and 669pt. (fishnets in T.S.U.S.A. numbers 355.4520 and 355.4530) are being reduced by an equal amount in equivalent square yards to account for the swing applied to the foregoing categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

November 4, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives of December 21, 1984, January 29, 1985 and June 3, 1985, from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported during 1985.

Effective on November 8, 1985, the directives of December 21, 1984, January 29, 1985 and June 3, 1985 are hereby amended to adjust the restraint limits established in the following categories according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1983, amended, between the Governments of the United States and the Republic of Korea: [1]

Category	Adjusted 12-month restraint limit [1]
300/301	5,331,898 pounds.
313	49,224,511 square yards.
314	2,802,560 square yards.
315	21,514,965 square yards.
317	16,385,348 square yards.
319	3,535,419 square yards.
320	25,671,078 square yards.
331	497,963 dozen pairs.
333/334	67,786 dozen.
335	69,217 dozen.
336	44,967 dozen.
337	38,459 dozen.
341	131,002 dozen.
345	68,612 dozen.
347/348	313,471 dozen.
353/354/653/654	162,168 dozen.
410	4,748,421 square yards.
433/434	17,677 dozen.
433	13,650 dozen.
435	32,204 dozen.
436	8,983 dozen.
438	4,7570 dozen.
440	220,722 dozen.
442	46,066 dozen.
443	28,180 dozen.
444	4,183 dozen.
445/446	54,000 dozen.
447	86,323 dozen.
448	32,410 dozen.
605pt. [2]	2,373,849 pounds.
613	99,025,494 square yards.
614pt. [3]	7,125,481 square yards.
614Pt. [4]	12,612,625 square yards.
631	236,075 dozen pairs.
633/634/635	1,435,570 dozen.
(633)	(181,334 dozen).
(634)	(835,340 dozen).
(635)	(634,231 dozen).
636	224,834 dozen.
640pt. [5]	2,776,038 dozen.
640pt. [6]	3,533,139 dozen.
641	1,069,808 dozen.
642	81,722 dozen.
643	53,345 dozen.
644	77,467 dozen.
647	848,844 dozen.
649	396,039 dozen.
659pt. [7]	2,522,029 pounds.
669pt. [8]	673,744 pounds.
669pt. [9]	658,817 pounds.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

[2] In Category 605, only T.S.U.S.A. numbers 316.5500 and 316.5800.

[3] In Category 614, only T.S.U.S.A. numbers 338.1000, 338.1505, 338.1508, 338.1511, 338.1525, 338.1528, 338.1531, 338.1552, 338.1554, 338.1556, 338.1558, 338.1562, 338.1564, 338.1568 and 338.1572.

[4] In Category 614, only T.S.U.S.A. numbers in the category except those listed in footnote 3.

[5] In Category 640, only those T.S.U.S.A. numbers listed in footnote 4.

[6] In Category 640, all T.S.U.S.A. numbers in the category except 381.3130, 381.3370, 381.3558, 381.6972, 381.8666, 381.9935, 381.9540, 381.9860 and 381.9968.

[7] In Category 659, only T.S.U.S.A. numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000, 703.1610, 703.1620, 703.1630, 703.1640, and 703.1650.

[8] In Category 669, only T.S.U.S.A. numbers 348.0065, 348.0075, 348.0565 and 348.0575.

[9] In Category 669, only T.S.U.S.A. numbers 355.4520 and 355.4530.

[1] The bilateral agreement, as amended, provides, among other things, that: (1) During any agreement year specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits; (2) under specified conditions specific limits and sublimits may be adjusted for carryforward not exceed 10 percent; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-26612 Filed 11-6-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Board of Trade of the City of Chicago; Financial Times-Stock Exchange 100 Share Index Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for Public Comment on Amended Terms and Conditions of Proposed Commodity Futures Contract.

SUMMARY: On July 2, 1985, the Commodity Futures Trading Commission ("Commission"), in accordance with sections 2(a)(1)(B)(iii) and 2(a)(1)(B)(iv)(II) of the Commodity Exchange Act ("Act"), 7 U.S.C. 2a(iii), 2a(iv)(II) (1962), published in the **Federal Register** a notice of availability of the contract terms and conditions contained in an application by the Board of Trade of the City of Chicago ("CBT") for designation as a contract market in the Financial Times-Stock Exchange 100 Share Index ("FT-SE 100"). 50 FR 27333. The notice provided for a sixty-day comment period which ended on September 3, 1985. Subsequently, the CBT notified the Commission that it intended to provide additional information relating to the exchange of market information between the CBT, the London Stock Exchange and others for purposes of regulatory surveillance of trading in the proposed FT-SE 100 futures contract. The CBT requested that the Commission, if appropriate, give notice of, and seek public comment on, this change. In light of this request, the Commission has concluded that, in this instance, an additional period for public comment is warranted.

DATE: Comments must be received on or before December 9, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBT FT-SE 100 futures contract.

FOR FURTHER INFORMATION CONTACT: Richard A. Shilts, Deputy Director of Market Analysis, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The Commission, on July 2, 1985, published in the **Federal Register** a notice of availability of the terms and conditions of the proposed CBT FT–SE 100 futures contract and provided a 60-day period for comment. That comment period ended on September 3, 1985. 50 FR 27333 (July 2, 1985). Subsequently, by letter dated October 17, 1985, the CBT notified the Commission that it had undertaken to enter into discussions with the London Stock Exchange and others "regarding the exchange of market information for purposes of regulatory surveillance of trading in the proposed FTSE–100 Index futures contract." The CBT further stated that "we understand that this request may necessitate, in the Commission's judgment, further publication in the **Federal Register** concerning this contract proposal."

A surveillance agreement between the CBT and the London Stock Exchange would amend the substance of the CBT's application for designation as a contract market in the FT–SE 100 Index. The Commission, therefore, has determined that an additional comment period is appropriate. This additional comment period will enable the public to consider the intended modification and to express their views as to the necessity for, and the suggested terms of, such a surveillance agreement. Accordingly, solicitation of the public's views regarding such an agreement is in the public interest and is consistent with the objectives of the Commodity Exchange Act.

Copies of the CBT's letter of October 17, 1985, together with the other terms and conditions of the contract, are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of these documents can be obtained through the Office of the Secretariat at the above address or by phone at (202) 254–6314.

Any person interested in submitting written data, views or arguments on the above identified issues should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC on November 4, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–26628 Filed 11–6–85; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Activities for Potential Conversion To Contract

ACTION: Notice.

The Air Force recently announced three activities for potential conversion to contract. These activities are to undergo a cost comparison to determine whether in-house or contract operation is more economical: Air Force Manpower and Personnel Center (AFMPC) Micrographics, AFMPC Tape Library, and AFMPC World-Wide Locator at Randolph AFB, TX.

FOR FURTHER INFORMATION CONTACT: Major Peggy Martin, Telephone (202) 697–4935.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–26632 Filed 11–6–85; 8:45 am]

BILLING CODE 3910–01–M

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

Under the provisions of section 401 of Pub. L. 95–202 and DOD 1000.20, "Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel", the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on October 18, 1985, that the service of the members of the following groups not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration:

(1) "Certain U.S. Merchant Seamen Who, during World War II, Served Aboard Army Owned Vessels and Certain Merchant Marine Vessels Which Were Operating in Support of the Armed Forces of the United States, Said Vessels Having Made Some Part of a Qualifying Voyage in Waters Being Contested by the Enemy (December 7, 1941 to September 15, 1945)."

(2) "American Merchant Marine Who Were in a Military Invasion During World War II."

(3) "Merchant Seamen Requisitioned by [the] U.S. Army for Participation in Operation Mulberry."

The Secretary of the Air Force also determined on October 18, 1985, that the service of the World War II group known as the "United States Merchant Seamen Who Served on Blockships in Support of Operation Mulberry" shall be considered active military service in the Armed Forces of the United States for purposes of all laws administered by the Veterans' Administration.

For further information contact: Lt Col Michael Dandar or Lt Col Todd, telephone: (202) 692–4744, Office of the Secretary of the Air Force Personnel Council, (SAF/MIPC), The Pentagon, Washington, DC 20330–1440.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–26633 Filed 11–6–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

October 29, 1985.

The USAF Scientific Advisory Board Air Force Acquisition Logistics Center Advisory Group will meet at Wright-Patterson, OH on December 9–10, 1985. The meeting will convene from 8:30 a.m. to 5:00 p.m. on December 9 and 8:30 a.m. to 12:00 n. on December 10.

The purpose of the meeting will be to receive classified briefings on selected maintainability and supportability issues of interest to the Air Force. Additionally, special interest items of the AFALC Commander will be covered.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

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

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–26634 Filed 11–6–85; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

National Board for the Promotion of Rifle Practice; 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 of committee: National Board for the Promotion of Rifle Practice.

Date of Meeting: December 5, 1985.

Place: Quality Inn, Pentagon City, 300 Army/Navy Drive, Arlington, VA 22202

Time: 1330–1630

Proposed Agenda

1. Executive Officer's Report
2. Review prior fiscal year closeout (FY 85).
3. Review current fiscal year funding vs. requirements (FY 86).
4. Review requirements for future DCM programs (FY 87–91).

This meeting is open to the public. Persons desiring to attend the meeting should contact the Office of the Director of Civilian Marksmanship, Pulaski Bldg., 20 Mass Ave NW, Washington, D.C. 20310 or phone (202) 272–0810 prior to December 5, 1985, to arrange admission.

John O. Roach II,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 85–26570 Filed 11–6–85; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Chapter 2 of the Education Consolidation and Improvement Act of 1981; Intent To Repay to the School District of Philadelphia Board of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Notice is given that, under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay under a grantback arrangement to the School District of Philadelphia Board of Education an amount representing approximately 65 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination issued on March 31, 1983 by the Department's Office of Assistance Management and Procurement Services. This notice describes the School District of Philadelphia's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before December 9, 1985.

ADDRESS: All written comments should be submitted to Jack A. Simms, Education Program Specialist, Special Programs Section, Division of Educational Support, U.S. Department of Education, 400 Maryland Avenue, SW., FOB–6, Room 2023, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Jack A. Simms, Telephone: (202) 472–7960.

SUPPLEMENTARY INFORMATION:

A. Background

On March 31, 1983, the Department's Office of Assistance Management and Procurement Services (AMPS) issued a final audit determination that required the School District of Philadelphia (LEA) to repay $2,077,016.09 of Federal funds misexpended under the Emergency School Aid Act (ESAA) during fiscal years 1978 through 1980. Specifically, AMPS determined that the LEA had failed to meet regulatory enrollment requirements for magnet schools, carried out projects in ineligible schools, failed to document grant charges, assessed unallowable warehouse and print shop surcharges to the grants, and failed to obtain prior approval of budget amendments. In addition, AMPS determined that the LEA had earned interest income on grant funds. The LEA has not requested a grantback of funds from its repayment of the interest income.

The LEA challenged the final audit determination in an application for review filed with the Education Appeal Board (EAB) on April 29, 1983, under the authority in section 452(b) of GEPA (20 U.S.C. 1234a(b)). During the course of the administrative proceedings before the EAB, the LEA and the Department reached a settlement of the case. Under the terms of that settlement, the LEA agreed to repay $1,350,029.52 (including $67,246.34 that it already has repaid) out of the total claim of $2,077,056.02. The LEA submitted a check in the amount of $1,282,783.18 to the Department on May 7, 1985.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the LEA that resulted in the audit determination have been corrected, and that the LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The LEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program, and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exception; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the LEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On June 21, 1985 the LEA formally requested in writing repayment of $873,802 under a grantback arrangement. This request represents approximately 65 percent of the $1,350,029.52 returned to the Department in settlement of the final audit determination. With its request, the LEA provided assurances tht the practices and procedures that resulted in the final audit determination have been corrected and that the LEA is in all other respects in compliance with the requirements of the program. Also included with the LEA's request was a detailed budget prepared by the LEA for the expenditure of the funds to be awarded under the grantback arrangement.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the LEA, in its June 21, 1985 request, submitted a plan outlining its intent to use the grantback funds to foster voluntary desegregation, to stabilize existing enrollment in desegregated schools and to provide staff development activities to enable school staff to assist students who are entering newly desegregated schools. Although the final audit determination against the LEA resulted from improper expenditures of funds awarded under ESAA, the grantback funds will be awarded under Chapter 2 because ESAA has been consolidated into the Chapter 2 block grant. The LEA's use of the grantback funds will be limited to the desegregation activities authorized under section 577(3) and (7) of Chapter 2 in order to meet the requirements of section 456(a)(3) of GEPA (20 U.S.C. 1234e(a)(3)) that grantback funds be used "to achieve the purposes of the program under which the funds were originally granted."

Funds will be used to promote voluntary student transfers in five schools by using the Instructional Enrichment Centers concept which is

designed to reduce class size, increase effectiveness of basic instruction and expand parental involvement and support. Seventeen schools identified in the LEA's desegregation plan will participate in a parent scholars project and an outreach program. The parent scholars project will provide the opportunity for parents to assist teachers and aides in the daily instructional program. A series of outreach workshops will bring teachers, school administrators and parents together to improve communication and foster understanding of school policies. Funds will also be used to conduct a series of effective schools workshops for principals, teachers, and counselors.

E. The Secretary's Determination

Based upon a thorough review of the LEA's request for the repayment of funds under section 456 of GEPA, including the LEA's discharge of its payment obligation to the Department on May 7, 1985, the LEA's assurance described in Part C of this notice, and the LEA's plan and budget, the Secretary has made the following determinations:

(1) The LEA has corrected the practices and procedures that resulted in the final audit determintion, and the LEA is in all other respects in compliance with the requirements of the Chapter 2 program;

(2) The LEA has submitted a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 2 program and, to the extent possible, benefits the children who were affected by the misexpenditures that resulted in the audit exception; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the LEA's plan, would serve to achieve the purposes of the Emergency School Aid Act, under which the funds were originally granted.

These determinations are based upon the best information available to the Secreary at the present time. If this information is not accurte or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days prior to entering into an arrangement to award funds under a grantback, the Secretary publish in the Federal Register a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the LEA an amount of $873,802, which is approximately 65 percent of the funds the Department has recovered as a result of the Department's final audit determination. The Secretary bases his intention to enter into a grantback arrangement under Section 456 of GEPA on his determinations outlined in Part E of this notice, and payment by the LEA of all funds owed to the Department as a result of the settlement of the final audit determination.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The LEA agrees to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) The LEA will spend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the LEA submitted and any amendments to that plan that are approved by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved by the Secretary.

(2) In accordance with section 456(c) of GEPA and the LEA's plan, all funds received under the grantback arrangement will be expended by June 30, 1986.

(3) The LEA must submit, no later than January 1, 1987, a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the LEA's proposed plan and approved budget.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

Invitation To Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the School District of Philadelphia. Interested persons may send written comments to Jack A. Simms at the address at the beginning of this notice. All comments must be received on or before December 9, 1985.

(Catalog of Federal Domestic Assistance No. 84.151; Chapter 2 of the Education Consolidation and Improvement Act of 1981)

Dated: November 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-26625 Filed 11-6-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

National Institute of Handicapped Research

AGENCY: Department of Education.

ACTION: Application Notice for Field-Initiated Research for Fiscal 1986.

Applications are invited for new projects for Field-Initiated Research grants for Fiscal Year 1986 under the National Instititute of Handicapped Research.

Authority for this program is contained in section 204(a), 204 (b) (3-5), 204 (b) (7-9), and 204 (b) (11) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 762(a), 762 (b) (3-5), 762 (b) (7-9), and 762 (b) (11).

Agencies which are eligible to receive awards under this program include States and public agencies or institutions, including institutions of higher education, and private agencies or organizations, including both nonprofit and for-profit organizations.

Closing date for transmittal of Applications: Applications for grant awards must be mailed or hand delivered on or before February 3, 1986.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133G, 400 Maryland Avenue, SW., Washington, DC 20202.

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

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

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

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

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

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building, #3, 7th and D Streets, SW., Washington, DC 20202.

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. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: In Fiscal Year 1986, NIHR expects to fund approximately 8 new Field-Initiated Research grants or cooperative agreements with an average amount of $75,000 per year for up to three years, assuming a sufficient number of eligible applications and continued availability of funds.

• However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Program information: The National Institute of Handicapped Research (NIHR) is authorized to support research and related activities under several program authorities. This notice requests applications under the Field-Initiated Research program, a program initiated in 1984 to encourage eligible parties to originate valuable ideas for research projects to further the purposes specified in the Act.

In 1984, NIHR received 372 applications under this program; 104 of those applications were rated as eligible for funding by the scientific peer review process, and NIHR was able to fund 47 of those projects. In 1985, NIHR received 238 applications; 58 of these were rated as suitable for funding by the peer review panels and NIHR was able to fund 12 new projects in this program in Fiscal Year 1985.

The purpose of the awards is for planning and conducting research and demonstration projects in areas which have a direct bearing on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially those with the most severe handicaps. Potential applicants are advised to pay close attention to the regulations including the selection criteria governing Field-Initiated Research in 34 CFR Parts 350 and 357. A copy of the regulations is included in the program information package.

Application forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mailstop 3070–2305, Switzer Office Building, 400 Maryland Avenue, SW., Washington, DC 20202 (Attention: Peer Review Unit). Telephone (202) 732–1207. Deaf and hearing impaired individuals may call (202) 732–1198 for TTY services. Requests should refer to applications for Field-Initiated Research grants, 84.133G.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants should pay particular attention to the page limits for applications under this program. Government regulations stipulate that NIHR may require applicants to submit an original and two copies of each application.

However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

(Approved by the Office of Management and Budget under control number 1820–0027)

Applicable regulations: The following regulations are applicable to this program:

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

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 357).

FOR FURTHER INFORMATION CONTACT: Ms. Gail Perry, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW., Washington, D.C. 20202. Telephone (202) 732–1207; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: November 4, 1985.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85–26626 Filed 11–6–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 85–26–NG]

Natural Gas Imports; CPEX Pacific Inc., Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 16, 1985, of an application from CPEX Pacific, Inc. (CPEX), to import up to 10,000 Mcf of Canadian natural gas per day on a best-efforts basis at $2.75 (U.S.) per MMBtu. The imported volumes are to be purchased from Czar Resources Ltd. (Czar) over a 12-month period beginning on the date of first delivery, and thereafter on a month-to-month basis until terminated by either party or until a maximum of 3.4 Bcf has been delivered under the contract, whichever occurs first.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., December 9, 1985.

FOR FURTHER INFORMATION CONTACT:

Olga T. Ronkovich, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–098, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482

Diane J. Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: In April 1985, CPEX purchased from Reichhold Chemicals, Inc., (Reichhold) a plant in St. Helens, Oregon, which produces anhydrous ammonia, urea, and other fertilizer products used for agricultural purposes. The plant uses natural gas as a process fuel and feedstock. The plant is currently served with natural gas purchased pursuant to a contract between CPEX, as successor to Reichhold, and Czar, a Canadian corporation operating natural gas wells in the vicinity of Fort St. John, Vancouver, British Columbia. The

importation of natural gas under that contract was approved by the ERA on September 14, 1984, in DOE/ERA Opinion and Order No. 60 (1 ERA ¶ 70,570). According to CPEX, the approval sought by this application would supersede the ERA's approval of the earlier contract.

CPEX and Czar have entered into a new contract dated August 29, 1985, for the continued sale of natural gas by Czar to CPEX for use at the St. Helens plant. The contract provides for the purchase and sale, on a best-efforts basis, of up to 10,000 Mcf of natural gas per day for a 12-month period starting with the date of first delivery, and thereafter on a month-to-month basis until termination upon 20-days written notice by either party, or until a total of 3.4 Bcf has been delivered, whichever occurs first. The contract contains no minimum purchase obligation or take-or-pay requirement, although CPEX has agreed to purchase all gas required for the St. Helens plant from Czar to the extent Czar is able to deliver volumes requested by CPEX.

Under the proposed import arrangement, the gas would be delivered at the interconnection of the facilities of Westcoast Transmission Company Limited (Westcoast) and Northwest Pipeline Corporation (Northwest) at the international border between Canada and the United States in the vicinity of Sumas, Washington. CPEX states in its application that Westcoast has existing gathering and pipeline facilities which will be utilized in bringing the gas to its interconnection with Northwest at the border. Northwest will transport the gas to its interconnection with Northwest Natural Gas Company (Northwest Natural) at Deer Island, Oregon. Northwest Natural will then transport the gas over existing facilities to CPEX's plant near St. Helens, Oregon. CPEX will bear the cost of transporting the gas from the Canadian border to its plant.

The price of the imported gas at the international border will be $2.75 (U.S.) per MMBtu during the initial 12-month period, with no adjustments for any variations in the rate of exchange between U.S. and Canadian dollars. The price may be renegotiated, at the request of either party, with respect to any gas delivered, after the initial 12-month term of the contract. The importation of gas under this contract will not involve the construction of any new facilities.

According to CPEX, the importation is in the public interest. CPEX asserts that the provisions of the gas purchase contract ensure that the gas will be competitively priced in the market and will remain competitive over the term of the arrangement.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). The objective of this policy, with its strong emphasis on competitive arrangements and contract flexibility, is to free commercial parties from undue government interference in determining contract terms and reflects the importance of buyer-seller negotiation. Parties who oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., December 9, 1985.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CPEX's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday thorugh Friday, except Federal holidays.

Issued in Washington, DC, on October 31, 1985.

Robert L. Davies,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-26663 Filed 11-6-85; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 85-23-NG]

Northeast Gas, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 8, 1985, of an application filed by Northeast Gas, Inc. (NGI) for blanket authorization to import from Canada up to 100 Bcf of natural gas for a two-year period beginning April 1, 1986. The gas would be supplied by various Canadian pipelines and producers and sold by NGI on a short-term or spot basis to certain gas distribution companies in the Northeastern U.S. NGI would also act as an agent for its U.S. purchaser clients and the Canadian

suppliers. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. NGI proposes to make quarterly reports to the EPA.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on December 9, 1985.

FOR FURTHER INFORMATION CONTACT:

Olga Ronkovich, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–098, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482.

Michael T. Skinker, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On October 8, 1985, NGI filed an application for blanket authorization to import up to 100 Bcf of Canadian natural gas for a two-year period beginning April 1, 1986. As proposed, NGI will import and resell the gas to its U.S purchaser clients which are comprised of 23 natural gas distribution companies serving markets in the Northeastern and Middle Atlantic States. They are Bay State Gas Company, The Berkshire Gas Company, Boston Gas Company, The Brooklyn Union Gas Company, Colonial Gas Company, Concord Natural Gas Company, The Connecticut Light & Power Company, Connecticut Natural Gas Corporation, Consolidatd Edison Company of New York, Inc., Elizabethtown Gas Company, Energy North, Inc., Essex County Gas Company, Fitchburg Gas & Electric Light Company, National Fuel Gas Supply Corporation, New Jersey Natural Gas Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Norwich Utilities, Public Service Electric & Gas Company, South Jersey Gas Company, Southern Connecticut Gas Company, U.G.I. Corporation and Valley Gas Company. NGI also would act as agent for its purchaser clients and the Canadian suppliers. According to NGI, the gas will generally be used to displace alternate fuels or higher priced interruptible gas supplies.

NGI states the agreements to purchase gas under this authorization will not exceed two years in duration with most expected to last less than one year. Such agreements may be subject to extension at the option of the parties.

NGI asserts that no new pipeline facilities will be required in order to import the gas. Transportation arrangements are expected to be on a best-efforts basis with the specific terms to be negotiated between NGI or its clients and the Canadian suppliers. NGI proposes to file quarterly reports with the ERA identifying each transaction.

In support its application, NGI asserts that NGI and its purchaser clients will import gas at rates which, when delivered, will be competitive with available domestic gas supplies. The terms of each contract will maximize responsiveness to market factors and will be designed to be price competitive over the term. NGI further asserts that the proposed import is not inconsistent with the public interest because it will allow U.S. Northeast gas consumers expanded access to competitively priced Canadian supplies.

This application is one of a number received by the ERA concerning purchases of imported gas for spot and short-term blanket opportunities. The authorization would provide the applicant with blanket import approval to negotiate and transact individual short-term sales arrangements without further regulatory action. This application is similar to other blanket imports the ERA has recently approved.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). The objective of this policy, with its strong emphasis on competitive arrangements and contract flexibility, is to free commercial parties from undue government interference in determining contract terms and reflects the importance of buyer-seller negotiation. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., December 9, 1985.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of NGI's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 31, 1985.

Robert L. Davies,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-26664 Filed 11-6-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket PP-39EA]

Issuance of an Order Authorizing the Export of Electricity to Canada; Boise Cascade Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of an order authorizing new exports of electricity to Canada by Boise Cascade Corporation (Docket PP-39EA).

SUMMARY: On October 31, 1985, the Administrator of the Economic Regulatory Administration (ERA) issued an order authorizing Boise Cascade to export electric energy to Canada.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Economic Regulatory Administration (RG-22), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-5935

Lise Courtney M. Howe, Office of General Counsel (GC-41), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2900

SUPPLEMENTARY INFORMATION: On September 11, 1985, Boise Cascade filed an application with ERA seeking authorization to export electric power and energy to its Canadian subsidiary, Boise Cascade Canada, LTD.

The applicant is located in the City of International Falls, Minnesota, and plans to transmit 21.5 megawatts of firm power and associated energy to its Canadian subsidiary located in Fort Frances, Ontario. This export is scheduled to start on or before January 1, 1986, and will terminate on December 31, 1990. Details of the agreement between the applicant and its Canadian subsidiary were made part of the application.

The proposed export will be transmitted over an existing 6.6 kilovolt transmission line extending approximately 0.20 miles between Boise Cascade's U.S. and Canadian plants. The construction and operation of this international transmission line was authorized previously by the Presidential permit in ERA Docket PP-39 (formerly Federal Power Commission Docket E-7286).

Notice of this application was given on September 27, 1985, (50 FR 39162) stating that any person desiring to be heard or to make any protest with reference to this application should file with ERA a Petition to Intervene or protest in accordance with the Rules of Practice and Procedure (18 CFR 1.8 and 1.0) within 30 days of the publication. No comments, protests or Petitions to Intervene were received.

On October 22, 1985, ERA staff completed a reliability analysis and determined that the proposed export of electric energy would not impair the reliability of the U.S. power supply system. The Administrator has concurred with this detemination and on October 31, 1985, issued an order authorizing the proposed export.

A copy of the order and the staff reliability analysis will be made available upon request for public inspection and copying at the DOE Freedom of Information Library, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 31, 1985.

Marshall Staunton,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 85-26669 Filed 11-6-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-46-000 et al.]

Electric Rate and Corporate Regulation Filings; Green Mountain Power Corp. et al.

October 29, 1985.

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

1. Green Mountain Power Corporation

[Docket No. ER86-46-000]

Take notice that Green Mountain Power Corporation (GMP) on October 22, 1985 tendered for filing as a rate schedule an executed agreement dated as of August 8, 1985 between GMP and Bangor Hydro (BH). The proposed rate schedule provides for the sale of non-firm energy by GMP to BH.

GMP states that a copy of the filing was served on BH, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Green Mountain Power Corporation

[Docket No. ER86-47-000]

Take notice that Green Mountain Power Corporation (GMP) on October 22, 1985 tendered for filing as a rate schedule an executed agreement dated as of September 17, 1983 between GMP and New England Power Company (NEP). The proposed rate schedule provides for the sale of non-firm energy by GMP to NEP.

GMP states that a copy of the filing was served on NEP, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Arkansas Power and Light Company

[Docket No. ER86-38-000]

Take notice that on October 22, 1985, Arkansas Power and Light Company (AP&L) submitted for filing a Power Agreement (Agreement) dated September 11, 1985, by and between the City of North Little Rock, Arkansas (City) and AP&L. The Agreement provides for the purchase by the City of its full power and energy requirements from AP&L for a term commencing March 1, 1966 and ending June 30, 1991.

The Company hereby requests that the Commission waive its notice requirement under Section 33.5 of the Regulations to permit the filing to be posted immediately. This request is necessary because the City desires a speedy resolution of this matter. The City is concerned that if the filing were to take place within 120 days of the date service is to commence, and the Agreement were subsequently rejected, it would have insufficient time to institute and conclude other negotiations prior to the termination of the Agreement presently in effect.

The Company is submitting billing comparisons showing what the rates are under the Agreement and what the rates would be under the redeterminated rates contained in the Company's latest wholesale rate filing, Arkansas Power & Light Company, Docket No. ER85-563-000. This comparison shows that the rate under the Agreement constitutes a rate reduction. Accordingly, the Company also requests waiver of the Commission's Regulations under Part 35 requiring the submission of cost support data.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. The Connecticut Light and Power Company

[Docket No. ER86-45-000]

Take notice that on October 22, 1985, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Sales Agreement With Respect to Middletown Unit No. 4 and Montville Unit No. 6 between The Connecticut Light and Power Company and Central Vermont Public Service Corporation (CVPS) dated as of July 1, 1985.

CL&P states that the Sales Agreement provides for a sale to CVPS of various percentages of capacity and associated energy from CL&P's Middletown Unit No. 4 and Montville Unit No. 6 (Unit or Units) together with related transmission service commencing September 15, 1985 and terminating April 30, 1986.

CL&P requests that the Commission waive its standard notice period and permit the rate schedule to become effective on September 15, 1985.

CL&P states that the capacity charge rate for each of the Units is a rate determined on a cost-of-service basis for the entire Unit. The monthly transmission charge is equal to one-twelfth of the average annual cost of transmission service on the transmission systems of the Northeast Utilities (NU) Companies determined in accordance with Appendix B to the Sales Agreement, multiplied by the number of kilowatts of winter capability which CVPS is entitled to review during each month. The station service charge is equal to the average cost of oil-fired generation on the system of the NU Companies for the prior month, multiplied by CVPS's share of each of the Units' station service energy requirements.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. The Dayton Power and Light Company

[Docket No. ER86-42-000]

Take notice that on October 21, 1985, The Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Mendon (Mendon), Ohio.

The proposed Agreement allows Mendon to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Mendon.

DP&L requests the Commission waive its notice and filing requirements and permit the proposed Agreement to become effective November 1, 1985.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. El Paso Electric Company

[Docket No. ER85-768-000]

Take notice that on October 18, 1985, El Paso Electric Company (El Paso) tendered for filing an amendment to an initial rate filing of September 16, 1985, for an "Interchange Agreement between El Paso Electric Company and Alamito Company" dated August 23, 1985 (Agreement). El Paso states in its amended filing letter that the Agreement will not involve the Parties as third-party participants in additional transmission arrangements. El Paso requests that this Agreement be accepted for filing and made effective sixty (60) days from the date of filing.

El Paso further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission and Alamito Company.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Green Mountain Power Corporation

[Docket No. ER85-651-000]

Take notice that Green Mountain Power Corporation (GMP) on July 23, 1985 tendered for filing as a rate schedule an executed agreement dated as of May 19, 1982 between GMP and Western Massachusetts Electric Co. and Connecticut Light & Power (the N.U. companies). The proposed rate schedule provides for the sale of non-firm energy by GMP to the N.U. companies.

GMP states that a copy of the filing was served on the N.U. companies, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 8, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Green Mountain Power Corporation

[Docket No. ER86-44-000]

Take notice that Green Mountain Power Corporation (GMP) on October 22, 1985 tendered for filing as a rate schedule an executed agreement dated as of August 5, 1982 between GMP and Boston Edison Company (BECO). The proposed rate schedule provides for the sale of non-firm energy by GMP to BECO.

GMP states that a copy of the filing was served on BECO, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Green Mountain Power Corporation

[Docket No. ER86-43-000]

Take notice that Green Mountain Power Corporation (GMP) on October 22, 1985 tendered for filing as a rate schedule an executed agreement dated as of May 1, 1982 between GMP and Public Service Company of New Hampshire (PSNH). The proposed rate schedule provides for the sale of non-firm energy by GMP to PSNH.

GMP states that a copy of the filing was served on PSNH, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Indiana & Michigan Electric Company

[Docket No. ER84-592-003]

Take notice that on October 11, 1985, Indiana & Michigan Electric Company, tendered for filing a notice of refunds made to Wabash Valley Power Association and Wayne County Rural Electric Membership Cooperative pursuant to Commission letter order dated September 18, 1985.

Comment date: November 7, 1985, in accordance with Standard Paragraph H at the end of this notice.

11. Ohio Power Company

[Docket No. ER86-51-000]

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate Columbus and Southern Ohio Electric Company (CSOE) tendered for filing on October 23, 1985.

Agreement, dated October 1, 1985, between Village of Glouster, Ohio (Glouster) and CSOE.

The Agreement sets forth terms pursuant to which CSOE proposes to supply Transmission Service to Glouster.

The parties request an effective date of November 1, 1985.

Comment date: November 8, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. San Diego Gas & Electric Company

[Docket No. ER86-49-000]

Take notice that on October 23, 1985, San Diego Gas & Electric Company

("SDG&E") tendered for filing the Interconnection Agreement between Public Service (Company of New Mexico PNM) and San Diego Gas & Electric Company.

The Agreement provides for the terms and conditions of interconnection between the two parties.

Copies of this filing were served upon the Public Utilities Commission of the State of California and PNM.

Comment date: November 8, 1985, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Power & Light Company

[Docket No. ER86-41-000]

Take notice that Puget Sound Power & Light Company ("Puget") on October 21, 1985 tendered for filing, as a supplemental rate schedule, the Transmission Service Agreement, executed on August 1, 1985 between Puget and the Public Utility District No. 1 of Clallam County (the "District").

The Agreement is supplementing an earlier agreement dated July 31, 1984, Puget's Rate Schedule FERC No. 81, which requires Puget to make available to the District each hour up to 16 MW of capacity in Puget's transmission facilities from BPA's Fairmont Substation to the Port Townsend Paper Corporation. The District is required to pay Puget for such service at the initial rate of $101.37 per day. Service under the Agreement commenced on July 31, 1985.

The Agreement extends the 60 day term of the earlier agreement from 1984 to the same time frame in 1985, to finish the rebuilding of the 69 kV transmission line by the District.

A copy of the filing was served upon the District.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

14. Southwestern Electric Power Company

[Docket No. ER86-50-000]

Take notice that on October 23, 1985, Southwestern Electric Power ("SWEPCO") tendered for filing an Interchange Agreement, dated October 4, 1985, between the City of Lafayette, Louisiana ("Lafayette") and SWEPCO. The Interchange Agreement defines the terms and conditions and fixes the rates and charges under which the parties will exchange emergency energy, replacement energy, economy energy, short-term firm power and secondary energy. SWEPCO, with the concurrence of Lafayette, requests that the Interchange Agreement be made effective as of November 1, 1985, and accordingly, requests waiver of the notice requirements of the Federal Power Act.

Copies of the filing have been sent to Lafayette and to the Louisiana Public Service Commission.

Comment date: November 8, 1985, in accordance with Standard Paragraph E at the end of this notice.

15. Western Massachusetts Electric Company

[Docket No. ER86-40-000]

Take notice that on October 21, 1985, Western Massachusetts Electric Company ("WMECO or the Company") tendered for filing proposed changes to the fuel adjustment clause in its Resale Service Rate CD-1 pursuant to which it provides service to the City of Westfield, Massachusetts Gas and Electric Company. In addition, the Company filed proposed changes to the fuel adjustment clause in its Rate Schedule 2 pursuant to which it provides service to Chester, Massachusetts Municipal Electric Light Department; Russell, Massachusetts Municipal Light Department; Fletcher Electric Light Company; Massachusetts Electric Company; and New York State Electric Gas Corporation. In order to permit these changes to the fuel adjustment clauses in WMECO's wholesale tariffs, WMECO has also requested a waiver of the requirements of § 35.14 of the Commission's Regulations.

WMECO states that the revisions to the tariffs are being filed so that the fuel cost savings resulting from the generation of test energy by the Millstone Unit 3 nuclear generating unit, in which the Comapny has an ownership interest and which is expected to begin producing test energy shortly after January 1, 1986, will be treated as a reduction in plant investment rather than as a reduction in fuel costs to be flowed through to customers under the fuel adjustment clauses.

Copies of the filing were served upon the Company's jurisdictional customers and the Massachusetts Department of Public Utilities.

Comment date: November 7, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26641 Filed 11-6-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-56-000 et al.]

Electric Rate and Corporate Regulation Filings; Public Service Company of New Hampshire et al.

October 31, 1985.

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

1. Public Service Company of New Hampshire

[Docket No. ER86-56-000]

Take notice that on October 25, 1985, Public Service Company of New Hampshire (PSNH) tendered for filing a System Exchange Agreement between PSNH and Green Mountain Power Corporation (GMP).

PSNH states that the service to be furnished under the System Exchange Agreement is an exchange of excess capacity and associated energy from the PSNH system (system power) for an equal amount of capacity from certain units owned by GMP or in which GMP has entitlements (exchange units). PSNH further states that the generating units expected to supply the system power are required to be specified by PSNH at least twelve hours prior to the commencement of each exchange. Similarly, the exchange units expected to supply the capacity to PSNH are to be specified by GMP at least 12 hours prior to the commencement of each exchange.

PSNH requests an effective date of January 17, 1981, and therefore requests

waiver of the Commission's notice requirements.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. CP National Corporation, Idaho Power Company

[Docket No. ED86-2-000]

Take notice that on October 18, 1985, CP National Corporation ("CP") and Idaho Power Company ("Idaho Power") filed a joint application pursuant to section 203 of the Federal Power Act ("Act") for authorization for CP to sell, and Idaho Power to buy, CP's transmission facilities in the state of Oregon.

CP, incorporated in the state of California, provides electric, telephone and natural gas distribution services in Arizona, California, Nevada, New Mexico, Oregon, Texas and Utah. Idaho Power, incorporated in the state of Maine, is principally engaged in the generation, transmission and distribution of electric energy in Idaho, Oregon and Nevada.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Connecticut Light and Power Company

[Docket No. ER86-52]

Take notice that on October 24, 1985 Connecticut Light and Power Company (CL&P) tendered for filing on behalf of itself and as successor by merger with Hartford Electric Light Company (HELCO) and on behalf of Western Massachusetts Electric Company (WMECO) notices of termination of the following Rate Schedules:

CL&P's Rate Schedule FERC No. 183
CL&P's Rate Schedule FERC No. 196
CL&P's Rate Schedule FERC No. 177
CL&P's Rate Schedule FERC No. 193
CL&P's Rate Schedule FERC No. 192
CL&P's Rate Schedule FERC No. 180
CL&P's Rate Schedule FERC No. 153
CL&P's Rate Schedule FERC No. 156
CL&P's Rate Schedule FPC No. 116
CL&P's Rate Schedule FERC No. 152
CL&P's Rate Schedule FERC No. 165
CL&P's Rate Schedule FERC No. 176
CL&P's Rate Schedule FERC No. 163
CL&P's Rate Schedule FPC No. 148
CL&P's Rate Schedule FERC No. 250
CL&P's Rate Schedule FERC No. 297
CL&P's Rate Schedule FPC No. 151
CL&P's Rate Schedule FERC No. 162
CL&P's Rate Schedule FPC No. 142
CL&P's Rate Schedule FPC No. 117
CL&P's Rate Schedule FERC No. 317
CL&P's Rate Schedule FERC No. 322

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Connecticut Light and Power Company

[Docket No. ER86-59-000]

Take notice that on October 25, 1985 Connecticut Light and Power Company (CL&P) tendered for filing on behalf of itself and as successor by merger with the Hartford Electric Light Company (HELCO) and on behalf of Western Massachusetts Electric Company (WMECO) tendered for filing Notices of Termination of the following Rate Schedules:

CL&P's Rate Schedule FPC No. 143
CL&P's Rate Schedule FERC No. 178
CL&P's Rate Schedule FERC No. 311
CL&P's Rate Schedule FPC No. 154
CL&P's Rate Schedule FERC No. 194
CL&P's Rate Schedule FERC No. 187
CL&P's Rate Schedule FERC No. 301
CL&P's Rate Schedule FPC No. 132
CL&P's Rate Schedule FERC No. 195
CL&P's Rate Schedule FPC No. 141
CL&P's Rate Schedule FERC No. 182
CL&P's Rate Schedule FERC No. 279
CL&P's Rate Schedule FERC No. 181
CL&P's Rate Schedule FPC No. 139
CL&P's Rate Schedule FERC No. 159
CL&P's Rate Schedule FERC No. 166
CL&P's Rate Schedule FERC No. 188
CL&P's Rate Schedule FERC No. 216
CL&P's Rate Schedule FERC No. 296
CL&P's Rate Schedule FERC No. 314
CL&P's Rate Schedule FERC No. 319

5. Connecticut Light and Power Company

[Docket No. ER86-53-000]

Take notice that on October 24, 1985, Connecticut Light and Power ("CLEP") tendered for filing on behalf of itself and as successor by merger with the Hartford Electric Light Company (HELCO) Notices of Termination of the following rate schedules:

HELCO's Rate Schedule FERC No. 145
HELCO's Rate Schedule FERC No. 151
HELCO's Rate Schedule FERC No. 144
HELCO's Rate Schedule FERC No. 152
HELCO's Rate Schedule FERC No. 150
HELCO's Rate Schedule FPC No. 140
HELCO's Rate Schedule FERC No. 146
HELCO's Rate Schedule FERC No. 168
HELCO's Rate Schedule FPC No. 110

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power Corporation

[Docket No. ER86-57-000]

Take notice that on October 25, 1985, Florida Power Corporation (Florida Power) tendered for filing a revised Exhibit A to the Contract for Interchange Service dated August 1, 1983 between Florida Power and Seminole Electric Cooperative, Inc. (SECI). The Contract for Interchange Service is designated as Florida Power's Rate Schedule FERC No. 97. Exhibit A, which describes the points of interconnection between Florida Power and SECI, is a supplement to the Contract for Interchange Service. Florida Power states that Exhibit A is being revised to reflect the inclusion of an additional point of interconnection.

Florida Power requests that the revised Exhibit A be permitted to become effective sixty days after the date of filing. Copies of the filing have been served upon SECI and the Florida Public Service Commission.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Green Mountain Power Corporation

[Docket No. ER86-55-000]

Take notice that Green Mountain Power Corporation (GMP) on October 24, 1985 tendered for filing as a rate schedule an executed agreement dated as of September 18, 1985 between GMP and Fitchburg Gas & Electric Light Company (FG&E). The proposed rate schedule provides for the sale of non-firm energy by GMP to FG&E.

GMP states that a copy of the filing was served on FG&E, as well as the Vermont Public Service Board and Vermont Department of Public Service.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas Gas & Electric Company

[Docket No. ER83-628-009]

Take notice that on October 23, 1985 Kansas Gas & Electric Company tendered for filing an original and five copies of a refund report pursuant to Commission letter order dated September 23, 1985. The report includes refunds for Coffeyville, Mulvane, Neodesha, Wellington, Winfield and Kansas and Kansas Power and Light Company and Kansas Electric Power Cooperative.

The refund amounts include interest from the date payment was received through October 22, 1985 at the appropriate interest rate in accordance with 18 CFR 35.19(a).

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company

[Docket No. ER86-58-000]

Take notice that Northern States Power Company (NSP), on October 25, 1985, tendered for filing Supplement No. 4 to the Transmission Service Agreement Between Northern States Power Company and East River Electric power Cooperative.

The Supplement, dated October 3, 1985, revises the ownership of the meters as stated in the Transmission Service Agreement. East River will now provide all the necessary metering equipment at each point of delivery.

The Transmission Service Agreement is on file with the Commission and is designated as Rate Schedule FERC No. 331 between NSP and Renville-Sibley Cooperative Power Association (Renville-Sibley). On September 23, 1985, the Assignment of the Transmission Service Agreement between NSP and Renville-Sibley to East River was tendered for filing with the Commission. This filing was assigned Docket No. ER85-782-000.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Portland General Electric Company

[Docket No. ER85-803-000]

Take notice that on October 24, 1985, Portland General Electric Company (PG&E) tendered for filing an original and six copies of PG&E's Motion to Amend Filing, Affidavit of Donald N. Furman, and a Revised Schedule 4 of the Residential Purchase and Sales Agreement between the Bonneville Power Administration (BPA) and PG&E, along with the cover letter that transmitted this Schedule 4 to BPA and the applicable workpapers filed with BPA. Revised Schedule 4 reflects the Power Cost Adjustment for the first quarter of 1985 which was effective with more meter readings on and after January 30, 1985. PG&E inadvertently included the Revised Schedule 4 from the 4th Quarter 1984 in its original filing with FERC. The intent of this motion is to correct that discrepancy.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. The Potomac Edison Company

[Docket No. ER86-26-000]

Take notice that on October 15, 1985 The Potomac Edison Company tendered for filing an original and six copies of Potomac Edison's Maryland Retail Schedules "PP" and "PH" as effective prior to September 9, 1985 and on and beyond September 9, 1985. This filing is made in accordance with the letter dated September 18, 1985 in ER85-650-000 from the Director of the Division of Electric Power Application Review.

These rate schedules are pertinent to calculations under the Settlement Agreement ("Agreement") dated July 12, 1985, designated Supplement No. 1 to Service Agreements 3, 4 and 7 in the Director's September 18, 1985 letter.

Under the terms of that Agreement, calculations will be made for prescribed periods of the difference between Schedules "WS-HV" and "WS-LV" and Schedules "PP" and "PH". Those calculations will be made in accordance with the terms and conditions of the Agreement. If the result is that Schedules "WS-HV" and/or "WS-LV" produce smaller revenue amounts than "PP" and "PH", nothing further will be done; if the opposite occurs, a credit for the amount of the difference (plus interest) will appear on a subsequent bill under Schedule "WS-HV" or "WS-LV" to the affected customers, the City of Hagerstown and the Towns of Thurmont and Williamsport, Maryland.

Thus, Schedules "PP" and "PH" merely serve as "caps" on the amounts to be collected during the term of the Agreement. The Potomac Edison Company does not intend that Schedules "PP" and "PH" be considered the wholesale rates for purposes of billing these customers; the schedules are filed for information purposes and are not intended to displace or supersede Schedules "WS-HV" and "WS-LV" now on file with the Commission. Those Schedules, "WS-HV" and "WS-LV", are being used to bill these customers on and after July 1, 1985, a procedure accepted by the Commission in the September 18, 1985 letter.

Under the terms of the Agreement, the first credit calculation is for the period July 1, 1985 to September 9, 1985. That calculation, reveals that for the period considered, Schedule "WS-HV" produced higher revenues than Schedule "PP" in the amount of $79,027.85 for Hagerstown and $9,745.12 for Thurmont. Schedule "PH", on the other hand, produced higher revenues for that period for Williamsport than did Schedule "WS-LV", so no credit for the period is due. For Hagerstown and Thurmont, a credit plus interest will be credited against their bills for September, prorated to cover the September 1-8 time period.

Comment date: November 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26642 Filed 11-6-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board, Chemistry Review Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Chemistry Review Panel of the Energy Research Advisory Board (ERAB).

Date and Time: November 18, 1985—1:00 p.m.–10:00 p.m.

Place: Department of Energy, 1000 Independence Avenue SW., Room 4A-110, Washington, DC 20585.

Contact: William L. Woodard, Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-5767.

Purpose of the Parent Board

To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel

The Chemistry Review Panel is a subgroup of ERAB and reports to the parent Board. The Chemistry Review Panel will review the National Research Council's report, "Opportunities in Chemistry" and, in particular, assess its specific suggestions for initiatives that are recommended for the Department of Energy.

Tentative Agenda

- Discussion of charge letter.
- Further meeting schedule.
- Briefing by National Research Council on "Opportunities in Chemistry".
- Briefings by DOE and other Federal Agencies sponsoring research in chemistry.
- Public Comment—10 minute rule.

Public Participation

The meeting is open to the public. Written statements may be filed with

the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meeting

Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 28, 1985.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85–26662 Filed 11–6–85; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Advisory Board, Civilian Nuclear Power Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Civilian Nuclear Power Panel of the Energy Research Advisory Board (ERAB).

Date and Time: November 19, 1985—10:00 a.m.–5:00 p.m.

Place: Department of Energy, 1000 Independence Avenue SW., Room 8E–089, Washington, DC 20585.

Contact: Charles E. Cathey, Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585. (202) 252–2263.

Purpose of the Parent Board

To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel

The Civilian Nuclear Power Panel is a subgroup of ERAB and reports to the parent Board. The purpose of the Panel is to review the Strategic Plan for the Civilian Reactor Research and Development Plan now being prepared by the Department of Energy.

Tentative Agenda

- Organization of subgroups and task assignments.
- Briefing on nuclear waste issues.
- Briefing on regulatory and/or uranium enrichment issues.
- Panel discussion of briefings.
- Establish next meeting dates and schedule for completion of report.
- Public comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 30, 1985.

Charles E. Cathey

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85–26668 Filed 11–6–85; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of October 4 Through October 11, 1985

During the Week of October 4 thorugh October 11, 1985, the applications for or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: November 1, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 4 through October 11, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 16, 1985	Economic Regulatory Administration, Washington, DC	HRZ-0270	Interlocutory order. If granted: Consolidated Materials, Inc. would be compelled to produce the additional witnesses to testify at the evidentiary hearing.
Oct. 4, 1985	Apsche Oil Company, Inc., Austin, TX	KRD-0001 and KRH-0001	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Apache Oil Company in response to the Proposed Remedial Order (Case No. HRO-0229) issued to the firm.
Oct. 8, 1985	Clark Oil & Refining Corp., Milwaukee, WI	KRX-0001	Supplemental order. If granted: Clark Oil & Refining Corporation would be required to provide the Economic Regulatory Administration with revised cost calculations concerning a payment received from Texaco Inc., as the result of a 1973 crude oil exchange agreement.
Do	O.B. Mobley, Jr., Washington, DC	KEF-0001	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with the September 23, 1985 Consent Order entered into with O.B. Mobley, Jr.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/ Name of refund applicant	Case No.
10/7/85	Gulf/Bee Ridge Gulf Service	RF40-3056.
10/7/85	Aminoil/Valero Petroleum Marketing	RF139-140.
10/8/85	Gulf/Transamerica Airlines, Inc	RF40-3057.
10/7/85	Champlain/Wayne Kingsland	RF187-9.
10/7/85	Harris/Ray L. Barrett	RF193-7.
10/7/85	Cougar/Lyman Jones	RF200-1.
10/8/85	St. James/L&A Fuel Company	RF180-32.
10/9/85	Gulf/Stan Tauber Gulf	RF40-3058.
10/8/85	Husky/K&L Oil Company	RF161-71.
10/9/85	Gary/LCL Oil Company	RF47-19.
10/9/85	Moyle/Pactola Pines	RF201-1.
10/7/85	Belridge & Amoco/North Carolina	RM8-9, RM21-10.
10/11/85	Harris/Ralph Lockrem	RF193-8.
10/11/85	Good Hope/Coastal Refining & Marketing, Inc.	RF189-7.
10/7/85	Coline/New Jersey	RQ2-237.
10/7/85	National Helium/New Jersey	RQ3-238.
10/9/85	Coline/Connecticut	RQ2-239.
10/9/85	National Helium/Connecticut	RQ3-240.
10/9/85	Palo Pinto/Connecticut	RQ5-241.
10/9/85	Belridge/Connecticut	RQ6-242.
10/9/85	Perry Gas/Connecticut	RQ183-243.

[FR Doc. 85-26667 Filed 11-6-85; 8:45 am]

BILLING CODE 6550-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a $50,174 consent order fund to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving E.B. Lynn Oil Company of Allentown, Pennsylvania (Case No. HEF-0064).

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to Lynn Consent Order Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case No. HEF-0064.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to a Consent Order entered into by E.B. Lynn Oil Company (Lynn) of Allentown, Pennsylvania and the DOE which settled possible regulatory violations in the firm's sales of motor gasoline during the consent order period, May 1, 1979 through April 30, 1980.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the escrow account funded by Lynn pursuant to the Consent Order. The DOE has tentatively established procedures under which purchasers of Lynn motor gasoline during the consent order period may file claims for refunds. Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: November 1, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

November 1, 1985.

Name of Firm: E. B. Lynn Oil Co.

Date of Filing: October 13, 1983.

Case Number: HEF-0064.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983 requesting that the OHA implement a proceeding to distribute funds received pursuant to a Consent Order entered into by the DOE and E. B. Lynn Oil Company (Lynn) of Allentown, Pennsylvania.

I. Background

Lynn sells motor gasoline to other motor gasoline marketers (resellers and retailers) and in bulk to certain end-users. Lynn was therefore a "reseller-retailer" subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F.

An ERA audit of Lynn's business transactions during the period May 1, 1979 through April 30, 1980 (the audit period) revealed possible overcharges totalling $121,279.32 in sales of motor gasoline to Lynn's five classes of purchaser. Subsequently, Lynn entered into a Consent Order with the DOE on September 20, 1981 in order to settle all disputes and claims between Lynn and the DOE regarding Lynn's compliance with the DOE price regulations in sales of motor gasoline during the audit period (hereinafter referred to as the consent order period). The Consent Order refers to the ERA's allegations of overcharges, but notes that no formal findings of violations were made. Additionally, the Consent Order states that Lynn does not admit it committed any such violations.

In the Consent Order, Lynn agreed to refund $11,182 directly to members of its two end-user classes of purchaser and remit $42,063 to the DOE for deposit in an interest-bearing escrow account. This Proposed Decision and Order concerns the distribution of the funds that were deposited in the escrow account, plus accrued interest.[1]

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the Lynn consent order fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

[1] Lynn remitted a total of $50,174 to the DOE. This amount includes interest on Lynn's installment payments of the consent order amount to the DOE.

III. Proposed Refund Procedures

A. Eligible Claimants

We propose that the Lynn consent order fund be distributed to claimants who can satisfactorily demonstrate that they were injured by the firm's alleged regulatory violations and have not already received direct refunds from Lynn. As indicated earlier, Lynn's end-user customers received direct refunds from Lynn pursuant to the Consent Order. They will therefore not be eligible for refunds in this proceeding. Accordingly, we expect that the claimants in the Lynn refund proceeding will belong to one of the other three classes of purchaser which did not receive refunds directly from Lynn, i.e., resellers (including retailers) of Lynn motor gasoline in Lynn's classes of purchaser 1, 3, or 4.

These three classes are described in the ERA audit file as follows:

Class 1: Large volume reseller which purchased trailer loads of Lynn motor gasoline.

Class 3: Retail gasoline station which received shipments of over 7,000 gallons per month from Lynn.

Class 4: Retail gasoline station which received shipments of less than 7,000 gallons per month from Lynn.

The ERA audit file identifies customers in each of the three classes, but does not list customer-specific overcharge amounts.[2] These customers are listed by class in Appendix B to this Proposed Decision and Order. We recognize, however, that there may be other resellers who purchased motor gasoline from Lynn and who may have been injured by Lynn's pricing practices during the consent order period. We therefore also propose to accept applications for refund from reseller customers not listed in Appendix B, provided they can prove that they were injured by Lynn's alleged pricing violations.

B. Showing of Injury

To demonstrate injury, a reseller claimant must provide evidence that it would have maintained its prices for the motor gasoline purchased from Lynn at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased motor gasoline from Lynn, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985), *Tenneco Oil Co./Mid-Continent Systems, Inc.* 10 DOE ¶ 85,009 (1982). In addition, a reseller will be required to show that it had "banks" of unrecovered increased product costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its prices.[3] The maintenance of banks will not, however, automatically establish injury. *See, e.g., Tenneco Oil Co./Chevron U.S.A.*, 10 DOE ¶ 85,014 (1982).

C. Applicants Claiming a Refund of $5,000 or Less

In this case, we propose to adopt a presumption of injury which has been used in many previous special refund cases. We will presume that applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Lynn motor gasoline. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims procedure to assure that the costs of filing and processing a refund application do not exceed the benefits. *See e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We will adopt such a procedure in this case. Therefore, any applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[4]

D. Spot Purchasers

We further propose that resellers that made spot purchases from Lynn be ineligible to receive a refund, even a refund below the threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, a spot purchaser tends to have considerable discretion in where and when to make purchases and would therefore not have made spot purchases of Lynn's product at increased prices unless it was able to pass through the full amount of the alleged overcharges to its own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, in order to overcome the rebuttable presumption that it was not injured, a spot purchaser should submit evidence to establish that it was unable to recover the prices it paid for Lynn motor gasoline and that it did not have discretion as to where and when to make the purchase(s) upon which its refund claim is based.

E. Calculation of Refund Amounts

We propose to use a volumetric method to divide the consent order fund among applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all the gallons of the consent order product(s) sold by a consent order firm. *See, e.g., Vickers.* In most Subpart V proceedings, one volumetric amount is established which is applicable to all products and all eligible applicants. However, we have used more than one volumetric amount when necessary to effectuate the restitutionary purposes of Subpart V. *See, e.g., Blex Oil, Inc., et al.*, 13 DOE ¶ 85,019 (1985) (*Blex*) (separate volumetric amounts for No. 2 heating oil and motor gasoline in cross Oil Co. proceeding). Moreover, in prior cases we have used the information contained in the ERA audit file to fashion a refund plan which is likely to correspond more closely to the injuries experienced than would a plan based solely on a volumetric approach. *See, e.g., Marion* (applicant could choose between volumetric refund and pro rata share of alleged overcharges). In the present case, we will persume that the effects of the alleged overcharges were dispersed equally within each individual reseller class of Lynn customers, and not equally over all sales to all customers. We do so because the ERA audit file in the present case contains sufficient information for us to conduct a class by class analysis of the alleded overcharges. This analysis indicates that there is a marked difference in the

[2] In two instances, the same firm appears as a customer in one of Lynn's end-user classes and in one of its reseller classes. These two customers, as well as any other customers who fit this description, will be eligible to apply for refunds only on the basis of those volumes which they purchased from Lynn and resold.

[3] Retailer applicants will not be required to submit bank information in connection with sales made after July 15, 1979, the date on which the amendment to the price rule eliminating the banking requirement for retailers became effective. 44 FR 42541 (July 19, 1979).

[4] As in prior refund cases, resellers whose calculated refund exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to make a detailed demonstration of injury.

amount of the per gallon overcharge allegedly experienced by each of the three classes. Therefore, in order to distribute the refund monies to firms in a manner which more closely approximates their actual injury, we propose to grant refunds to claimants in the three classes of customer based on three different volumetric refund amounts. *See, e.g., Collins Oil Co.*, 13 DOE ¶ 85,077 at 88,213 n.7 (1985), and *Eugene Endicott*, 13 DOE ¶ 85,086 at 88,233 n.9 (1985) (combination of pro rata share of alleged overcharges and volumetric presumption for certain classes of purchaser). *See also Blex*. The volumetric refund amount is calculated by dividing the consent order settlement amount attributable to each class of purchaser by the gallonage of motor gasoline sold by the consent order firm to that class during the consent order period.[5] The per gallon volumetric refund amounts, exclusive of interest, are set forth in Appendix A.[6] An eligible claimant's refund will be calculated by multiplying the appropriate volumetric refund amount by the number of gallons of motor gasoline it purchased from Lynn during the consent order period.[7]

As in previous cases, we propose to establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1985).

Refund applications in the Lynn proceeding should not be filed until after issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received as a result of the Consent Order involved in this proceeding, we intend to publicize the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim.

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be disbursed in a number of different ways. We will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by E.B. Lynn Oil Company pursuant to the Consent Order executed on September 20, 1981, will be distributed in accordance with the foregoing Decision.

Appendix A

Name of Firm: E.B. Lynn Oil Company
Consent Order Period: May 1, 1979–April 30, 1980
Product Covered: Motor Gasoline
Consent Order Amount: $50,174.00

Class of purchaser	Portion of consent order fund	Volumetric amount
No. 1	$2,804.00	0.001694
No. 3	$21,811.00	0.015778
No. 4	$25,469.00	0.019760

Appendix B

The following is a list of Lynn's identified reseller customers according to class:

Class 1

*Hill Oil Company

Class 3

Rudy's Amoco
Dick's Amoco [1]
Rolland Amsallan
Fluck & Sloyer
C.B. Schnick
Fuys Exxon
Walters
K Amoco [1]
John Kelson
Dries Supply
Airport Garage

Class 4

F. Koebler [1]
Rome Dilorenzo [1]
Randy Knessler [1]
Schlosser Bros. [1]
Frank Klotz [1]
Frank Debaradinis [1]
A. Denardo
S & R Amoco
Art's Service Center
Robert Hedrick [1]
John Klebon [1]
Fat Boy's Amoco
Gutshall Chevco
Faulkner Olds
Trexler Oil
Hurnish Oil
Orkin
Ernest Altyeh Jr.
W.S. Reichenbach & Son Inc.
Art Houser
Lamar Wolfgang
Airport Garage
Union
Moch Truck
J & R Amoco
Call Chronicle News
George Lightwalner

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[5] The consent order settlement amount for each class of purchaser represents a share of the total consent order fund that is proportional to the share of the total alleged overcharges experienced by that class.

[6] We recognize that the impact on an individual purchaser could have been greater than the applicable volumetric refund amount, and we propose that any purchaser be allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of Lynn's pricing practices. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984) and cases cited therein.

[7] One Lynn customer, Airport Garage, was listed as being in two reseller classes of customer. We propose to calculate the refund for which it is found eligible by multiplying the amount of motor gasoline it purchased as a member of each class by the appropriate volumetric refund amount for that class.

[1] We have obtained addresses for these customers from the ERA audit files and have sent them copies of this PD&O. Other customers who wish to be placed on the service list for future correspondence in this proceeding should list for future correspondence in this proceeding should contact the Office of Hearings and Appeals of the DOE.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $700,000 in settlement funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Leonard E. Belcher, Inc., a reseller of No. 2 heating oil based in Springfield, Massachusetts.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0586.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to an Agreed Final Judgment entered into by Leonard E. Belcher, Inc., which settled possible violations of DOE price controls in the firm's sales of covered petroleum products to its customers during the

August 1973 through February 1977 period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Belcher pursuant to the settlement. The DOE has tentatively established procedures under which purchasers of covered products during the audit period may file claims for refunds from the settlement fund. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 30, 1985

George B. Breznay

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

October 30, 1985.

Name of Firm: Leonard E. Belcher, Inc.
Date of Filing: June 4, 1985.
Case Number: HEF-0586.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement,* 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Leonard E. Belcher, Inc. (hereinafter Belcher), was a reseller of No. 2 fuel oil, which operated two terminals in Springfield, Massachusetts. A DOE audit of Belcher's records revealed possible regulatory violations with respect to the firm's pricing refined petroleum products, during the period November 2, 1973 through August 18, 1974. A remedial order issued to Belcher on July 19, 1977 was appealed, remanded, and subsequently revised and affirmed on appeal by the OHA. *Leonard E. Belcher, Inc.* 1 DOE ¶ 80,183 (1978), *aff'd, Leonard E. Belcher, Inc.* 7 DOE ¶ 80,180 (1981). Belcher appealed DOE's ruling to the United States District Court for the District of Massachusetts. *Leonard E. Belcher* v. *DOE,* No. 77-2975-F (D. Mass. 1983). On November 21, 1983, DOE and Belcher entered into an Agreed Final Judgment (hereinafter Judgment) in settlement of the court case, and of all other possible regulatory violations by Belcher relating to sales of No. 2 fuel oil between August 1973 and February 1977.[1] Under the terms of the Judgment, Belcher remitted $700,000 to the DOE on December 28, 1983. That sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of September 30, 1985 the Belcher escrow account had earned $121,380 in interest. This Proposed Decision concerns the distribution of the $700,000 that was deposited into the escrow account, plus the accrued interest.

II. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Belcher Judgment fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,597 (1981). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund money to identifiable purchasers of petroleum products who may have been injured by Belcher's pricing practices during the period January 1973 through June 1976. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

III. Proposed Refund Procedures

A. Refunds to Identifiable Purchasers

We propose that the Belcher Judgment funds be distributed to claimants who satisfactorily demonstrate that they were injured by Belcher's alleged pricing violations. The information available to us at this time regarding Belcher's operations during the audit period provides names and addresses of many, but not all, of the firm's customers. These customers will be notified by direct mail that they may file refund applications.

Customers of Belcher who are not on this list will also be allowed to apply.

From our experience we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers (including refiners and retailers), and (2) firms, individuals, or organizations that were consumer (end-users). The heating oil purchased by these claimants was purchased either directly from Belcher or from other firms in a chain of distribution leading back to Belcher. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Belcher petroleum products for the period August 1973 through June 1976. If the products were not purchased directly from Belcher, the claimant must include a statement setting forth its reasons for believing the product originated with Belcher. In addition, a refiner reseller or retailer that files a claim will be required to establish that it was injured by the alleged overcharges. To make this showing, a refiner reseller or retailer claimant will first be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement,* 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it must provide some further evidence of injury. *See Amoco* at 88,215.

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Belcher during the Judgment period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

[1] Although the Judgment refers to all claims up to February 1977, No. 2 fuel oil, the only product covered, was exempted from regulation on July 1, 1976. 39 FR 34008. Therefore, we cannot entertain Applications for Refund in connection with purchases made after that date. *New York Petroleum,* 12 DOE ¶ 85,047 (1984), note 10.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis indetermining its prices. however, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that it bore a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶85,054 (1984) and cases cited therein at 88,164.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Belcher Judgment is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to the OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Belcher and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is below a threshold level. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable.[2] *See Texas Oil & Gas Corp.* 12 DOE ¶85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶85,226 (1984) and cases cited therein.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled by the Judgment. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the Judgment period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Belcher petroleum products need only document their purchase volumes from Belcher to make a sufficient showing that they were injured by the alleged overcharges.

We believe that if a refiner, reseller or retailer made only spot purchases from Belcher, it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Office of Enforcement, 8 DOE ¶82,597 (1981) at 85,396–97 (hereinafter cited as *Vickers*). We believe the same rationale hold true in the present case. Accordingly, a spot purchaser which files a claim should submit additional evidence to establish that it was unable to recover the increased prices it paid for Belcher petroleum products. *See Amoco* at 88,200.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the Judgment. In the present case, based on the information available to us at this time, the volumetric refund amount is $.00576 per gallon,[3] exclusive of interest. As of September 30, 1985, accumulated interest increased the volumetric refund amount to $.00675.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of

[2] Resellers whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than $5,000 but who limit their claims to the threshold amount, will be eligible for a refund of the $5,000 threshold amount without being required to submit additional evidence of injury.

[3] According to information available to us from audit files, during the consent order period, Belcher sold 121,632,098 gallons of heating oil. The volumetric refund amount is obtained by dividing the money remitted by Belcher by this volume amount ($700,000 divided by 122,632,098 gallons = $.00576 per gallon).

the Judgment involved in this proceeding, we intend to publicize widely the distribution process of solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Petroleum Marketers Association of America and other trade publications, and to local newspapers in the Springfield, Massachusetts area. These organizations should be helpful in advising potential claimants of this proceeding.

B. Distribution of the Remainder of the Judgment Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Belcher's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Leonard E. Belcher, Inc. pursuant to the Agreed Final Judgment entered into on November 21, 1983 will be distributed in accordance with the foregoing Decision.

Appendix A

Case No. HEF-0586, Customers of Leonard E. Belcher, Inc., Addresses Known

A.C. Motors, 339 Bliss, W. Springfield, MA 01105
Alpha Oil Co., 2440 Boston, Rd., Wilbraham, MA 01095
Bay State Fuel, 26 Roanoke Rd., W. Springfield, MA 01118
Bay State Refining, P.O. Box 289, Chicopee, MA 01014
Bolduc's Fuel Ser., 270 Main St., Indian Orchard, MA 01105
Borsari Oil, 107 Bosworth, W. Springfield, MA 01108
Central Oil Co., 9 Canal, Chicopee, MA 01013
Cernak Fuel Co., 100 Northhampton, Easthampton, MA 01027
Chrabasz Oil Co., Ware Center, Ware, MA 01082
Cirelli Fuel Oil, 90 Central, Springfield, MA 01105
Damour's Ser. Station, 190 Orange, Springfield, MA 01108
Davis Fuel Co., 55 Randall Place, Springfield, MA 01108
Leo Diotalevi, 41 Weston, Wilbraham, MA 01095
East Springfield Oil Co., Hendee, Springfield, MA 01104
Gentile Oil Co., 81 Agnes, Springfield, MA 01118
Grimaldi Oil Co., 1121 E. Columbus, Springfield, MA 01105
Howard Fuel Co., 89 Bay, Springfield, MA 01109
Ray Kelley & Son, Water St., Palmer, MA 01069
Kieras Oil Co., Russellville Rd., N. Amherst, MA 01059
Kulig Oil Co., 159 Granby Rd., Chicopee, MA 01013
Ludwin Oil Co., 1084 Chicopee, Wilbraham, MA 01095
McCarthy Bros. Fuel Co., South St., Warren, MA 01083
Mark Oil Co., 395 Dwight, Springfield, MA 01103
Marquis Oil Co., #1590, 86 Robbins Rd., Springfield, MA 01104
Matera Oil Co., 24 School St., Thorkdyke, MA 01079
New Eng. Smelting, 502 Union, W. Springfield, MA 01109
Nowak Oil Co., Stony Hill Rd., Wilbraham, MA 01095
D. Petracone & Son, Palmer Rd., Ware, MA 01082
Pino Fuel Oil Co., 1304 Worcester, Indian Orchard, MA 01014
Pioneer Fuel Oil Co., 25 Rankin, E. Longmeadow, MA 01028
Pomeroy Oil Co., 12 Exchange, Chicopee, MA 01013
Roberts & Perry, 511 E. Columbus, Springfield, MA 01105
A.R. Sandri, 400 Chapman, Greenfield, MA 01301
Skorumski Bros. Fuel, 2800 Boston Rd., Wilbraham, MA 01095
Tryba Oil Co., 48 Highland Ave., Chicopee, MA 01013
Turners Falls Co., 298 Avenue A, Turners Falls, MA 01376
Vickers Fuel Co., 75 Union, W. Springfield, MA 01105
Villege of Hampden, Selectman's Office, Main St., Hampden, MA 01036
Village of Warren, Town Hall, Warren, MA 01083
Witek Fuels, 40 Hawthorne Ave., W. Springfield, MA 01105
Davis & Daggett, 8 Cass, Springfield, MA 01104
Mr. Dave Hart, Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470

Appendix B

Case No. HEF-0586, Customers of Leonard E. Belcher, Inc., Addresses Unknown

ABC Oil
W.R. Bentley
William A. Briggs
R.H. Clark & Sons
Danny's Oil Co.
Dave's Tire Exch.
Dick's Heating
R.C. Fisher
Fitzgeral Oil Co.
Fleming Oil Co.
Hatch Oil Co.
Jac's Fuel Oil
Krupa Oil Co.
L&B Fuel
Lacasse Coal & Oil
Lakeside Fuel
Lango Fuel Co.
Locy Fuel Oil Co.
Longyard Farms
Mackim Fuel Co.
Mittineauge C & O
Moriarty Bros.
Oil Burner Eng.
PLP Enterprises
Paragon Oil Co.
Premium Fuel Oil
Raynor Heating Oil
Rexoil Fuel Co.
Robbins Trailer
Sherman Oil Co.
Somers Oil Ser.
Stefanik Fuel Oils
W. Strickland
Victor Oil Co.
Willis Fuel

[FR Doc. 85-26666 Filed 11-6-85; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

NBD Bancorp, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 22, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.*, Detroit, Michigan; to engage *de novo* through its subsidiary, NBD Securities, Inc., Detroit, Michigan, in offering discount securities brokerage, related securities credit activities pursuant to Regulation T, and other incidental activities including custodial services, individual retirement accounts and Keogh accounts pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, November 1, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-26550 Filed 11-6-85; 8:45 am]

BILLING CODE 6210-01-M

United Jersey Banks et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

Correction

In FR Doc. 85-24623 appearing on page 41958 in the issue of Wednesday, October 16, 1985, make the following correction:

In the third column, in paragraph 21, last line, insert the following after "Wisconsin,": "thereby indirectly acquiring Farmers State Bank, Stetsonville, Wisconsin.".

BILLING CODE 1505-01-M

Wayne 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 November 29, 1985.

A. **Federal Reserve Bank of Cleveland** *(Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:*

1. *Wayne Bancorp, Inc.*, Wooster, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Wayne County National Bank of Wooster, Wooster, Ohio.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Bancorp, Inc.*, Suring, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of American Bank of Wisconsin, Oconto, Wisconsin; the successor by merger of Suring State Bank, Suring, Wisconsin and The First National Bank of Oconto, Oconto, Wisconsin; and at least 80 percent of the voting shares of First National Financial Corporation, Marinette, Wisconsin, thereby indirectly acquiring The First National Bank of Marinette, Marinette, Wisconsin.

2. *Citizens Financial Corporation*, Highland Park, Illinois; to acquire 100 percent of the voting shares of First National Bank of Skokie, Skokie, Illinois.

3. *Community Bancorp, Inc.*, Hammond, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank, North Liberty, Indiana.

4. *Windsor BancShares, Inc.*, Windsor, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Windsor State Bank, Windsor, Illinois.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Alice Financial Corporation*, Alice, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank, Alice, Texas.

2. *FWNB Bancshares, Inc.*, Carrollton, Texas; to acquire 100 percent of the voting shares of First Western National Bank of Mesquite, Mesquite, Texas, a *de nova* bank.

3. *FWNB Bancshares, Inc.*, Carrollton, Texas; to acquire 100 percent of the voting shares of First Western National Bank of Plano, Plano, Texas, a *de nova* bank.

Board of Governors of the Federal Reserve System, November 1, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-26551 Filed 11-6-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of Federal Supply and Services; Federal Hotel/Motel Discount Directory, January 1986 Edition; Availability

The General Services Administration (GSA) announces the eighth edition of the Federal Hotel/Motel Discount Directory, which is scheduled for publication in January 1986. The directory will include over 5,700 hotels and motels in more than 1,800 domestic and foreign cities (an increase of 1,400 establishments and approximately 352 cities over the 1985 directory), and will provide information to Federal travelers to assist them in securing the most economical lodging available. The directory will include:

1. Discount lodging rates effective for 1 year;

2. Types of accommodations and facilities available to Federal travelers, such as accommodations for handicapped persons, free parking, free limousine service, and whether restaurants are located on the facility's premises;

3. Whether establishments accept the Diners Club charge card, both for purchases and confirmed reservations;

4. Whether establishments guarantee the published discount rates;

5. Information concerning where agencies or individual Federal travelers may obtain tax exemption certificates for cities or states which waive such taxes for Federal employees; and

6. Whether establishments are willing to make their Government rate(s) available to cost-reimbursable Government contractors traveling on official business.

Agencies that have not already done so are encouraged to ride GSA's printing requisition and to order a sufficient supply of directories to satisfy their headquarters and field office needs for 1986.

Agencies should submit a Standard Form (SF) 1, Consolidated Printing and Binding Requisition, citing the title of the directory and quantity desired. The completed SF 1 should be sent to the Government Printing Office (GPO), Planning Service, Room 838, Washington, DC 20202, no later than November 22, 1985.

Single copies may be obtained over the counter at GPO bookstores, by calling the GPO order desk at (202) 783-3238 (FTS not available), or by writing to the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The cost of the directory will be announced by GPO at the time of publication.

By promoting and supporting the GSA Hotel/Motel Discount Directory program within your agency, you will help to reduce significantly lodging costs to Federal travelers. GSA will continue its efforts to constantly expand the number of cities where discount lodgings are available and to seek greater discounts for the Federal traveler.

Dated: October 30, 1985.

Charles T. Angelo,

Director, Travel and Transportation Services Division.

[FR Doc. 85-26635 Filed 11-6-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senior Executive Service; Performance Review Board Membership

Title 5, U.S.C. 4314(c)(4) of the Civil Service Reform Act of 1978, Pub. L. 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services.

Federal Performance Review Board Members

Richard H. Adamson
Duane Alexander
Loran D. Archer
William H. Aspden, Jr.
Calvin B. Baldwin, Jr.
Gerald Barkdoll
Carol H. Bauer
Edwin D. Becker
Katherine L. Bick
James D. Bloom
Joseph H. Boutwell, Jr.
Everett F. Bryant
Barbara Bynum
Hugh Cannon
Ronald H. Carlson
Bruce Chabner
Vivian Chang
Philip S. Chen, Jr.
Winston Cobb
Lester M. Crawford
Bartholomew J. Crivella
Rhoda Davis
John L. Decker
Henry R. Desmarasis
Walter R. Dowdle
David V. Dukes
Isabel P. Dunst
Jack Durell
John C. Eberhart
Jean K. Elder
Jo Eleanor Elliott
Joyce D.K. Essien
Bartlett S. Fleming
Gail F. Fisher
Carl A. Fretts
Barbara J. Gagel
Murray F. Goldstein
Frederick K. Goodwin
Jerome C. Green
Richard C. Greulich
M. Gene Handelsman
George E. Hardy, Jr.
Elliott S. Harris
Donald R. Hopkins
Robert A. Israel
Gerald H. Ivey
Julian Jurand
Martin L. Kappert
John H. Kelso
Roland E. King
Eugene Kinlow
Jin H. Kinoshita
Irwin J. Kopin
Jeffrey P. Koplan
Carl Kupfer
Richard P. Kusserow
Louis C. LaMotte, Jr.
Claude J. Lenfant
Joseph R. Leone
Arthur S. Levine
Samuel Lin
Donald A.B. Lindberg
Mortimer B. Lipsett
Harald A. Loe
John D. Mahoney
Felix J. Majka
Thomas E. Malone
Joel M. Mangel
Norman D. Mansfield
Jack N. Markowitz
Jack Martin
Charles R. McCarthy
Thomas S. McFee
Gerald F. Meyer
Donald Mings
Richard A. Millstein
Jay Moskowitz
Joseph A. Mottola
William E. Muldoon
John A. Norris
Albert L. Notkins
Jack Orloff
John J. O'Shaughnessy
Harry Overs
Betty H. Pickett
Julie C. Ponquinette
Arnold W. Pratt
Alan S. Rabson
David P. Rall
Joseph E. Rall
William F. Raub
Darrel A. Regier
Richard J. Riseberg
Martin Rodbell
Jo Anne B. Ross
Jesse Roth
Thomas Scarlett
Frank H. Seubold
Gordon Sherman
Lawrence E. Schulman
Clay E. Simpson, Jr.
Barbara Sledge
Frank Smith III
Dale Sopper
Susanne A. Stoiber
Frank J. Sullivan
Robert L. Trachtenberg
John C. Villforth
Barbara S. Wamsley
Craig Wallace
James A. Walsh
Carol J. Walton
Norman W. Weissman
T. Franklin Williams
Will L. Williams

Dated October 30, 1985.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 85-26644 Filed 11-6-85; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

DETROIT DISTRICT OFFICE, chaired by A. L. Hoeting, District Director. The topics to be discussed are Health Messages on Food Labeling, In Vitro Diagnostic Products, and Updates.

DATE: Thursday, November 14, 1985, 7:30 p.m.

ADDRESS: Ballroom, Walb Memorial Union, IPFW, 2101 Coliseum Blvd., East Fort Wayne, IN 46805.

FOR FURTHER INFORMATION CONTACT: Lilyan M. Goossens, Consumer Affairs Officer, Food and Drug Administration, 575 North Pennsylvania, Rm. 693, Indianapolis, IN 46204, 317-269-6500.

ST. LOUIS STATION OFFICE, chaired by Raymond K. Hedblad, Station Chief. The topic to be discussed is Health Claims on Food Labeling.

DATE: Wednesday, November 20, 1985, 9 a.m. to 11 a.m.

ADDRESS: St. Louis Community College at Florissant Valley, Rm. IR-12, 3400 Pershall Rd., St. Louis, MO 63135.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 North Collins, Laclede's Landing, St. Louis, MO 63102, 314–424–5021.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 1, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–26562 Filed 11–6–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85F–0440]

Union Carbide Corp.; Filing of Food Additive Petition

Correction

In FR Doc. 85–23959 appearing on page 41027 in the issue of Tuesday, October 8, 1985, under **SUPPLEMENTARY INFORMATION**, twelfth line, the first word is corrected to read "methylpentene".

BILLING CODE 1505–01–M

Health Care Financing Administration

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of proposed new routine uses for an existing system of records.

SUMMARY: The Health Care Financing Administration (HCFA) is amending the system notice for its Group Health Plan System HHS/HCFA/BPO No. 09–70–0506, to add two new routine uses. We invite comments on these new routine uses.

EFFECTIVE DATES: The proposed new routine uses shall take effect without further notice on or before December 9, 1985, unless comments received on or before that date cause a contrary decision.

ADDRESS: Please address comments to: Richard A. Demeo, HCFA Privacy Act Officer, Health Care Financing Administration, G-A-1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. We will make comments received available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Ronald L. Kelly, Division of Group Health Plans Operations, 320 Meadows East Building, 6300 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 594–1620.

SUPPLEMENTARY INFORMATION: The notice for the Group Health Plan System, HHS/HCFA/BPO No. 09–70–0506, was most recently published at 47 FR 45724 (1982). This system contains records of Medicare beneficaries who are enrolled in a Health Maintenance Organization (HMO), Competitive Medical Plan (CMP), or Health Care Prepayment Plan (HCPP), or had been enrolled within the past year. There are approximately 1.25 million records in the system. The file is growing by approximately 8,000 records per month. Records contain information about beneficiary entitlement to Medicare Parts A and B, and about the beneficiary enrollment in an HMO, CMP, or HCPP (Plan) that is contracting with HCFA for direct reimbursement. Each record also contains the beneficiary name, date of birth, and Medicare health insurance claim number.

The file is maintained for accounting control, to expedite the excharge of data with Group Health Plans, to control the posting of pro rata amounts to the Part B deductible of currently enrolled Group Health Plan members, and to determine the reimbursement amount for Group Health Plans.

We are proposing to establish two new routine uses. First we are proposing that the provider and suppliers of Medicare services have access to the records through a contractor, fiscal intermediary, or carrier. Providers and suppliers of Medicare services need timely access to the information in the records to determine proper billing procedures under Title XVIII.

Providers and supplies of Medicare services will be allowed access to the records only on an individual, case by case basis, and only when they have a claim for Medicare reimbursement signed by the Medicare beneficiary.

The second proposed routine use is for a contractor. We propose that a contractor be provided with a magnetic tape copy of the file each month in order to build an on-line data base file. HCFA, plans, and providers of services often need immediate access to the information available on the file. This is not possible through the SSA/HCFA batch system. This additional routine use allowing disclosure to a contractor is necessary because HCFA lacks the resources to provide totally the data processing hardware and software needed to operate an on-line data base system. Therefore, we propose to contract for this service.

We are revising the safeguards section of the system notice to include necessary safeguards for computerization under contract. Contractors will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulations. The System Manager and the Project Officer will control access to the data. Only contractor personnel and employees whose duties require the use of such information will have regular access to records in this system. Records will be stored in source offices. Computer terminals will be in secured areas.

Data stored in computers will have limited access through the use of keywords known only to the System Manager, delegated representative of the System Manager, or the Project Officer. These keywords will be changed frequently.

To comply with technical requirements of the Privacy Act, we are proposing to establish the routine uses below adding to previously published uses (1), (2), and (3):

(4) To providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of Title XVIII. Providers and suppliers:

a. Will have access only through a CRT terminal.

b. Will have access to only one record at a time.

c. Must enter both beneficiary name and Health Insurance Claim Number to access a record.

d. Must have a claim for services for the beneficiary.

e. Must enter a password in order to get access to the file.

(5) To a contractor(s) when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. The contractor must agree:

a. Not to publish or otherwise disclose data in a form in which beneficiaries could be identified (except to plans, providers, suppliers, carriers and intermediaries as authorized by HCFA), and

b. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

These new routine uses are compatible with the purpose for which

the information is collected. Addition of these new routine uses can be accomplished with no reduction in beneficiaries' privacy because HCFA will impose requirements on recipients who must agree in writing to protect the data from unauthorized access and from being disclosed in a form that permits identification of individuals.

This action does not require a report of altered system under 5 U.S.C. 552a(o). We are publishing below the system notice in its entirety, with the proposed changes incorporated. We are also making minor editorial changes throughout the notice to enhance clarity and specificity.

Dated: October 31, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

09-70-0506

SYSTEM NAME:

Group Health Plan System HHS, HCFA, BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Office of Systems Operations, OS, SSA, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Part A (Hospital Insurance) and Part B (supplementary medical) Medicare services.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information about a beneficary's health insurance entitlement and supplementary medical benefits usage.

Contact System Manager for location of Contractor(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1833(a)(1)(A), 1866 and 1876 of Title XVIII of the Social Security Act (42 U.S.C. 1395(a)(1)(A), 1395cc, and 1395mm).

PURPOSE(S):

To maintain a master file of Group Health Plan members for accounting control; to expedite the exchange of data with the Group Health Plans; and to control the posting of pro-rata amounts to the Part B deductible of currently enrolled Group Health Plan members.

Group Health Plans include the following: Health Maintenance Organizations (HMO), Competitive Medical Plans (CMP), and Health Care Prepayment Plans (HCPP).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made: (1) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. (2) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department of present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(3) To an individual or organizations for a research evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose; for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be idnetified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these same conditions, and with written authorization of HCFA,

(c) For disclosure to a properly idnetified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of a willingness to abide by these provisions.

(4) To providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of Title XVIII. Providers and suppliers:

a. Will have access only through a CRT terminal.

b. Will have access to only one record at a time.

c. Must enter both beneficiary name and Health Insurance Claim Number to access a record.

d. Must have a claim for services for the beneficiary.

e. Must enter a password in order to get access to the file.

5. To a contractor when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. The contractor must agree:

a. Not to publish or otherwise disclose data in a form in which beneficiaries could be identified (except to plans, providers, suppliers, carriers, and intermediaries as authorized by HCFA), and,

b. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and paper listing.

RETRIEVABILITY:

The system is indexed by health insurance claim number.

SAFEGUARDS:

Only authorized personnel have direct access to information in the Group Health Plan systems. In addition, Groups Health Plan personnel are advised that information is confidential.

Offices containing records are locked when not in use. Computer terminals are in secured areas. All buildings are locked at night.

Employees who maintain records in this system are instructed to grant access only to authorized users. Data stored in computers are accessed through the use of passwords/keywords/numbers known only to the authorized personnel. These passwords are changed as needed. Contractor(s) who maintain records in this system are instructed to make no further disclosures of the records except as authorized by the system manager in accordance with the Privacy Act. Privacy Act requirements are specifically included in contracts related to this system. The project officer and contract officer oversee compliance with these requirements.

The particular safeguards implemented are developed in accordance with Part 6, "ADP Systems Security," of the HHS ADP Systems Manual and the National Bureau of Standards Federal Information Process Standards.

RETENTION AND DISPOSAL:

Health insurance materials used to support the accuracy of the charge per service billed by the plan are retained for 3 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director, Bureau of Program Operations, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager named above and directed to the attention of the Group Health Plan Operations Staff. The individuals should furnish his or her health insurance claim number as shown on social security records.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2).))

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained from the group health plans (which obtained the data from the individual concerned).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-26549 Filed 11-6-85; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-85-1561]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Definition of Income, Rents, and Recertification of Family Income for the Rent Supplement and Section 236 Programs—24 CFR 215, 236, and 886
Office: Housing
Form No.: None
Frequency of submission: On Occasion
Affected public: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated burden hours: 600
Status: New
Contact: James J. Tahash, HUD, (202) 426-3970. Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urgban Development Act, 42 U.S.C. 3535(d).

Dated: October 18, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-26660 Filed 11-6-85; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-85-810; FR-2175]

Region III Philadelphia, Office of the Manager, Richmond Field Office; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Office Manager is designating officials who may serve as Acting Office Manager during the

absence, disability, or vacancy in the position of the Office Manager.

EFFECTIVE DATE: This designation is effective: October 4, 1985.

FOR FURTHER INFORMATION CONTACT: Peter M. Campanella, Regional Counsel, Office of Counsel, Philadelphia Regional Office, Department of Housing and Urban Development, Liberty Square Building, 105 South 7th Street, Philadelphia, PA 19106, phone 215–597–2655. (This is not a toll free number).

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Office Manager during the absence, disability, or vacancy in the position of the Office Manager, with all the powers, functions, and duties redelegated or assigned to the Office Manager: Provided, that no official is authorized to serve as Acting Office Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager
2. Director, Community Planning and Development Division
3. Chief Counsel
4. Director, Housing Development
5. Director, Housing Management
6. Director, Administration Division
7. Director, Fair Housing and Equal Opportunity Division

This designation supersedes the designation effective September 8, 1983.

Authority: Delegation of Authority by the Secretary effective April 23, 1985 50 FR 18742 May 2, 1985.

Dated: October 11, 1985.

G. William Thomas, Jr.,

Manager, Richmond Field Office.

[FR Doc. 85–26657 Filed 11–6–85; 8:45 am]

BILLING CODE 4210–01–M

Region III Philadelphia, Office of the Manager; in Charleston, West Virginia Field Office—Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Office Manager is designating officials who may serve as Acting Office Manager during the absence, disability, or vacancy in the position of the Office Manager.

EFFECTIVE DATE: This designation is effective: September 1, 1985.

FOR FURTHER INFORMATION CONTACT: Peter M. Campanella, Regional Counsel, Office of Counsel, Philadelphia Regional Office, Department of Housing and Urban Development, Liberty Square Building, 105 South 7th Street, Philadelphia, PA 19106, phone 215–597–2655. (This is not a toll free number).

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Office Manager during the absence, disability, or vacancy in the position of the Office Manager, with all the powers, functions, and duties redelegated or assigned to the Office Manager: Provided, that no official is authorized to serve as Acting Office Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Director of Housing
2. Chief, Multifamily Programs/ Mortgage Credit Branch.

This designation supersedes the designation effective December 1, 1983.

Authority: Delegation of Authority by the Secretary effective April 23, 1985; 50 FR 18742 May 2, 1985.

Dated: September 16, 1985.

Carl A. Smith,

Manager, Charleston, West Virginia Field Office.

[FR Doc. 85–26659 Filed 11–6–85; 8:45 am]

BILLING CODE 4210–01–M

Office of Environment and Energy

[Docket No. I–85–135]

Intent To Issue a Finding of No Significant Impact and Compliance With Executive Order 11988

The Department of Housing and Urban Development gives notice concerning the proposed New Territory Subdivision, located in Fort Bend County, Texas and partially within the extraterritorial jurisdiction of the City of Houston, that: (1) It intends to issue a Finding of No Significant Impact (FONSI) based on an Environmental Assessment (EA) for the project and; (2) provides an explanation of why the action is proposed to be partially located in a floodplain as required by Executive Order 11988 on Floodplain Management. Comments are solicited before the HUD Fort Worth Regional Administration makes a final determination whether to proceed without preparing an Environmental Impact Statement (EIS).

Description

The Lexington Development Company of Houston, Texas, has filed an application with the Houston Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) to Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located south of U.S. Highway 90, southwest of the City of Sugar Land, Texas. The proposed subdivision will consist of 2,374 acres of land and will provide approximately 4,800 lots for single family development. When fully developed over a 10-year the subdivision will provide housing for approximately 15,000 persons.

Purpose of FONSI Notice

Pursuant to HUD environmental regulations at 24 CFR Part 50, an EA has been prepared by HUD's Houston Office to determine whether or not an EIS is required. It is the finding of the EA that there would be no significant impact on the human environment and that the project is in compliance with the National Environmental Policy Act and related environmental laws and authorities cited at 24 CFR 50.4. Therefore, in accordance with the applicable regulations a proposed FONSI has been prepared, and a Notice to that effect is hereby published. Pursuant to 40 CFR 1501.4(e)(2) of the Council on Environmental Quality regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested Individuals, Governmental agencies, and private organizations are invited to comment on the FONSI by the date and to the address set forth below.

Purpose of the Floodplain Notice

As required by Executive Order 11988, Floodplain Management, this notice shall serve as the second (final) notice explaining the Department's decision to approve the New Territory Subdivision with the successful completion of the processs described above. Public notices to this effect were published in the Fort Bend Mirror and the Houston Informer on September 15 and September 21, 1985 respectively. The Fort Bend County Levee Improvement District No. 7 was formed for the purpose of reclaiming the area; a levee of at least 3 feet above the 100 year flood level is proposed to protect the area. The Fort Bend County Engineering Department has concurred with this proposal and a Final Letter of Map Amendment regarding the floodplain will be issued by the Federal Emergency Management Administration only on the completion of the improvements. Until then, the District or other comparable jurisdictional authority, will be required to participate in the National Flood Insurance Program

and all residential properties will be required to be covered by flood insurance.

Additional Information and Comments

The EA which serves as the basis for the FONSI and supporting documentation are available for review until the close of the comment period at the HUD Houston Office and the Fort Worth Regional Office during regular business hours. Contacts concerning review should be made with Mr. James M. Wilson, Manager, HUD Houston Office, National Bank of Texas Building, 2211 Norfolk, Suite 300, Houston, Texas 77098–4096, telephone: Commercial (713) 229–3950 or FTS 8–526–7951 or I. J. Ramsbottom, Regional Environmental Officer, HUD Fort Worth Regional Office, 221 W. Lancaster Street, Fort Worth, Texas 76113–2905, telephone: Commercial (817) 870–5482 or FTS 728–5482 (these are not toll free commercial numbers).

Written comments on the FONSI should be submitted to the Fort Worth Acting Regional Administrator, 221 W. Lancaster Street, Post Box 2905, Fort Worth, Texas 76113–2905 (Attention: Regional Environmental Officer) within thirty (30) days of the publication of this Notice.

Dated: November 1, 1985.

Dorothy Williams,

Deputy Director, Officer of Environment and Energy.

[FR Doc. 85–26658 Filed 11–6–85; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise four notices describing systems of records maintained by the Minerals Management Service. Except as noted below, all changes being published are editorial in nature, and reflect organization and other minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register.** The four notices being revised, which are published in their entirety below, are:

1. Personal Property Accountability Records—Interior, MMS–2 (previously published on June 2, 1983 (48 FR 24792)).

2. Accident Reports and Investigations—Interior, MMS–2 (previously published on June 2, 1983 (48 FR 24792)).

3. ELC Records—Interior, MMS–5 (previously published on June 2, 1983 (48 FR 24793)).

4. Advanced Budget/Accounting Control and Information System (ABACIS)—Interior, MMS–8 (previously published on August 1, 1984 (49 FR 30800)).

In all four notices, the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. Also, in all four notices the retention and disposal statements are amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective November 7, 1985. Additional information regarding these revisions may be obained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: October 24, 1985.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/MMS–2

SYSTEM NAME:

Personal Property Accountability Records—Interior, MMS–2

SYSTEM LOCATION:

(1) Procurement and General Services Division, Minerals Management Services, 12203 Sunrise Valley Drive, Reston, Virginia 22091; and (2) Administrative offices in substantially all field locations. A listing of field locations is available from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of MMS who are accountable for Government owned controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of assignment of an internal identification number and acknowledgment of receipts by employees. Records of transfers to other accountable employees. Inventory records containing employee social security numbers and duty stations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (1) Maintain control over MMS-owned and controlled property; and (2) maintain up-to-date inventory and to record accountability for the property. Disclosure outside the Department of the Interior may be made: (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; made at the request of that individual; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; and (5) of Federal State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are both manual and computerized.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Access by authorized employees only.

RETENTION AND DISPOSAL:

Retention and disposal is in accordance with General Records Schedule No. 23, Item No. 1.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property Management Section, General Services Branch, Procurement and General Service Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Contact the System Manager or the pertinent filed installation. See 43 CFR 2.60

RECORDS ACCESS PROCEDURES:

Same as above or to the pertinent field installation for access. See 43 CFR 3.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71

RECORD SOURCE CATEGORIES:

Individual employees and property management personnel.

INTERIOR/MMS-3

SYSTEM NAME:

Accident Reports and Investigation—Interior, MMS-3

SYSTEM LOCATION:

Procurement and General Services Division, Minerals Management Services, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel of the Minerals Management Service (MMS) who have had on-the-job accidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form D1-134, Accident Reports, correspondence, historical information, and corrective action reviews relating to accidents which have occurred on-the-job.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (1) To maintain records of accidents in which MMS employees have been involved; (2) to report statistics and trends to the Department; (3) to monitor and report progress of the safety program in the MMS, using historical data and records of actions taken. Disclosure outside ot the Department may be made: (1) To the U.S. Department of Justice or in a proceeding before a court of adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; and (5) of Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Kept in locked cabinet. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Retention and disposal is in accordance with General Records Schedule No. 18, Item No. 12.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Occupational Health Manager, Procurement and General Service Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him or her must be addressed to the System Manager. See 43 CFR 2.60

RECORD ACCESS PROCEDURE:

A request for access must be in writing, signed by the requester, submitted to the System Manager, and meet the content requirements of 43 CFR 2.63

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71

RECORD SOURCE CATEGORIES:

Accident victims, witnesses, supervisors, and investigators.

INTERIOR/MMS-5

SYSTEM NAME:

ELC Records—Interior, MMS-5.

SYSTEM LOCATION

Procurement and General Services Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Minerals Management Service (MMS) employees Service-wide.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individual employees, social security numbers, grades, office telephone, location codes, room numbers, tenures, mail stop codes, organization codes, and home zip codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of these records are: (1) To prepare MMS telephone directories; (2) ride sharing; and (3) to prepare space occupancy reports. Disclosure outside of the Department may be made: (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is

compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statue rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Maintained in manual and computerized form.

RETRIEVABILITY:

By name or social security number.

SAFEGUARDS:

Records kept in locked cabinets for use by the Facilities Management Section.

RETENTION AND DISPOSAL:

Determination of the disposition of these records is pending approval of the Archivist of the U.S.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Facilities Management Section, General Services Branch, Procurement and General Services Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him or her must be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to the System Manager. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Contact the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom records are kept.

INTERIOR/MMS-8

SYSTEM NAME:

Advanced Budget/Accounting Control and Information System (ABACIS)—Interior, MMS-8.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Office of Administration, Financial Management Division, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All debtors including employees, former employees, persons paying for goods or services, returning overpayments, or otherwise delivering cash, business firms, private citizens and institutions. The record contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorship. Some of the records in the system pertain to individuals and may reflect personal information. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations, other business entities and organizations. These records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, address amount owned by or to, goods or services purchased, overpayment, check number, date and treasury deposit number, awards, and advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 5514 (2) 31 U.S.C. 3511 (3) 5 U.S.C. 5701-09 (4) 31 U.S.C. 3701, 3711, 3717, 3718.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to account for monies paid and collected by the Minerals Management Service, Financial Management Division, and for billing and followup. Disclosure outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the dislcosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statue, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (4) to the Department of the Treasury to effect payment to Federal, State, and local government agencies, nongovernmental organizations, and individuals; (5) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset; and (6) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer media with input forms and printed output in manual form and on microfilm.

RETRIEVABILITY:

Indexed by name and date, appropriation, or fund to be audited.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51, for computer and manual records.

RETENTION AND DISPOSAL:

Retention and disposal is in accordance with General Records Schedule No. 7, Item Nos. 1-4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 632, Reston, Virginia 22091.

NOTIFICATION PROCEDURES:

Inquires regarding the existence of a record should be addressed to the System Manager. A written signed request stating that the individual seeks information concerning his/her records is required, (43 CFR 2.60).

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORDS SOURCE CATEGORIES:

Debtor, accounting records, individual remitters.

[FR Doc. 85-26591 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-MR-M

Fish and Wildlife Service

Management of Charles M. Russell National Wildlife Refuge; Availability of Final Environmental Impact Statement (FES 85-44)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of FEIS.

SUMMARY: This notice advises the public that the Fish and Wildlife Service's Final Environmental Impact Statement (FEIS) to implement a plan for the operation of Charles M. Russell National Wildlife Refuge (CMR) is available for review and comment. The FEIS considers five alternative management schemes for CMR: Alternative A, No Action (continue management unchanged); Alternative B, Enhanced Wildlife Habitat Management (proposed action); Alternative C, Intensive Wildlife Management; Alternative D, Multiple Use; and Alternative E, No Grazing. Public comments and suggestions regarding this FEIS are requested.

DATES: Comments on this Final EIS must be submitted on or before December 9, 1985.

ADDRESS: Written comments should be sent to Galen Buterbaugh, Regional Director, U.S. Fish and Wildlife Service (WR), Box 25486, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Fries, Refuge Manager, Charles M. Russell National Wildlife Refuge, P.O. Box 698, Lewistown, Montana 59457, telephone: (406) 538-8706. Individuals wanting copies of the FEIS for review should immediately contact either Mr. Fries or the Denver Regional Office (address above). Copies have been sent to all agencies and individuals who participated in the preparation of and/or commented on the DEIS.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to advise the public that the Service has prepared a Final EIS for the management of the Charles M. Russell National Wildlife Refuge, Montana, and that it is available for review and comment.

In the **Federal Register** dated September 27, 1979, 44 FR 55669, the Service published our intent to prepare an EIS for a proposal to implement a master plan for the operation of CMR. A Draft EIS was prepared and distributed in 1980 and again in 1984. The notice of availability for the 1984 draft was published in the **Federal Register**, Volume 49, Number 56, page 10584, dated March 21, 1984.

The comment period for the 1984 Draft EIS ended August 15, 1984. A total of 420 letters were received during and shortly after this deadline. An additional 1,290 identical preprinted postcards were also received from individuals. Public hearings on the 1984 draft were held on July 31, August 1 and 2, 1984, in Glasgow, Lewistown, and Missoula, Montana. A total of 76 statements were received.

The five management alternatives presented in the Final EIS are basically the same as presented in the draft. Editorial and factual changes have been made throughout the text as a result of the review process following the August 1984 Draft EIS. Tables were corrected as necessary. Changes in the Final EIS incude: (1) Suggestions for improvement from comments, (2) further clarification of procedures and other parts of the Draft EIS in which comments suggested poor communication, (3) greater emphasis on monitoring of management to evaluate effectiveness in meeting refuge objectives, (4) increased emphasis on differentiation between wildlife habitat condition and range condition.

The Final EIS considers five alternative management schemes for the 1,094,301-acre refuge. Alternative A is the "No Action" alternative, and represents management as unchanged from current operations.

Alternative B is the proposed action and is designed to reach and maintain the refuge objectives. Reintroduction of peregrine falcons, black-footed ferrets, and swift fox would be made in certain refuge areas as animals become available. In addition, bighorn sheep would be introduced at selected sites. A habitat management plan for each allotment would be prepared by 1990, identifying specific wildlife habitat problems and providing specific management actions to correct the problems. Periodic habitat evaluations would be made to determine whether wildlife objectives were being met. The most significant management actions to achieve habitat objectives would be reductions of livestock grazing, changes in seasons of livestock use, and habitat treatment practices such as prescribed burning. Cooperative farming and haying would be phased out in the bottoms along the Missouri River to restore natural rive bottoms. Livestock grazing would be reduced to 40,482 Federal Animal Unit Month (AUM's), which represents a 33 percent average reduction from present federally-licensed AUM's. Precription grazing would be employed as a management tool to provide certain habitat conditions to benefit a particular wildlife species. Range improvement would include some fencing to keep livestock numbers within authorized levels, and some new water developments would be construced. No soil ripping would occur. There would be more opportunities for wildlife recreation due to improvement of habitat and expected increases in wildlife populations. A new boat access site would be established at Fourchette Bay. Private cabins would not be affected. Interpretive programs would be emphasized and access to recreational areas and facilities would be improved.

Alternative C, Intensive Wildlife Management, would allocate livestock grazing only as needed for vegetative manipulation to benefit wildlife. Intensive wildlife habitat manipulations would occur, private cabins would be removed, and inholdings would be purchased to control grazing. Approximately two-thirds of the refuge boundary would be fenced.

Alternative D, Multiple Use, would not be possible to implement unless Congress changed CMR from a National Wildlife Refuge to a multiple-use management area. Livestock would receive approximately one-half the allocated forage. Range improvements such as fencing, water development, or mechnaical soils treatment would be based upon allotment needs. More recreational facilities and opportunities would be provided than those outlined in the preferred alternative. Limited reintroduction of unique or endangered species would occur.

Alternative E, No Grazing, would not be in compliance with Executive Order 7509, that requires that excess forage be allocated to livestock.

The Record of Decision is anticipated to be completed by the end of 1985.

Dated: October 29, 1985.

Galen L. Buterbaugh,

Regional Director.

[FR Doc. 85-26607 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-55-M

Yukon Flats National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; correction.

SUMMARY: This document corrects a notice of availability that appeared on page 37443 in the Federal Register of Friday, September 13, 1985 (50 FR 37443). This action is necessary to allow for revision of the draft Comprehensive Conservation Plan/Environmental Impact Statement (CCP/EIS) and Wilderness Review for the Yukon Flats National Wildlife Refuge (NWR) in response to a recent restatement of the Service's oil and gas policy. The date by which comments will be accepted will be corrected at the time the revision is released.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 876-3399.

Text: The following change is made in FR Doc. 85-21955 appearing on 37443 in the issue of September 13, 1985:

On page 37447 column one, second paragraph, first sentence, "Date" is corrected to read "The comment period will be appropriately extended to allow for public review and comment at the time the revision to the draft plan is released to the public."

SUPPLEMENTARY INFORMATION: Since the release of the draft CCP/EIS for the Yukon Flats NWR, the Fish and Wildlife Service has restated its policy on oil and gas exploration and leasing in Alaskan refuges. Under this policy: (1) Oil and gas exploration may be permitted throughout the Yukon Flats Refuge, subject to a site-specific determination of compatibility with refuge purposes and consistency with the management objectives set forth in the CCP. However, no seismic exploration will be allowed on the refuge prior to the issuance of a Record of Decision. (2) In compliance with section 1008(a) of ANILCA, a preliminary determination of the compatibility of oil and gas leasing with refuge purposes will be included in the final CCP for the Yukon Flats Refuge. No leasing program will be undertaken prior to consultation with the Secretary of Energy to determine the national interest in developing oil and gas on refuge lands. The Secretary of the Interior would then make a national interest determination.

In order to evaluate the environmental consequences of these policies on the Yukon Flats Refuge, it will be necessary to revise the draft plan. Consequently, the public hearing on the draft plan scheduled for Tuesday, October 22, 1985, in Fairbanks has been cancelled and the closing of the comment period will be extended beyond December 6, 1985. Upon release of revisions, a Federal Register Notice will be published identifying the new closing date for submitting comments and new meeting and hearing dates.

Dated: October 24, 1985.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85-26593 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[OR 38907]

Realty Action; Recreation and Public Purposes; Classification and Lease; Public Land in Coos County, OR

The following described land has been examined and determined to be suitable for lease under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et. seq.), and is hereby so classified:

Willamette Meridian Oregon

T. 28 S., R. 11 W.,

Sec. 5: metes and bounds within Lots 9, 10, 11, 12 and 14.

The above described land contains approximately 18.27 acres.

The subject land will be leased to the Coos County Sheriff's Office. The 18 acre site, to be known as the Coos County Rehabilitation Farm, will be used for raising vegetables, fruit and meat for feeding of county jail prisoners. The lease will authorize existing improvements which include the garden site, fencing, hot house, bridge and equipment storage area as well as future improvements consisting of an office/bunk/workshop building, pig pen and the development of an existing water spring. Inmate labor will be used as workers and supervised by corrections offices. The project will offset some of the cost of food purchased for feeding of inmates while providing rehabilitation by allowing prisoners to work in a healthy environment, gain knowledge of farming operations and create a sense of pride of accomplishment by realizing the fruits of their efforts.

The lands to be leased are not of national significance and this action will have no significant adverse impact on the environment. The proposal is consistent with existing land use plans and with state and local planning and zoning designations. The proposal has been reviewed by Coos County officials and Oregon State Corrections Division who have both expressed their support.

The lease will have a term of 25 years and, under the special pricing provision, the rental shall be $10.00 per year.

Classification of this land segregates it from all forms of appropriation, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Detailed information concerning the lease, including the environmental assesament/land report, is available for review at the Bureau of Land Management, Coos Bay District Office, 333 South 4th St., Coos Bay, OR.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Tioga Resource Area Manager, 333 S. 4th St., Coos Bay, Oregon 97420. Any adverse comments will be evaluated by the Coos Bay District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Coos Bay District Manager, this realty action and classification will become the final determination of the Department of the Interior.

Robert Dale,

District Manager.

[FR Doc. 85-26638 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-33-M

[M 59763 Phase II, M 66631 through M 66635]

Montana; Conveyance of Public Lands

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance of public lands in Meagher County, Montana.

SUMMARY: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976, (43 U.S.C. 1716), the following described tracts were conveyed out of Federal ownership:

Principal Meridian, Montana

T. 8 N., R. 7 E.,
Sec. 20, NW¼NW¼ and NE¼SE¼;
Sec. 28, W½SW¼ and SE¼SW¼.
T. 9 N., R. 9 E.,
Sec. 14, SW¼NE¼;
T. 9 N., R. 10 E.,
Sec. 17, NW¼SE¼;
T. 10 N., R. 11 E.,
Sec. 21, lots 2, 4, 5, 9, 10, and 11;
Sec. 27, lot 6;
Sec. 28, lot 4.

Aggregating 321.49 acres.

In exchange for the above land the United States acquired the following described land in Teton County, Montana:

Principal Meridian, Montana

T. 24 N., R. 8 W.,
Sec. 6, lots 6 and 7, NW¼NE¼NE¼SW¼ and W½NE¼SW¼.

Containing 96.98 acres.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, Telephone—(406) 657–6082.

Dated: October 30, 1985.

John A. Kwiatkowski,

Acting State Director.

[FR Doc. 85–26576 Filed 11–6–85; 8:45 am]

BILLING CODE 4310-DN-M

Environmental Statements; Salmon District; Availability of the Rangeland Program Summary Update on the Challis Planning Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Rangeland Program Summary Update on the Challis Planning Unit Environmental Statement to aid in the management of rangelands in the Challis/Mackay Resource Area.

The purpose of this update is to provide a current summary of the decisions and management actions identified in the 1979 Challis Planning Unit Land Use Plan and Environmental Statement (ES). This includes the adjusting of stocking rates, implementing grazing systems, constructing range improvements and conducting monitoring studies.

Copies of the Rangeland Program Summary Update are available for review at the following location.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Walker, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467; telephone (208) 756–2201.

Dated: October 30, 1985.

Jerry W. Goodman,

Associate District Manager.

[FR Doc. 85–26573 Filed 11–6–85; 8:45 am]

BILLING CODE 4310-GG-M

Environmental Assessment Availability; Jaub County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed land exchange within the Deep Creek Mountains and Green Valley.

SUMMARY: The draft environmental assessment (EA) has been prepared and is available for public comment.

Lands To Be Acquired in Jaub County

Salt Lake Base and Meridan, Utah

T. 11 S., R. 18 W.,
Sec. 3, S½;
Sec. 4, S½;
Sec. 5, Lots 1,2,3,4, S½ N½, S½;
Sec. 6, SE¼SE¼;
Sec. 7, NE¼SE¼;
Sec. 8, All;
Sec. 9, All;
Sec. 17, W½ SW¼;
Sec. 18, W½ NE¼, S½NW¼, S½.

Containing 3,210.2 acres.

Lands To Be Relinquished in Washington County

Salt Lake Base and Meridian, Utah

T. 42 S., R. 16 W.,

Sec. 35, S½ SE¼ NW¼	20 acres.
W½ NW¼ SE¼ NW¼.	5 acres
Total	25 acres.

Acquisition of these private lands will help consolidate the lands in the Deep Creek Mountains which will enhance resource-protection including wilderness values in the Deep Creek Mountains.

The lands relinquished in Washington County in Green Valley have been identified for disposal in BLM's Land Use Plans.

The draft EA will be available at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701. Comments will be accepted up to December 20, 1985. For additional information contact Roy Edmonds, Environmental Coordinator at the above address or call (801) 896–8221.

Larry R. Oldroyd,

Associate District Manager.

October 29, 1985.

[FR Doc. 85–26636 Filed 11–6–85; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Rawlins District Office, Rawlins, Wyoming.

ACTION: Notice of Intent to prepare an Environment Impact Statement (EIS) supplement and to conduct scoping meetings for an analysis of two wilderness study areas in the Lander Resource Area in Wyoming.

Geographic Data

The geographic area to be analyzed includes lands in and immediately adjacent to two wilderness study areas (WSAs), Dubois Badlands and Whiskey Mountain.

The Dubois Badlands WSA includes 4,520 acres and is located about 2 miles east of Dubois, Wyoming along the Wind River. The topography of this WSA consists of the "badlands" variety, flat-topped hills which are extensively broken by erosion patterns and drainages. The colors of the sedimentary banding are reds and tans and are quite striking. Eroded pinnacles and spires abound. Total relief in the unit is about 400 feet.

The Whiskey Mountain WSA includes 487 acres and is located about 3 miles south of Dubois, Wyoming, adjacent to the Fitzpatrick Wilderness area.

This WSA is a small area on the north-facing slope of Whiskey Mountain in the Wind River Mountains. Terrain is rough and mountanious. Vegetation is limber pine and spruce-fir.

SUMMARY: The Rawlins District is preparing an Environmental Impact Statement (EIS) for wilderness to supplement the Lander Resource Management Plan (RMP). The RMP will be out in draft for public review in early November, 1985. This wilderness EIS supplement will be prepared in 1986. The supplement because necessary when 2 areas in the Lander Resource Area, Whiskey Mountain, and Dubois Badlands, were reinstated as wilderness study areas. Whiskey Mountain and Dubois Badlands were wilderness study areas until 1982, when both were eliminated from wilderness study because each one was less than 5,000 acres in size. The decision to exclude areas like these from wilderness study was appealed to the courts by the Sierra Club and during the writing of the Lander RMP, this decision was reversed.

The Lander RMP/EIS did not consider the Whiskey Mountain or Dubois Badlands for wilderness. The wilderness EIS supplement will correct this deficiency and will report an analysis to

determine whether or not these areas should be recommended as wilderness. These recommendations will be included in the Decision Record and Final Resource Management Plan for the Lander Resource Area. The Decision Record and Final RMP should be completed in early 1987. Meanwhile, the draft wilderness EIS supplement will be developed, the public will review the draft, a preliminary final EIS supplement will be developed and the recommendations for these two wilderness study areas will be incorporated into the final resource management plan for the Lander Resource Area.

An interdisciplinary team has been formed to develop this wilderness EIS supplement. Disciplines to be represented include geology, range conservation, wildlife biology, forestry, economics, recreation, lands, soils, sociology, archeology, and wilderness.

Public participation will be solicited by: Federal Register notices, local announcements, discussions with interested and affected parties, press releases, individual mailings to all parties who have expressed an interest in the process, and public meetings. Anyone interested in having his or her name placed on the mailing list should contact the party(ies) in the Lander Resource Area listed below.

Scoping meetings will be held on the 11th and 12th of December 1985 in Dubois and Lander, Wyoming.

On the 11th of December, one scoping meeting will be held in Dubois, Wyoming immediately after a public hearing on the Lander Resource Management Plan that will begin at 7:00 p.m. and conclude about 7:30 or 7:45 p.m. The hearing and scoping meeting will be held at the Dubois Town Administrative Building in Dubois.

On December 12, the scoping meeting in Lander will be held at the Lander Valley High School Multi-Purpose Room. This scoping meeting will also occur immediately after a public hearing on the draft Lander RMP that will start at 7:00 p.m. and conclude about 7:30 or 7:45 p.m.

DATE: Scoping meetings will be held in Dubois, Wyoming on December 11, 1985 and in Lander, Wyoming on December 12, 1985.

ADDRESS: Address all correspondence to: Lander Resource Area, Sunflower Drive, P.O. Box 589, Lander, Wyoming 82520, Attention Wilderness EIS Team Leader.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Lander Resource Area Manager or Jerry Valentine, Wilderness EIS Team Leader at (307) 332-7822 or at the address given above.

Robert A. Bennett,

Acting State Director.

[FR Doc. 85-26598 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-22-M

[CA 14021]

Exchange of Public and Private Lands in Fresno, San Benito, and Monterey Counties; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order providing for opening of lands acquired in the exchange.

SUMMARY: The purpose of this exchange was to acquire the non-Federal lands because of their high public values for recreational use, wildlife habitat, riparian habitat, and sensitive plant species habitat. The values of the public and private lands in the exchange were approximately equal; however, the equalization payment required of the United States was waived by the Harold J. Eade Ranch Co., Inc. The public interest was well served through completion of this exchange. The land acquired in the exchange will be opened to the operation of the public land laws, excepting the mining laws and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

The United States issued an exchange conveyance document on May 20, 1985, to the Harold J. Eade Ranch Co., Inc. under sec. 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716), for the following described land:

Mount Diablo Meridian, California

T. 19 S., R. 11 E.,
- Sec. 2, SE¼NW¼ and N½SE¼;
- Sec. 14, W½E½ and W½;
- Sec. 17, S½S½;
- Sec. 19, NE¼NE¼;
- Sec. 20, N½N½;
- Sec. 21, N½ and NW¼SE¼;
- Sec. 22, S½N½, N½NW¼, N½S½, and SE¼SE¼;
- Sec. 23, All;
- Sec. 24, SW¼NW¼ and W½SW¼;
- Sec. 25, NW¼NW¼;
- Sec. 26, N½N½ and S½NW¼;
- Sec. 27, NE¼NW¼.

Containing 2,840.00 acres of public land.

In exchange for these lands, the United States acquired the following described land from the Harold J. Eade Ranch Co., Inc.:

Mount Diablo Meridian, California

Parcel One

T. 17 S., R. 12 E.,
- Sec. 33, S½SW¼, NW¼SW¼, W½NW¼, SE¼NW¼, SW¼NE¼, and NE¼SE¼;
- Sec. 34, SE¼NW¼, S½NE¼, N½SE¼, SW¼SE¼, and SW¼.

Excepting that portion conveyed to Mark L. Ward, recorded September 7, 1971, Recorder's File No. 110788, San Benito County Records.

Also excepting that portion conveyed to Mark L. Ward, recorded April 3, 1974, Recorder's File No. 122096, San Benito County Records.

Sec. 35, SW¼NW¼.

Parcel Two

T. 18 S., R. 12 E.,
- Sec. 3, N½NW¼, SE¼NW¼, and NE¼SW¼.

Excepting that portion described in the Deed to Mark L. Ward, recorded September 7, 1971, Recorder's File No. 110788, San Benito County Records.

Also excepting that portion described in the Deed to Mark L. Ward, et ux., recorded April 7, 1971, Recorder's File No. 122096, San Benito County Records.

- Sec. 20, E½;
- Sec. 21, NW¼;
- Sec. 26, N½;
- Sec. 27, N½;
- Sec. 28, NE¼;
- Sec. 35, N½.

Also excepting therefrom all oil, gas, minerals, and other hydrocarbon substances in, on, or under said land, as reserved in the Deed from EMC Energies, Inc., a Wyoming Corporation, et al., recorded June 16, 1977, in Vol. 418 of Official Records, at age 47, San Benito County Records, and recorded July 25, 1977, Recorder's File No. 77518, Fresno County Records.

Parcel Three

An undivided one-half (½) interest in and to all oil, gas, minerals, and other hydrocarbon substances, in, on, or under Parcels 1 and 2 above, as reserved in the Deed from EMC Energies, Inc., a Wyoming Corporation, et al., recorded June 16, 1977, in Vol. 418 of Official Records, at page 47, San Benito County Records, and recorded July 25, 1977, Recorder's File No. 77518, San Benito County Records.

Parcel Four

An easement for ingress to and egress from Sections 33 and 34 in Parcel One hereinabove referred to, over and across the Southeast one-quarter of Section 29, the East one-half of Section XX and the Northwest one-quarter of the Southwest one-quarter of Section 34, Township 17 South, Range 12 East, Mount Diablo Base and Meridian.

The private lands described above contain 2,350.50 acres.

At 10 a.m. on December 11, 1985, the lands described under Parcels 1 and 2 above shall be open to operation of the public land laws generally, excepting the mining laws and mineral leasing

laws, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 11, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Dated: November 1, 1985.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-26637 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-40-M

[Ca 17071]

Exchange of Public and Private Lands in Riveside County, CA

October 28, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire a portion of the non-Federal lands within the proposed 13,030-acre preserve for the Coachella Valley fringe-toed lizard. The lizard is Federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire 6,700 acres of the preserve. Other State or Federal agencies will acquire the remaining portion of the preserve. Within the preserve there are habitat and non-habitat areas for the fringe toed lizards. The land acquried in this exchange is within a non-habitat area and will be used as a source of sand for the lizards' habitat areas. The public interest was well served through completion of this exchange. The land acquired in this exchange will be open to the operation of the public land laws, except the United States mining laws and mineral leasing laws.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

The United States issued an exchange conveyance document in The Nature Conservancy on October 9, 1985, for the following described land under the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 7 S., R. 8 E.,
Sec. 20, SW¼ and SW¼SE¼.
Comprising 200.00 acres of public land.

In exchange for these lands, the United States acquried the following described land from The Nature Conservancy:

San Bernardino Meridian, California

T. 3 S., R. 6 E.,
Sec. 35, E½SE¼, S½SW¼SE¼, and NW¼SW¼SE¼;
Sec. 36, W½SW¼, NE¼SW¼, and W½SE¼SW¼.

Except all oil, gas, shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits contained in said lands, and further reserving to the State of California, persons authorized by the State, the right to drill for and extract such deposits of oil and gas, and to prospect for, mine and remove such deposits of other minerals from said lands, and to occupy and use so much of the surface as may be required therefor, upon compliance with the conditons, and subject to the provisions and limitations of Chapter 5, Part 1, Division 6 of Public Resources Code, as reserved in the Patent from the State of California, recorded May 6, 1948, as Instrument No. 653, in Book 906, Page 498, of Official Records of Riverside County, Calfiornia:

Comprising 250.00 acres of non-Federal land.

The values of the public land and the private land in this exchange were equal.

At 10 a.m. on December 9, 1985, the non-Federal lands described above shall be open to operation of the public land laws generally, except the United States mining laws and mineral leasing laws, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 9, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Sharon N. Janis,

Chief, Branch of Lands & Minerls Operations.

[FR Doc. 85-26575 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-40-M

Management Framework Plans; Owyhee Resource Area, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to prepare Owyhee Management Framework Plan Amendment.

SUMMARY: The Boise District, Oyhee Resource Area, Idaho will prepare a planning amendment to the Owyhee Management Framework Plan (MFP). The MFP currently prohibits Off-Road Vehicle (ORV) recreation activity, including organized events, on a geographical area which is classified livestock spring range. This amendment will consider modifying the existing range management decision that close these areas to ORV use to allow ORV use.

The geographical area to be considered is the Murphy Hills portion of the Owyhee Resource Area in Owyhee County, Idaho. The area contains approximately 123,000 acres.

The main issue identified in this amendment to date is whether or not the decision should be changed, and if so, what limitations or restrictions should be considered that would be acceptable to the parties affected.

An interdisciplinary team including range, recreation, and wildlife specialists will prepare the amendment and the environmental analysis.

Affected publics have been and will be invited to participate in the process.

Any public meetings which may be scheduled will be announced in the local media.

For further information contact: Buddy Arvizo, Owyhee Area Manager, Bureau of Land Mangement, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, (208) 334-1582.

October 30, 1985.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 85-26574 Filed 11-6-85; 8:45 am]

BILLING CODE 43104-GG-M

Arizona; Safford District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM), Safford District announces a forthcoming meeting of the Safford District Grazing Advisory Board.

DATE: Friday, December 13, 1985; 9:00 a.m.

ADDRESS: BLM Office, 425 E. 4th Street, Safford, Arizona 85546.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The agenda for the meeting will include:

1. Report on Final Livestock Grazing Decisions effective March 1, 1986.

2. Procedure for election of Advisory Board Members.

3. BLM management update.

4. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546, by 4:15 p.m., Thursday, December 12, 1985.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: October 28, 1985.

Lyle Rolston,

Acting District Manager.

[FR Doc. 85-26592 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-32-M

Non-Competitive Public Land Sale; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Non-Competitive Sale, Public Lands In Mohave County, Arizona.

SUMMARY: The following described public land has been identified as suitable for disposal under Section 203(a) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750, 43 U.S.C. 1713). The land will be offered for sale at not less than the appraised fair market value indicated below:

Gila and Salt River Meridian, Mohave County, Arizona

T. 19 N., 20 W.,

Sec. 14, lot 12, 0.41 ac. $660 to Jimmy King and Carol Stetser;

Sec. 23, lot 11, 0.62 ac. at $990 to Don Smith and Chris Warren; lots 12 & 13, 2.13 acs. $3410 to Ruth Kunkel; lot 14, 0.71, ac. at $1140 to Gable and Angel Boudreaux; lot 16, 0.60 ac. at $960 to Anne Smith; lot 17, 090 ac. at $1440 to Pat Loerch.

The purpose of the sales is to resolve mining occupancies that have occured as early as 1916. Continued managment of the lots by the Bureau is considered to be uneconomic and difficult.

All of the above listed lots will be patented subject to the following reservations:

Excepting and reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the Unites States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals, including oil and gas, with the rights to explore, prospect for, and remove such deposits under applicable law and such regulations as the Secretary of the Interior may prescribe.

3. A road right-of-way to the United States across section 14, lot 12, and section 23, lots 11, 12, 13, 14, and 16, T. 19 N., R. 20 W., (A-21057).

And subject to:

1. Such rights for road right-of-way purposes as granted under the Act of October 21, 1976, as to section 23, lots 11, 12, and 17, T. 19 N., R. 20 W., (A-21021).

2. Such rights for telephone right-of-way purposes an granted under the Act of October 21, 1976, as to section 23, lots 11, 13, 16, and 17, T. 19 N., R. 20 W., (PHX-079765).

As provided in 43 CFR 2711.1-2(d), the public lands described herein shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent or other document of conveyance of such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the of this publication, whichever occurs first.

Additional information concerning these direct sales may be obtained by calling the Kingman Resources Area Manager at (602) 757-3161, or by writing the BLM Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of this Notice. Interested parties may submit comments regarding the proposed action to the Phoenix District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Objections will be reviewed by the State Director who may sustain, vacate, or modify this Realty Action. In the absence of any objections, this Realty Action will become the final determination of the Department of Interior.

Marlyn V. Jones,

District Manager.

Dated: October 30, 1985.

[FR Doc. 85-26599 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-32-M

Competitive Sales of Public Lands in San Bernardino County, CA; Change of Sale Dates

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action. Parcels B3, B4, B5, B7, B8, and B9 are reoffered for sale on November 26, 1985. Unsold parcels will be available on a monthly basis until May 13, 1986.

SUMMARY: This action reoffers the following lands for sale on November 26, 1985, the public land sale offering published in Vol. 50, No. 159, pages 33113 and 33114 of the **Federal Register** on August 16, 1985 and the amendment published in Vol 50, No. 184, page 38590 of the **Federal Register** on September 23, 1985.

Each parcel will be offered individually for sale by sealed bid only. All sealed bids must be submitted to BLM's Barstow Resource Area Office at 831 Barstow Road, Barstow, California 92311, no later than 4:30 p.m., November 25, 1985. In no case shall lands be sold for less than the appraised value. The following public lands will be offered for sale at 10:00 a.m., November 26, 1985 in the Baker Community Hall, located on Baker Avenue, Baker, California.

Unsold parcels will remain available for monthly offerings until May 13, 1986. Sealed bids will be accepted beginning November 27, 1985 in the Barstow Resource Area Office, 831 Barstow Road, Barstow, CA 92311. All bids received will be opened the first Wednesday of each month beginning December 4, 1985 at 10:00 a.m. To be considered, bids must be received by 4:30 p.m. on the Tuesday prior to the bid opening.

Parcel No.	Serial No.	Legal description	Acres	Appraised Value (dollars)	Encumberances and/or reservations
		T.14N., R. 8E., SBM.			
		Section 25			
B3	CA-17716	NW¼NE¼ NE¼	10.0	$5,000	A-1, 4, 9, 14, 15; C-1.
B4	CA-17717	S½SW¼ NE¼ NE¼	5.0	2,500	A-1, 12, 14, 15; C-1.

Parcel No.	Serial No.	Legal description	Acres	Appraised Value (dollars)	Encumberances and/or reservations
B5	CA-17718	NW¼NE¼, NE¼SW¼NE¼, E½SE¼SW¼NE¼, E½E½NE¼NW¼, NW¼NE¼NE¼NW¼.	67.5	33,750	A-1, 9, 12, 14, 15; C1.
B7	CA-17720	W½SE¼NE¼ T. 14 N., R. 9 E., SBM Section 19	20.0	10,000	A-1, 4, 14, 15; C-1.
B8	CA-17721	S½ lot 1 of SW¼	40.0	8,000	A-1, 9, 12, 14, 15; B-1, 2; C-1.
B9	CA-17722	lot 2 of SW¼	75.0	15,000	A-1, 6, 9, 12, 14, 15; B-1, 2; C-1

Except for the changes in sales dates, the parcels being offered and the location of the bid openings beginning in December 1985, all other portions of the August 16, 1985 Notice of Realty Action (as amended) remain unchanged.

This action was deemed necessary to efficiently implement a portion of the Land Tenure Adjustment Element of the California Desert Plan by offering unsold parcels for a longer period of time.

Dated: November 1, 1985.

H.W. Riecken,

Acting District Manager.

FR Doc. 85-26572 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-40-M

[U-54551]

Realty Action; Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 USC 1713) public land described as the NE¼SE¼, S½SE¼, Section 3, T. 37 S., R. 16 W., SLB&M, Utah, containing 120 acres is proposed for sale by modified competitive bidding at no less than the appraised fair market value of $12,000.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action. Alma A. Holt will be given the opportunity to meet the high bid because of adjoining land ownership and to avoid jeopardizing existing use of adjacent state leased land. Failure of Alma A. Holt to accept the offer and submit the required amount shall constitute a waiver of this preference consideration.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted to the address listed below by December 20, 1985. The sale will be held on January 15, 1986 at 2:00 p.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720 (801) 586-2458. The sale will be held at the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights including Oil and Gas Lease U-41919 and Powerline Right-of-Way U-13694.

4. Pursuant to 43 CFR 2711.1-3, the sale of the parcel will be conditioned upon continued grazing by the current permittee (Alma Holt) until February 28, 1989, which is the expiration date of this current grazing permit.

5. If the tract of public land is not sold pursuant to this notice, it will remain available for sale on a continuing basis until sold or until withdrawn from the market.

Any comments or objections received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: October 28, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-26600 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Outer Continental Shelf; Union Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0297, Block 26, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 30, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised 250.34 of Title 30 of the CFR.

Dated: October 21, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-26568 Filed 11-6-85; 8:45 am]

BILLING CODE 4310-MX-M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332-97, Report to the President on the domestic consumption of brooms of broomcorn, as required by Executive Order 11377.

Summary of Proposals

(1) Number of forms submitted: one
(2) Title of forms: Brooms and Whiskbrooms Wholly or in Part of Broom Corn and Certain Other Brooms—Producers' Questionnaire
(3) Type of Request: extension
(4) Frequency of use: annual
(5) Description of respondents: U.S. broom producers
(6) Estimated number of respondents: 200
(7) Estimated total number of hours to complete the forms: 400
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed forms and supporting documents may be obtained from William Fry, the USITC agency clearance officer (tel. no. 202-523-0301). Comments and questions about the proposals should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Francine Picoult, Desk Officer for U.S. International Trade Commission, Washington, DC 20503. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to William Fry (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

By order of the Commission.

Issued: November 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-26541 Filed 11-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-286 (Preliminary)]

Anhydrous Sodium Metasilicate From the United Kingdom

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury 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 (LTFV).

Background

On September 16, 1985, a petition was filed with the Commission and the Department of Commerce by PQ Corp., Valley Forge, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of anhydrous sodium metasilicate from the United Kingdom. Accordingly, effective September 16, 1985, the Commission instituted preliminary antidumping investigation No. 731-TA-286 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 2, 1985 (50 FR 40241). The conference was held in Washington, DC, on October 9, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 31, 1985. The views of the Commission are contained in USITC Publication 1773 (October 1985), entitled "Anhydrous Sodium Metasilicate from the Untied Kingdom: Determination of the Commission in Investigation No. 731-TA-286 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: October 31, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-26542 Filed 11-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-208 (Final)]

Barbed Wire and Barbless Wire Strand From Argentina

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured [2] by reason of imports from Argentina of barbed wire and barbless wire strand, provided for in items 642.02 and 642.11 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 2, 1985, following a preliminary determination by the Department of Commerce that imports of barbed wire and barbless wire strand from Argentina were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 30, 1985 (50 FR 23083). The hearing was held in Washington, DC, on September 23, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 30, 1985. The views of the Commission are contained in USITC Publication 1770 (October 1985), entitled "Barbed Wire

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

and Barbless Wire Strand from Argentina: Determination of the Commmission in Investigation No. 731-TA-208 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the commission.

Issued: October 30, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-26543 Filed 11-6-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-201]

Certain Products With Gremlins Character Depictions; Decision To Review Portions of Initial Determination and Schedule for Filing of Written Submissions on Violation and on Relief, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review the administrative law judge's findings of domestic industry, efficient and economic operation, and tendency to substantially injure in the initial determination that there is violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

Authority

The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.53-210.56).

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

SUPPLEMENTARY INFORMATION: On September 12, 1985, the presiding administrative law judge issued an initial determination that there is a violation of section 337 in the importation and sale of certain products with Gremlins character depictions. Complainant Warner Brothers, Inc. filed a petition for review of the initial determination pursuant to § 210.54(a) of the Commission's rules. No other petitions for review or agency comments were received.

After examining the initial determination and the petition for review, the Commission has on its own motion determined that the issues of domestic industry, efficient and economic operation, and tendency to substantially injure warrant review.

Specifically, the Commission will review the following questions:

1. Whether in light of the Court of Appeals for the Federal Circuit's decision in *Schaper Manufacturing Co. v. U.S. International Trade Commission*, 717 F.2d 1368 (CAFC 1983), a licensing industry can be a domestic industry within the meaning of section 337.

2. Whether, if a domestic licensing industry exists in this investigation, it is efficiently and economically operated.

3. Whether respondents' unfair acts have the tendency to substantially injure the domestic licensing industry in light of the expected decline in the popularity of the Gremlins characters and the Gremlins motion picture.

4. Whether the Commission should redefine the domestic industry to include the production activities of the licensees and complainant's licensing activities, and if so, whether respondents' unfair acts have the effect or tendency to substantially injure the domestic industry as so defined.

The Commission also requests further briefing on the issue of whether the ALJ underestimated the type and degree of injury to the domestic licensing industry caused by the unfair acts of the respondents. The specific issues are: whether sales were lost because of piratical goods that competed directly with licensed merchandise; whether sales were lost because the infringing imports satisfied consumers' demand for the Gremlins products; and whether sales were lost because the unauthorized products diminished the strength of the Gremlins licensing program.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or indirectly competitive with those which are the subject of the investigation, and (4) U.S. consumers. Accordingly, the Commission is interested in receiving written submissions which address the aforementioned public interest factors.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond which should be imposed.

Written Submissions

The parties to the investigation and interested Government agencies are encouraged to file written submission on the legal issues under review and on the issues of relief, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of relief, the public interest, and bonding.

Written submission on the issues under review and on relief, the public interest, and bonding must be filed not later than the close of business on November 8, 1985, and November 12, 1985, respectively. Reply submissions on the issues under review and on relief, the public interest, and bonding must be filed not later than November 15, 1985.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines state above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the administrative law judge. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions

will be available for public inspection at the Office of the Secretary.

Notice of this investigation was published in the **Federal Register** of Auguest 30, 1984 (49 FR 34,422–23).

Copies of the nonconfidential version of the administrative law judge's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: November 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–26544 Filed 11–6–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–231]

Certain Soft Sculpture Dolls, Popularly Known as "Cabbage Patch Kids," Related Literature and Packaging Therefor; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on October 1, 1985, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Original Appalachian Artworks, Inc., Highway 75 South, Cleveland, Georgia 30528, and Coleco Industries, Inc., 999 Quaker Lane South, West Hartford, Connecticut 06110. A supplement to the complaint was filed on October 21, 1985. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of certain soft sculpture dolls, popularly known as "Cabbage Patch Kids," related literature and packaging therefor into the United States, or in their sale, by reason of alleged (1) infringement of U.S. Copyright Reg. No. VA 35–804; (2) infringement of U.S. Copyright Reg. No. VA 141–801; (3) infringement of U.S. Copyright Reg. No. TX 1–254–777; (4) infringement of U.S. Copyright Reg. No. TX 1–254–778; (5) infringement of U.S. Copyright Reg. No. TX 1–261–526; (6) failure to properly mark the country of origin on such unlawfully imported dolls and their packaging in violation of 19 U.S.C. 1304; and (7) violation of 17 U.S.C. 601(a). The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Deborah S. Strauss, Esq., or Robert D. Litowitz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–1233 and 202–523–4693.

SUPPLEMENTARY INFORMATION:

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 31, 1985, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain soft sculpture dolls, popularly known as "Cabbage Patch Kids," related literature and packaging therefor into the United States, or in their sale, by reason of alleged (1) infringement of U.S. Copyright Reg. No. VA 35–804; (2) infringement of U.S. Copyright Reg. No. VA 141–801; (3) infringement of U.S. Copyright Reg. No. TX 1–254–777; (4) infringement of U.S. Copyright Reg. No. TX 1–254–778; (5) infringement of U.S. Copyright Reg. No. TX 1–261–526; (6) failure to properly mark the country of origin on such unlawfully imported dolls and their packaging; and (7) violation of 17 U.S.C. § 601(a), the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) Pursuant to § 210.24(e) of the Commission's rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on October 1, 1985, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complaints are—

Original Appalachian Artworks, Inc., Highway 75 South, Cleveland, Georgia 30528

Coleco Industries, Inc., 999 Quaker Lane South, West Hartford, Connecticut 06110.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

John and Jane Doe Murrell, d/b/a Murrell Marketing, 17900 South Central Parkway, Tukwila, Washington 98118

Japan Instruments Corp., 6360 Van Nuys Boulevard, Suite 5, Van Nuys, California 91401

Sav-On-Drugs, Inc., 1500 S. Anaheim Boulevard, Anaheim, California 92805

Osco Drug, Inc., 1818 Swift Drive, Hinsdale, Illinois 60521

Household Merchandising, Inc. (Ben Franklin Division), 1700 Wolf Road, Des Plaines, Illinois 60016

(c) Deborah S. Strauss, Esq., and Robert D. Litowitz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street, NW., Room 126, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, lshall designate the presiding administrative law judge.

Pursuant to § 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding administrative law judge shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to §§ 201.16(d) and 210.21(a)) of the rules (19 CFR 201.16(d) and 210.2(a)), such responses will be considered by the Commission if received not later than 20 days after the

date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission

Issued: November 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–26545 Filed 11–6–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30683]

Gulf & Ohio Railways, Inc. Exemption From 49 U.S.C. 11301, 10901, and 11322

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission under 49 U.S.C. 10505 exempts from the requirement of prior approval, under 49 U.S.C. 10901, 11301, and 11322, the acquisition or lease by Gulf & Ohio Railways, Inc. (G&O), of 52.48 miles of track from the Illinois Central Gulf Railroad Company, the issuance by G&O of stock, and the holding of dual positions by H. P. Claussen in G&O and the Caney Fork and Western Railroad, respectively. Petitions for exemption from 49 U.S.C. 11301 to issue notes were dismissed.

DATES: This decision is effective November 6, 1985. Petitions to reopen must be filed by November 27, 1985.

ADDRESSES: Send petitions referring to Finance Docket No. 30683 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: R. Lawrence McCaffrey, Jr., 1575 Eye Street, NW., Suite 350, Washington, DC 20005.

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

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

Decided: October 16, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Chairman Taylor dissented, in part, with a separate expression. Commissioners Simmons and Lamboley concurred, in part, and dissented, in part, with separate expressions.

James H. Bayne,

Secretary.

[FR Doc. 85–26604 Filed 11–6–85; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30732]

Laurinburg and Southern Railroad Co., Franklin County Railroad Corp., and Nash County Railroad Corp.; Exemption; 49 U.S.C. 10901, 11301, and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission, under 49 U.S.C. 10505, exempts from prior approval: (1) Under 49 U.S.C. 10901, the acquisition and operation by Franklin County Railroad Corporation (FCR), and by Nash County Railroad Corporation (NCR) of branch lines in North Carolina operated by Seaboard System Railroad, Inc.; (2) under 49 U.S.C. 11301, the issuance of stock by FCR and NCR to Laurinburg and Southern Railroad Company (LSR), which will be the corporate parent; and (3) under 49 U.S.C. 11343, for LSR to control FCR and NCR. As a condition to the use of the control exemption, any employee affected by the acquisition of control shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

DATES: This decision will be effective on November 1, 1985. Petitions to reopen must be filed by November 27, 1985.

ADDRESSES: Send petitions referring to Finance Docket No. 30732 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' Representative: Fritz R. Kahn, Suite 1000, 1660 L Street, NW., Washington, DC 20036.

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

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

Decided: October 30, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85–26605 Filed 11–6–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on November 18, 1985, starting at 8:30 a.m., at the Quality Inn Hotel Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC, 20001. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Raymond C. Brown,

Director.

[FR Doc. 85–26558 Filed 11–6–85; 8:45 am]

BILLING CODE 4410–05–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee (IES) of the National Security Telecommunications Advisory Committee (NSTAC) will be held on Tuesday, December 3, 1985. The meeting will be held at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.

B. Administration remarks.

C. Briefings on industry and Government activities.

Due the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

David C. Brown,

Captain, USN, Chief, Joint Secretariat.

[FR Doc. 85-26548 Filed 11-6-85; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20505 Telephone (202) 357-7934.

SUPPLEMENTARY INFORMATION: On September 25, 1985, the National Science Foundation published a notice in the **Federal Register** of permit applications received. On October 30, 1985 permits were issued to:

Wesely E. LeMasurier
Mathew Schwaller
Warren M. Zapol

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 85-26560 Filed 11-6-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-4492 et al.]

American Nuclear Corp et al.; Revision of Orders To Modify Licenses

In the matter of American Nuclear Corporation, Gas Hills Project, 314 W. Midwest Ave., Casper, Wyoming 82601, Docket No. 40-4492, Source Material License No. SUA-667; Atlas Minerals, 743 Horizon Court, Suite 105, Grand Junction, Colorado 81056, Docket No. 40-3453, Source Material License No. SUA-917; Bear Creek Uranium Company, P.O. Box 2654, Casper, Wyoming 82602, Docket No. 40-8452, Source Material License No. SUA-1310; Exxon Minerals Company, P.O. Box 3020, Casper, Wyoming 82602, Docket No. 40-8102, Source Material License No. SUA-1139; Pathfinder Mines Corporation, P.O. Box 831, Riverton, Wyoming 82501, Docket No. 40-2259, Source Material License No. SUA-672; Pathfinder Mines Corporation, Shirley Basin Mine, Shirley Basin, Wyoming 82615, Docket No. 40-6622, Source Material License No. SUA-442; Plateau Resources Limited, 772 Horizon Drive, Grand Junction, Colorado 81506, Docket No. 40-8698, Source Material License No. SUA-1371; Rio Algom Mining Corporation, La Sal Route, Moab, Utah 84532, Docket No. 40-8084, Source Material License No. SUA-1119; UMETCO Minerals Corporation, Gas Hills Mill, P.O. Box 151 Gas Hills Station, Riverton, Wy. 82501, Docket No. 40-0299, Source Material License No. SUA-648; UMETCO Minerals Corporation, White Mesa Mill, P.O. Box 787, Blanding Utah 84511, Docket No. 40-8681, Source Material License No. SUA-1358; and Western Nuclear Incorporated, 134 Union Blvd., Lakewood, Colorado 80228, Docket No. 40-1162, Source Material License No. SUA-56.

Each of the above named licensees is a holder of a source material license issued by the Nuclear Regulatory Commission. The Director of the NRC's Uranium Recovery Field Office issued to each of these licensees immediately effective Orders on July 19, 1985, which amended each license by adding a license condition requiring the licensee to implement a ground-water detection monitoring program to ensure compliance with 40 CFR 192.32(a)(12).

The Orders are available for inspection and copying at the Uranium Recovery Field Office, 730 Simms Street, Suite 100, Lakewood, Colorado 80215 and the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555. Briefly stated, the Orders provide for the establishment of background and point of compliance wells to be used to determine conformance to detection monitoring requirements of 40 CFR Part 192. The Orders identify arsenic, selenium, and pH as the indicator parameters to be monitored at the specified well location. Sampling is to be required at the designated wells on a monthly basis for one year at 10 of the 11 above-named licensees and thereafter at least twice yearly. After a year of sampling these licensees are further by the Orders to propose for NRC review and approval in the form of a license amendment background levels for the indicator parameters and a statistical procedure for identifying significant changes. In the case of the one (1) remaining licensee (Western Nuclear, Inc.), the staff had determined earlier that adequate ground-water data existed and therefore required that Western Nuclear propose for NRC review and approval in the form of a license amendment background levels for the indicator parameters and a statistical procedure for identifying significant changes within sixty (60) days of the July 19, 1985 Order. Reporting requirements were also identified for all 11 licensees.

The above-named licensees have all made timely requests for hearing. Among other things, these licensees objected to the immediate effectiveness of the Orders. Upon consideration of the arguments by the licensees in their requests for hearing and the factual circumstances of these cases, the Director of the Uranium Field Recovery Office has concluded that the immediate effectiveness of the Orders to these 11 licensees should be withdrawn. In addition, the reference in each Order to section 61 of the Atomic Energy Act of 1954 was a typographical error. The reference should have been to section 63.

Accordingly, the July 19, 1985 Orders for the above-named licensees are hereby revised to: (1) Withdraw the immediate effectiveness of the Orders; and (2) replace the reference to Section 61 of the Atomic Energy Act with Section 63 of the Act.

As noted above, the 11 named licensees have requested a hearing on the Orders. Any other persons adversely affected by these Orders and this Revision of Orders may request a hearing in accordance with 10 CFR 2.714 of the Commission's regulations within 25 days after publication of this Order in the **Federal Register**. Any request for hearing shall be submitted to the Director, Uranium Recovery Field Office, U.S. Nuclear Regulatory Commission, P.O. Box 25325, Denver, Colorado, 80225. Copies shall also be

sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The issue to be considered at the hearing shall be whether on the basis of the matters set forth in the Orders of July 19, 1985, and this Revision of Orders, the requirements set forth in section III of the Orders of July 19, 1985 as herein revised, should be sustained.

The July 19, 1985 Orders received by the 11 named licensees, as amended by this Revision of Orders, will become effective on the date specified in an Order made following the hearing.

Dated at Denver, Colorado, this 4th day of November, 1985.

For the Nuclear Regulatory Commission.

R. Dale Smith,

Director, Uranium Recovery Field Office Region IV.

[FR Doc. 85-26629 Filed 11-6-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-16]

Detroit Edison Co., of Consideration of Issuance of Amendment To Renew Facility (Possession Only) License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to renew the Facility Possession Only License No. DPR-9 issued to the Detroit Edison Company (the licensee), for the Enrico Fermi Atomic Power Plant, Unit No. 1, located in Monroe County, Michigan. The facility has been permanently shut down since 1973. The amendment to Facility License No. DPR-9 would renew License No. DPR-9 for a term of up to 40 years or for such lesser term as the Commission determines to be appropriate. See for example, the Commission's notice of proposed rulemaking on decommissioning at 50 FR 5600 (February 11, 1985). The licensee's application for amendment dated May 17, 1985 requested renewal of the license for a full 40 years (to March 20, 2025) during which time the licensee proposes to maintain the plant in the present shutdown, safe storage made after which all residual radioactivity would be removed and the license terminated. All fuel has been removed from the facility site. A decommissioning plan for the reactor was filed with the Atomic Energy Commission in 1973 and revised by current application dated May 17, 1985.

Prior to issuance of the proposed license renewal, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and Commission's regulations.

By December 9, 1985, the licensee may file a request for a hearing with respect to issuance of the renewal to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714,a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention, Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. John A. Zwolinski: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Mr. Harry H. Voigt, Esq., LeBoeuf, Lamb and MacRae, 1333 New Hamphshire Avenue NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i(-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 17, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland this 1st of November 1985.

For the Nuclear Regulatory Commission.

John A. Zwolirski,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 85-26630 Filed 11-6-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket 70-1113]

General Electric Co., Wilmington, NC; Finding of No Significant Impact Amendment of Special Nuclear Materials License No. SNM-1097

The U.S. Nuclear Regulatory Commission (the Commission) is considering amending Special Nuclear Materials License No. SNM-1097 for the offsite burial of industrial waste products generated by the General Electric Company's (GE) uranium fuel fabrication facility at Wilmington, North Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would authorize GE for the offsite burial of industrial waste products generated as a result of fuel fabrication operations. The basis for the proposed method of disposal is Option 2 of the Branch Technical Position paper, "Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations", which assesses the disposal by burial of radioactive materials that contain not more than 250 pCi/g of uranium, of which no more than 100 pCi/g is soluble. The intended burial site for the industrial waste is a U.S. Environmental Protection Agency (EPA) and State of South Carolina licensed hazardous waste facility located in Pinewood, South Carolina.

Need for the Proposed Action

Currently, industrial waste from GE's fuel fabrication operations are stored onsite. The recent advanced chemical treatment of the aqueous waste streams for the removal of uranium has resulted in lowering the uranium concentration of the industrial waste to use Option 2 of the Branch Technical Position as the basis for disposal.

Environmental Impacts of the Proposed Action

Due to the nature of the proposed action, no significant change in gaseous or liquid effluents from the GE facility is expected, therefore, the following discussion will be limited to assessing the potential for environmental impacts resulting from the handling and disposal of solid waste from GE's fuel fabrication plant.

A. Solid Waste

Most of the industrial waste consists of calcium fluoride sludge. The sludge is precipitated from the aqueous waste stream generated during fuel fabrication operations. As stated previously, advanced chemical treatment of the aqueous waste stream has resulted in significantly reducing the uranium concentration in the sludge. The uranium concentration is low enough to use Option 2 of the Branch Technical Position as the basis for disposal.

The environmental impacts associated with disposal under Option 2 have been analyzed under all possible conditions. Under the normal situation, i.e., land and water use controls, the dose is expected to be lower than doses assessed under Option 1 of the Branch Technical Position for unrestricted use.

Burial of the industrial waste products will be at the GSX Corporation hazardous waste facility in Pinewood, South Carolina. Operations at the GSX facility must meet EPA 40 CFR Part 265 requirements for land and water use controls. In the event the GSX facility faces closure, the EPA requires a plan for the future care and use of the property be submitted and a notice added to the deed of the property restricting use of the land. These conditions for the operation of the GSX hazardous waste facility are consistent with the criteria given by Option 2 of the Branch Technical Position.

B. Transportation

Prior to loading the waste into trailers for transport to the GSX facility, the waste will be dewatered. Therefore, very little free water is expected to be present. In addition, the trailers used in the transport of the waste are engineered so that material remains within the confines of the trailer.

In the unlikely event of an accident during transport, exposure to the waste would be via inhalation. However, the industrial waste products are in a solidified form (sludge), thus dispersion would be localized. Therefore, in the event of an accident, potential doses to the general public are expected to be insignificant.

Conclusion

Based upon the information presented above, the environmental impact associated with the offsite burial of industrial waste generated from GE's Wilmington facility is expected to be insignificant. Conditions for the burial of the waste products shall meet Option 2 criteria to assure protection of the environment. In addition, operations at the GSX facility are subject to State of South Carolina and EPA requirements for environmental control and monitoring. Therefore, the disposal by burial of industrial waste products is not expected to have an significant environmental impact.

Alternative to the Proposed Action

One alternative to the proposed action is the disposal of the industrial waste products at a licensed low-level radioactive waste site. However, the large volume of waste and its low concentrations of radioactive materials makes it more practical, from the standpoint of risk to the public health and cost benefit, to justify the disposal of the industrial waste products at a hazardous waste facility.

Furthermore, land use controls at the hazardous waste facility meet and/or exceed the minimum qualifications of Option 2 of the Branch Technical Position. Therefore, exposure to the general public and environment is expected to be minimal.

A second alternative would be to deny GE's application. Such an alternative would be to deny GE's application. Such an alternative would be considered only if significant issues of public and safety could not be resolved to the satisfaction of the regulatory authorities involved.

Agencies and Persons consulted

The NRC staff reviewed the licensee's application dated July 1, 1985, and its supplements dated September 10, and October 10, 1985, and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the amendment for the offsite burial of industrial waste products generated by GE's Wilmington, North Carolina, fuel fabrication facility. On the basis of this Assessment, the Commission has concluded that the environmental impact created by the proposed action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the Environmetal Assessment may be obtained by calling (301) 427-4510 or by writing to the Uranium Fuel

Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 31st day of October 1985.

For The U.S. Nuclear Regulatory Commission.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 85-26631 Filed 11-6-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of the Act of September 25, 1962, (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970, (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been established in accordance with the requirements of OMB Circular A-25, requiring reimbursement of full cost of all services provided. This has been determined as follows:

(a) For the Department of Defense—historical costs and workload data provided through the Uniform Chart of Accounts (UCA) reporting system provides an operating cost base to which are added systemwide costs and allowance for actual inflation and pay raises to obtain the estimates for the fiscal year under review. The costs added are those items required by OMB Circular A-25: (1) Retirement for military personnel—50.7% of the basic pay of the military personnel; (2) retirement for civilian personnel—20.9% of the pay of the civilian personnel; (3) an asset charge of 4% of the other costs in lieu of a specific depreciation cost on fixed assets; and (4) a 3% surcharge for the cost to DOD of administering the medical care program.

(b) For the Veterans Administration—the actual costs and per diem rates by type of care for the previous year are added to the estimated costs for depreciation of buildings and equipment, administrative overhead, interest on capital investment, and Government employee retirement and disability charges. These computed rates are then adjusted by the budgeted percentage change to arrive at the estimated rates for the fiscal year under review.

(c) For the Department of Health and Human Services—using data collected for the first nine months of fiscal year 1985, the sum of obligations for each cost center providing medical services is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. These rates are then adjusted by the budgeted percentage change to arrive at the FY 1986 rate. In calculating the rates, the Department's unfunded retirement liability costs, and capital and equipment depreciation costs were incorporated to conform to requirements contained in OMB Circular A-25. In addition, cost centers' obligations include all costs from all accounts—such as Medicare and Medicaid collections, and Contract Health funds used to support direct operations. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal Hospitals, nursing homes, and outpatient clinics, administered by any of the three Federal agencies—Department of Defense, Veterans Administration or Department of Health and Human Services.

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be amounts expended by the United States for such care and treatment.

	Effective Oct. 1, 1985 and thereafter		
	DOD	VA	HHS
Hospital care per inpatient day:			
General medical care	$472	$416	$556
Surgical care	472	453	556
Psychiatric care		345	239
Nursing home care		154	
Spinal cord injury care		441	
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Fort Sam Houston, Texas	1,501		
Outpatient medical and dental treatment:			
Per outpatient visit	62	80	72

For the period beginning October 1, 1985, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on November 15, 1984 (49 FR 45280).

Dated: October 30, 1985.

James C. Miller,

Director, Office of Management and Budget.

[FR Doc. 85-26559 Filed 11-6-85; 8:45 am]

BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Withholding Certificate for Railroad Retirement Monthly Annuity Payments
(2) Form(s) submitted: W-4P(RRB)
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 100,000
(7) Annual reporting hours: 1
(8) Collection description: Under Pub. L. 98-76, railroad retirement beneficiaries' Tier 2, dual vested and supplemental benefits are subject to income tax under private pension rates. The collection obtains the information needed by the Board to implement the income tax withholding provisions.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information

collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–26594 Filed 11–6–85; 8:45 am]

BILLING CODE 7905–01–M

[Release No. 35–23891; 70–7173]

Columbus and Southern Ohio Electric Co. Proposal to Finance Pollution Control Facilities

November 1, 1985.

Columbus and Southern Ohio Electric Company ("CSOE"), 215 North Front Street Columbus, Ohio 43215, a subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application-declaration proposing a transaction subject to sections 9(a), 10, 12(b), and (d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 thereunder.

CSOE is the owner, as a tenant in common without right of partition, of an undivided interest in the Wm. H. Zimmer Generating Station ("Plant") located in Clermont County, Ohio. The other tenants in common are The Cincinnati Gas & Electric Company ("CGE") and The Dayton Power and Light Company ("DPL"), utility companies which are unaffiliated with CSOE or AEP (CSOE, CGE and DPL being herein collectively referred to as the "Owners"). The Plant was originally planned as a nuclear generating unit, but the Owners subsequently decided to use their best efforts to convert the Plant to a coal-fired steam electric generating unit. Subject to certain regulatory actions and a final decision by the Owners to proceed, it is estimated that major construction necessary to convert the Plant would begin in December, 1986, with commercial operation expected to commence not earlier than June, 1991. By order dated january 16, 1985 (HCAR No. 23574), the Commission authorized CSOE to adjust its ownership interest in the Plant to 25.4%.

CSOE now proposes to enter into an Agreement of Sale ("Agreement") with the Ohio Air Quality Development Authority ("Authority") which will provide for the construction and installation of certain pollution control facilities ("Project") by the Authority, and the issuance by the Authority of bonds in one or more series in an initial principal amount of up to $125 million ("Series 1985 Bonds"), and additional bonds in principal amounts which, when added to the principal amount of the Series 1985 Bonds, will be sufficient to cover the Cost of Construction (as defined in the Agreement) of the Project. It is currently estimated that the Cost of Construction of the Project will not exceed $125 million. The proceeds of the sale of the Series 1985 Bonds will be deposited by the Authority with Bank One, Columbus, N.A., as Trustee ("Trustee"), under an indenture to be entered into between the Authority and the Trustee ("Indenture") pursuant to which the Series 1985 Bonds are to be issued and secured. The Agreement also will provide for the sale of the Project to CSOE, the payment by CSOE of the purchase price of the Project, and the assignment and pledge to the Trustee of the Authority's interest in, and of the monies receivable by the Authority under, the Agreement.

The Authority will cause all accrued interest, if any, received upon the sale of the Series 1985 Bonds to be deposited in one or more bond funds created by the Indenture. The balance of the net proceeds received upon the sale of the Series 1985 Bonds is to be deposited in the construction fund to be administered by the Trustee under the Indenture, to be used to pay, or reimburse CSOE for, the Cost of Construction of the Project.

The Agreement will provide that each installment of the purchase price for the Project payable by CSOE will be in an amount to enable the Authority to pay when due the principal, interest, and costs associated with the purchase or mandatory redemption of the Series 1985 Bonds, and any additional bonds or refunding bonds. CSOE will also pay Truste's fees, and certain administrative expenses of the Authority.

CSOE has the option to prepay the purchase price of the Project in whole or in part, without penalty. The Agreement may be terminated in the event of prepayment of the entire price. CSOE will convey the Project, to the extent that it has already been constructed and is then in place at the Plant site ("Existing Facilities"), and CSOE will be entitled under the Agreement to be reimbursed from the proceeds of the Bonds for its costs of construction. The Existing Facilities will thereupon become a part of the Project which CSOE will repurchase from the Authority pursuant to the Agreement.

In accordance with the laws of the State of Ohio, the interest rate to be borne by the Series 1985 Bonds will be fixed by or on behalf of the Authority. While CSOE will not be a party to the underwriting arrangements for the Series 1985 Bonds, the Agreement will provide that the terms of Series 1985 Bonds and their sale by the Authority shall be satisfactory to CSOE. CSOE understands that, under present law, interest on the Series 1985 Bonds will be exempt from federal income taxation. It is not possible to predict precisely the interest rate which may be obtained in connection with the issuance of the Series 1985 Bonds. However, CSOE has been advised that, depending on maturity and other factors, the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the Series 1985 Bonds to be 2½% to 5% lower than the rates of obligations of like tenor and comparable quality, interest on which if fully subject to federal income tax.

Each series of the Series 1985 Bonds will be dated as of the date of issuance, will bear interest therefrom payable semi-annually at a rate which will be adjusted periodically, but not for a period to exceed five (5) years, based upon an index. In connection with an adjustment in the interest rate, the Series 1985 Bonds may be tendered, or may be deemed to be tendered, to the Trustee by the owners thereof. CSOE intends to remarket any Series 1985 Bonds so tendered, or deemed to be tendered, through a remarketing agent. In the event the Series 1985 Bonds cannot be remarketed, CSOE will be obligated to purchase any such Bonds. In addition, the Series 1985 Bonds will be subject to conversion to a fixed interest rate, based upon an index determined by a remarketing agent, upon the request of CSOE. In no event will interest on the Series 1985 Bonds exceed 15% per annum. After conversion to a fixed interest rate, the Series 1985 Bonds will no longer be subject to purchase upon tender by the owners thereof.

The Series 1985 Bonds will be payable from funds drawn under one or more irrevocable letters of credit to be issued by Swiss Bank Corporation ("Bank"). In connection with such letters of credit, CSOE will enter into one or more Reimbursement Agreements.

CSOE may, subsequent to the issue of the Series 1985 Bonds, enter contractual arrangements, generally referred to as "interest rate swaps", with one or more commercial banks or counter-parties pursuant to which CSOE would agree to make payments of interest at a fixed rate based on a principal amount of the Series 1985 Bonds, in return for such banks' or counter-parties' agreement to make payments to CSOE based upon the

same principal amount at a floating interest rate which may approximate the rate payable by CSOE with respect to the Series 1985 Bonds. The fixed rate to be paid by CSOE would be a rate based on a fixed term obligation maturing not later than the maturity date of the Series 1985 Bonds, but in no case greater than 10% per annum. The floating rate to be paid to CSOE would be based on an appropriate index or formula and might not fully cover CSOE's obligations with respect to the Series 1985 Bonds. Any additional cost in the transaction, such as a bank's fee for arranging the swap, might be reflected in the periodic fixed rate payment to such bank, or as a one-time up front fee.

The application-declaration is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 26, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-26650 Filed 11-6-85; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14784 (File No. 812-6201)]

SCI Equity Associates, L.P.; Application

Notice is hereby given that SCI Equity Associates, L.P. ("Partnership"), a Delaware limited partnership, and its general partner, SCI Partners, L.P., also a Delaware limited partnership ("General Partner" and, together with the Partnership, "Applicants"), 9 West 57th Street, Suite 4170, New York, New York 10019, filed an application on September 13, 1985 and amendments thereto on October 25, 30, and 31, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

Applicants state that the Partnership was formed as part of a series of transactions pursuant to which Kohlberg Kravis Roberts & Co. ("KKR"), a New York general partnership engaged in the business of finding and investing in management buyouts, intends to effect a management buyout of Storer Communications, Incorporated ("Storer"), an Ohio corporation which owns and operates broadcast television stations and cable television systems. The sole business of the Partnership will be to acquire, hold and eventually dispose of warrants ("Warrants") and, assuming exercise of the Warrants by the Partnership, underlying Common Stock ("Holdings Common Stock") of SCI Holdings, Inc. ("Holdings"), a Delaware corporation formed by KKR in connection with the Storer acquisition.

Applicants further state that the Warrants will entitle the Partnership to purchase for approximately $139 million on aggregate of 67,840,000 shares of Holdings Common Stock at a purchase price of approximately $2.05 per share (approximately 32% of the outstanding shares of Holdings on a fully diluted basis). The partnership agreement ("Partnership Agreement") generally limits the circumstances under which the General Partner may decide to exercise all or some of the Warrants. In the event that the General Partner decides to exercise some or all of the Warrants, each holder of a Limited Partnership Interest will be required to contribute, in addition to its initial investment, its pro rata share of up to a maximum of the approximate $139 million aggregate exercise price of the Warrants.

According to the application, Holdings, which is presently owned by another limited partnership affiliated with KKR, and Storer have entered in to a Restated and Amended Agreement of Merger dated as of May 3, 1985 ("Merger Agreement"). It is represented that SCI Merger Corp. ("Merger Sub"), an Ohio corporation owned by Holdings and certain other subsidiaries of Holdings, is also a party to the Merger Agreement. According to the application, the Merger Agreement provides that upon the approval thereof by Storer shareholders, and the satisfaction (or waiver, where permissible) of certain other conditions, at the effective time ("Effective Time") Merger Sub will merge into Storer (the "Merger"), with the effect that Storer will become a subsidiary of Holdings.

Applicants represent that, upon consummation of the Merger, approximately 97% of the outstanding Holdings Common Stock will be owned by two other limited partnerships affiliated with KKR, and 3% is expected to be owned by certain members of Storer's management, who are being offered the right to purchase Holdings Common Stock in connection with the Merger. It is asserted that at the Effective Time, however, on a fully diluted basis (which assumes exercise of options also being offered to certain members of Storer's management as well as exercise of the Merger Warrants and the Warrants to be held by the Partnership), approximately 82.8% of the outstanding Holdings Common Stock will be held by three limited partnerships affiliate with KKR (50.8% by the two other limited partnerships and 32% by the Partnership), 7.2% will be held by certain members of Storer's management and 10% will be held by shareholders of Storer.

Applicants state that the financial requirements of the Merger are expected to be approximately $2.48 billion, and that, of this sum, approximately $1.46 billion will be raised in a registered public offering of securities, including notes ("Notes"), debentures ("Debentures"), preferred stock ("Preferred Stock"), and Limited Partnership Interests ("Limited Partnership Interests") to be sold by the Partnership. Applicants state that $5 million will be raised by the sale of the Partnership Interests, which will be used by the Partnership to purchase the Warrants.

According to the application, because it might be concluded that the offering of the Limited Partnership Interests not the Warrants should be integrated with the registered public offering of the Notes, the Debentures and the Preferred Stock, the Limited Partnership Interests will be registered under the Securities Act of 1933. Purchasers of Limited Partnership Interests will contribute a total of approximately $5 million in cash to the Partnership and will be given corresponding capital accounts in the Partnership. Applicants represent that despite the fact that the Limited Partnership Interests will be deemed to have been sold pursuant to a public offering, only highly sophisticated institutional investors will be permitted to invest in the Partnership. These

investors, or their affiliates, will commit to purchase some combination of Notes, Debentures, Preferred Stock and Limited Partnership Interests in an amount not less than $5 million and will invest no more than 5% of their total assets in the foregoing securities. The investors which have a new worth will have a minimum positive net worth of $1 million. Applicants also represent that in no event will there by more than 100 beneficial owners of Limited Partnership Interests, and no limited partner will be permitted to acquire 10% or more of the Limited Partnership Interests. It is anticipated that only parties to whom Notes, Debentures and Preferred Stock are being offered will be offered Limited Partnership Interests.

According to the application, holders of Limited Partnership Interests will take no part in the management of the Partnership, and will have no control of the Partnership's sole assets, the Warrants, or the Holdings Common Stock acquired upon exercise of the Warrants. Applicants represent that the General Partner has broad authority to effectuate the puropses of the Partnership, including determining when, whether and at what price the Warrants will be sold, when the Warrants will be exercised (subject to certain restrictions) when and at what price any Holdings Common Stock acquired upon exercise of the Warrants will be sold or how any Holdings Common Stock will be voted. Further, the General Partner is entitled to its pro rata share of the assets of the Partnership, including any profits or losses thereon, based on capital accounts, plus 20% of the profits realized on the sale of the Warrants or Holdings Common Stock acquired through the exercise of the Warrants or of any other property or assets received or exchanged for the Warrants or such Holding Common Stock. Applicants also emphasize that the General Partner and the holders of the Limited Partnership Interests share a common and overriding interest in maximizing the appreciation of the value of Holdings Common Stock. The General Partner's compensation from the Partnership depends exclusively on such appreciation and the subsequent realization of profits. This compensation arrangement is claimed to ensure that the General Partner will have every incentive to maximize the value of the Warrants and that the interests of the General Partner and the limited partners will not diverge.

In support of their exemption request, Applicants submit that the Partnership is precisely the kind of private investment company intended by Congress to be exempt from the Act by virtue of section 3(c)(1). There can be no question, according to the Applicants, that, but for the integration of the offering of the Limited Partnership Interests with the public offering of the Notes, the Debentures and the Preferred Stock, the Partnership would fall squarely within the 3(c)(1) exemption. The Limited Partnership Interests will be beneficially owned by less than 100 sophisticated investors and, because no company will own 10% or more of the Limited Partnership Interests, the attribution rule of section 3(c)(1) will not be applicable. Applicants have agreed to the conditions that there continue to be less than 100 limited partners and that the Partnership does not subsequently make or propose to make a public offering.

Applicants contend that the proposed transaction will benefit the purchasers of the Limited Partnership Interests. They claim, in this regard, that the purchasers of the Limited Partnership Interests will pay $5 million cash—a relatively nominal sum in the context of a $2.49 billion acquisition—for the option to acquire through the Partnership 32% of Holdings Common Stock on a fully diluted basis, for a purchase price of $139 million, or $2.05 per share. The two other KKR-affiliated limited partnerships and the Storer management investors will pay approximately $227 million in cash to acquire 58% of Holdings Common Stock, on a fully diluted basis, at the identical price of $2.05 per share. The risk incurred by the purchasers of Limited Partnership Interests does not include a major initial cash investment—in sharp contrast to the risk borne by the two other KKR-affiliated partnerships and the management investors—and cannot exceed the initial purchase price of the Limited Partnership Interests. The potential return offered purchasers of the Limited Partnership Interests is, on a pro rata basis, 80% (after allocation of the profit share of the General Partner) of the capital appreciation of the Holdings Common Stock which, pursuant to the Warrants, the Partnership has the option to acquire. That this opportunity is an attractive one may be readily inferred, Applicants contend, from the fact that potential purchasers of the Notes, Debentures and Preferred Stock have indicated that they will require the Limited Partnership Interests in connection with their purchases of the other securities.

In addition, it is contended that no offering of the Limited Partnership Interest will be made to investors who require the protection of the Act. Only sophisticated investors, primarily, if not exclusively, major financial institutions, with the financial wherewithal to contribute their potential share of the exercise price of the Warrants and to bear the risks of the investment will be permitted to invest in the Limited Partnership Interests. In requesting a section 6(c) exemption, Applicants do not seek Commission approval or endorsement of the terms of the Merger or its financing or of management buyouts in general.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 25, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

Dated: November 1, 1985.

[FR Doc. 85-26648 Filed 11-6-85; 8:45am]

BILLING CODE 8010-01-M

[Release No. 34-22581; File No. SR-Amex-85-35]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The American Stock Exchange, Inc. ("Amex" or "the Exchange") is proposing to amend Amex Company Guide, Section 105, to modify the existing prohibition against accepting warrants for listing which contain a provision allowing the issuer the right to adjust the exercise price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statement concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Since 1969, section 105 of the Amex Company Guide has set forth guidelines which prohibit the listing of warrants containing provisions which grant the issuer discreation to temporarily adjust the exercise price unless the issuer undertakes not to exercise such rights while the security remains listed on the Amex.[1]

The primary impetus for adopting this prohibition arose from a preception that management's unfettered ability to temporarily reduce the exercise price would add a further element of speculation to an instrument already viewed as having inherent speculative qualities. Today, however, with the growth of new securities and commodities products, warrants are no longer viewed as being the speculative instruments they once were. This changed attitude is further reflected in the fact that many companies today publicly issue warrants which permit their management to later the exercise price for such periods as management may determine throughout the life of the instrument. These so-called "flush-out" provisions are viewed as necessary to provide corporate management with the flexibility to encourage conversions of soutstanding securities into permanent capital.

The Exchange is now of the view that the existing prohibition against temporary price reductions is not well founded and interferes with legitimate corporate planning. Therefore, it is proposed that Section 105 of the Company Guide be amended to permit the listing of warrants which contain "flush-out" provisions. However, to ensure that investors have sufficient time to evaluate temporary reductions in the exercise price of their securities, the proposed rule change provides that the Exchange will not list an issue containing such a provision, unless the issuer establishes a minimum "window period" of not less than ten business days within which investors may determine whether to exercise their conversion privileges at such reduced prices.

(2) Basis

The proposed amendments are consistent with Section 6(b) of the Exchange Act, in general, in that they are designed to ensure that the Exchange's rules remain up-to-date and are consistent with section 6(b)(5), in particular, in that they eliminate regulation not related to the purposes of this Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendments create no new regulations and will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

October 29, 1985.

[FR Doc. 85-26652 Filed 11-6-85; 8:45 am]

BILLING CODE 8010-01-M

[1] Section 105 of the Amex Company Guide makes clear, however, that this provision does not include the listing of a warrant issue which provides for regularly scheduled or specified changes in price so long as they have been previously established.

[Release No. 22582; SR-CBOE-85-30]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 30, 1985.

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on July 25, 1985, copies of a proposed rule change (SR-CBOE-85-30) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to permit access to Order Book size and depth information below and above the best bid and offer on the Order Book. The proposed rule change will allow all market participants to gain access, on an equal basis, to information concerning Book size and depth. Book size and depth will be disclosed by the Order Book Official, although CBOE may designate someone else to assume the function in the future.

The Exchange may, in its discretion through an Exchange official, establish limits on the disclosure of the number of contracts bid below or offered above the current Book information. The Exchange expects that market participants will be most interested in the Book quotes closest to the present bid and offer, but realizes that price and aggregate size of booked orders further from the current Book quotes also may prove useful to market participants. In the event, however, the benefits of disclosing such information may be outweighed by the difficulties of disclosing such information or by the possibility that such information coulld be somehow misused, the Exchange will have authority to limit crowd access to Book depth and size.[1]

The CBOE states that this rule change will provide information to crowd participants which will permit them to establish better the best available price for handling large orders. The Exchange believes that the rule change is consistent with the Act, and in particular, section 6(b)(5) of the Act because the proposed rule change will facilitate the fair and efficient pricing of securities transactions and is in the public interest by providing equal access to information concerning Book depth and size.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 34–22427, September 19, 1985) and by publication in the **Federal Register** (50 FR 39208, September 27, 1985). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–26649, Filed 11–6–85; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* letter to Brandon Becker, Assistant Director, Division of Market Regulation, from David C. Bolum, CBOE, dated October 15, 1985.

[Release No. 22583; SR-MSE-85-8]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Midwest Stock Exchange, Inc. ("MSE") submitted on August 14, 1985, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend Article XX, Rule 10 of its Rules to provide that stocks in which transactions are made on a "Next Day" issued basis are to be delivered on the next business day following the day of the contract, or, as specified by the contract, on the second, third or fourth full business day following the day of the contract. In addition, the amendment to Rule 10 provides that stocks in which transactions are made on a "Sellers Option" issued basis, are to be delivered within the time specified in the option. This time is not to be less than six full business days nor more than sixty days (rather than thirty days) following the day of the contract, although the Exchange may provide otherwise in specific issues of stocks or classes of stocks. The proposed "Next Day" classification codifies the current MSE policy of allowing trades to be effected on the MSE floor for settlement periods other than "cash," "regular way" or "seller's option." The amendments as described above, initially are to be effective for a 6 month pilot program at which time the MSE will determine whether to request that the rule change become a permanent program.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22364, August 28, 1985) and by publication in the **Federal Register** (50 FR 35895, September 4, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 31, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–26653 Filed 11–6–85; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* letter from Patrick K. Conroy, Counsel, MSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated October 18, 1985.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

November 1, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Adobe Resources Corp.
Common Stock, $.01 Par Value (File No. 7–8648)
Bear Stearns Co's.
Common Stock, $1.00 Par Value (File No. 7–8649)
CalMat Co.
Common Stock, $1.00 Par Value (File No. 7–8650)
Diamond Shamrock Offshore Partners Ltd.
Depositary Units, No Par Value (File No. 7–8651)
Fireman's Fund Corp.
Common Stock, $1.00 Par Value (File No. 7–8652)
Pullman-Peabody Company
Common Stock, $0.10 Par Value (File No. 7–8653)
Travelers Corp
$4.16 Cum. Conv. Exch. A Pfd., No Par Value (File No. 7–8654)
Great Lakes Chemical Corporation
Common Stock, $1.00 Par Value (File No. 7–8655)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 22, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such

applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-26651 Filed 11-6-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 947]

Determination Under the Foreign Missions Act Concerning the Supply of Telecommunications Goods and Services to Foreign Missions of the Soviet Union and Eastern European States

(1) Pursuant to the Foreign Missions Act [22 U.S.C. 4301 *et seq.*] ("the Act"); the Secretary or his delegate is authorized to require a foreign mission to obtain certain benefits exclusively from and through the Director under such terms and conditions as may be established.

(2) Pursuant to the same authorities, the Secretary or his delegate is authorized to designate as benefits certain goods and services in addition to those enumerated under section 4302(a) of the Act.

(3) Relying on such authority, I hereby designate as benefits under section 4302(a) of the Act any parabolic dish antennaes or comparable apparatus, and related equipment, and any long distance telephone service, as well as any other telecommunications goods and services hereinafter specified by the Director of the Office of Foreign Mission, acquired by or in any manner supplied to any foreign mission in the United States of the Union of Soviet Socialist Republics, Poland, German Democratic Republic, Hungary, Czechoslovakia, Romania, and Bulgaria, or any individual member thereof.

(4) I determine it to be reasonably necessary to accomplish the purposes set forth in section 4304(b) of the Act to require the aforementioned foreign missions, or any member thereof, to obtain any parabolic dish antenna or comparable apparatus, and related equipment, and any long distance telephone services exclusively through and from the Office of Foreign Missions, on such terms and conditions as may be established by the Director of that office.

(5) I further determine it to be reasonably necessary to accomplish the purposes set forth in section 4304(b) of the Act to require any or all of the aforementioned foreign missions, or any member thereof, to obtain other telecommunications goods and services specified by the Director of the Office of Foreign Missions pursuant to this Determination exclusively through or from the Office of Foreign Missions on such terms and conditions as may be established by the Director of that Office.

(6) It shall be unlawful for any person subject to the jurisdiction of the United States directly to supply, or contract to supply to the aforementioned foreign missions, or any member thereof, any aforementioned telecommunications good or service other than in accordance with section 4311(a) of the Act and this Determination.

(7) *Date of Effect:* This Determination shall apply to all parabolic dish antennaes or comparable apparatus, and related equipment, and long distance telephone service the supply of which is initiated on or after this date.

(8) Publication of this notice in the **Federal Register** constitutes notice to persons subject to the jurisdiction of the United States doing business providing telecommunications goods or services, or in contractual relations with the aforementioned states with regard to the provision of such goods and services that terms and conditions on the provision of such goods and services are hereby imposed. Compliance with such terms and conditions are required by the Act. Persons wishing clarification as to the applicability of this Determination may contact the Office of Foreign Missions, US Department of State, Washington, D.C. 20520; or by telephone: (202) 632-3416.

George P. Shultz,

Secretary of State.

October 28, 1985.

[FR Doc. 85-26557 Filed 11-6-85; 8:45 am]

BILLING CODE 4710-10-M

[CN-8/896]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radio Communications; Meeting

The working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9:30 AM on December 5, 1985, in rooms 9230-32 of the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

The purpose of the meeting is to prepare U.S. positions for the 31st Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London, April 14-18, 1986. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite Emergency Position Indicating Radio Beacons (EPIRBs)
Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobil Telecommunications
Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/64), 2100 2nd Street, SW., Washington, DC 20593. Telephone: (202) 426-1231.

Dated November 1, 1985.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 85-26621 Filed 11-6-85; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/897]

UNESCO Reform Observation Panel; Partially Closed Meeting

The Reform Observation Panel for UNESCO will meet on November 25, 1985 in room 1406 of the Department of State, 21st and C Streets, NW., Washington, DC. The meeting will begin at 10:00 a.m.

The principal agenda items will be:

—Reports from Panel members who have attended the 23rd Session of the UNESCO General Conference (October 8-November 12, 1985),
—Assessment of the General Conference,
—Adoption of the Panel's Report.

The purpose of the meeting will be to discuss the progress of reform at the 23rd Session of the UNESCO General Conference, the possibilities of continued reform of the Organization, and the adoption of the Reform Observation Panel's Report. Because the meeting will include a classified briefing by Department of State officers and discussion of documents classified pursuant to Executive Order 12356, a determination has been made that the meeting be closed in part to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (c)(9)(B). The initial

portion of the meeting will be open to the public until approximately 11:00 a.m.

Access to the Department of State is controlled for security reasons. Members of the public who wish to attend the open portion of the meeting or who have requests for further information on the meeting should be directed to the Panel's Assistant Executive Secretary: Mr. Raymond E. Wanner, Room 4334A, Department of State, 21st and C Streets, NW., Washington, DC 20520 (202) 632-3619.

Dated: October 31, 1985.

Raymond E. Wanner,

Assistant Executive Secretary, Reform Observation Panel.

[FR Doc. 85-26620 Filed 11-6-85; 8:45 am]

BILLING CODE 4710-19-M

[Docket 42425]

Southwest Airlines Co. Enforcement Proceeding; Hearing

Notice is hereby given that a Hearing in the above-entitled proceeding is scheduled to be held commencing on February 4, 1986, at 9:30 a.m. (local time), in Room 5332, Nassif Bldg., 400 7th Street, SW., Washington, DC before the undersigned.

Dated at Washington, DC, Oct. 31, 1985.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 85-26656 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-116 & 79-116a]

Towing Safety Advisory Committee; Subcommittee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Tankerman Regulations Subcommittee of the Towing Safety Advisory Committee (TSAC). The subcommittee meeting will he held on 12 November 1985 in Room 1305 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting will begin at 9:00 a.m. and end at 12:30 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of the following topics
   (a) Tankerman (Barge Watchman)
   (b) Agreement with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
   (c) Bunkering
   (d) Tankerman on non-tankers
   (e) Renewal
   (f) Service Requirements
   (g) Certificate to Endorsement
3. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/21), Washington, DC 20593 or by calling (202) 426-1477.

Dated: November 4, 1985.

R. F. Ingraham,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 85-26624 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Technical Standards Orders; VHF Radio Communications Transmitting Equipment Operating Within the Radio Frequency Range 117.975 to 136.000 Megahertz

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comment.

SUMMARY: The proposed TSO-C37d prescribes the minimum performance standard that VHF Radio Communication Transmitting Equipment Operating within the Radio Frequency Range 117.975 to 136.000 megahertz must meet in order to be identified with the marking "TSO-C37d."

DATE: Comments must identify the TSO file number and be received on or before February 21, 1986.

ADDRESS: Send all comments on the proposed technical standard order to:

Federal Aviation Administration, Policy and Procedures Branch, AWS-110, Aircraft Engineering Division, Office of Airworthiness—File No. TSO-C37d, 800 Independence Avenue SW., Washington, DC 20591

or deliver comments to:

Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS-110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 426-8395.

Comments received on the proposed Technical Standard Order may be examined, before and after the commend closing date in Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed TSO-C37d may be obtained by contacting the person under "For Further Information Contact." TSO-C37d references Radio Technical Commission for Aeronautics (RTCA) Document No. DO-186, dated January 20, 1984, for the minimum performance standard, DO-178, dated November 18, 1981, for software requirements, and DO-160B, dated July 20, 1984, for environmental standards. RTCA Document Nos. DO-186, DO-178, and DO-160B may be purchased from Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005.

Issued in Washington, DC, on October 31, 1985.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division.

[FR Doc. 85-26538 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-13-M

Technical Standards Orders; VHF Radio Communications Receiving Equipment Operating Within the Radio Frequency Range 117.975 to 136.000 Megahertz

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comment.

SUMMARY: The proposed TSO-C38d prescribes the minimum performance

standard that VHF Radio Communication Receiving Equipment Operating within the Radio Frequency Range 117.975 to 136.000 megahertz must meet in order to be identified with the marking "TSO–C38d."

DATE: Comments must identify the TSO file number and be received on or before February 21, 1986.

ADDRESS: Send all comments on the proposed technical standard order to:

Federal Aviation Administration, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C38d, 800 Independence Avenue, SW., Washington, DC 20591

or deliver comments to:

Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 426–8395.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date in Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed TSO–C38d may be obtained by contacting the person under "For Further Information Contact." TSO–C38d references Radio Technical Commission for Aeronautics (RTCA) Document Nos. DO–186, dated January 20, 1984, for the minimum performance standard, DO–178, dated November 18, 1981, for software requirements, and DO–160B, dated July 20, 1984, for environmental standards. RTCA Document Nos. DO–168, DO–178, and DO–160B may be purchased from Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005.

Issued in Washington, D.C., on October 31, 1986.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division.

[FR Doc. 85–26539 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Allegany County, MD; Intent To Relocate Maryland Route 36

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for the proposed relocation of Maryland Route 36 from 0.5 miles south of Seldom Seen Road to Buskirk Hollow Road in Allegany County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineers, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, telephone 301/962–4010, and/or Mr. Louis Ege, Acting Chief, Bureau of Project Planning, Maryland State Highway Administration, 707 North Calvert Street, Room 310, Baltimore, Maryland 21202, telephone 301/659–1130.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation, with the Maryland State Highway Administration, is preparing an environmental impact statement to develop an acceptable alternate to complete the final 3.6 mile gap of the upgrading of Maryland Route 36 between Westernport and Frostburg.

In addition to the No-Build, two principal alternates, one to the west and one to the east of Georges Creek, are under consideration. Each alternate has several design options for consideration along portions of the alignment.

The alternate on the west side of Georges Creek would depart existing Route 36 0.2 miles south of Seldom Seen Road, would cross Seldom Seen Road at-grade behind Valley Junior High School, cross the Lonaconing Historic District on structure, pass below Oak Hill Cemetery, bridge the creek, railroad, and existing Route 36, and parallel the east bank of Georges Creek to a tie-in with existing Route 36, at Buskirk Hollow Road. Two proposals would be considered for the structure across the Creek, railroad, and existing Route 36. An option would also be considered at the southern terminus which would traverse the 0.5 mile section south of Seldom Seen Road on new location.

The alternate on the east side of Georges Creek would depart existing Route 36 at Seldom Seen Road, cross the railroad at grade and the creek on structure, continue onto Dans Mountain, cross Lonaconing on structure following the old railroad bed around the base of Dans Mountain, and parallel the east bank of Georges Creek to a tie-in with existing Route 36 at Buskirk Hollow Road. Two options exists for the section around the base of Dans Mountain. An option would also be considered for the southernmost segment which departs existing Route 36 on th east side of Georges Creek to Dans Mountain.

An alternates public meeting has been held. A public hearing will be held after circulation of the Draft EIS. A public notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The Draft EIS will be available for public and agency review and comment prior to the public hearing. To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of OMB Circular NO. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 85–26606 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–22–M

[FHWA Docket No. 85–22]

Report on Bridge Formula Development for Regulating Vehicle Weight Limitations

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the notice to review the existing bridge formula for vehicle weight limitations appearing in 23 U.S.C. 127 published on September 19, 1985 (50 FR 38048). The comment period is being extended to January 23,

1986, to provide interested parties additional time to respond to the notice.

DATE: Comments will be received until January 23, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 85–22, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except for legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Frank D. Sears, Review and Analysis Branch, (202) 472–7680, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: November 4, 1985.

Anthony J. McMahon,

Chief Counsel, Federal Highway Administration.

[FR Doc. 85–26655 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Availability of a Finding of No Significant Impact; Atlantic City Passenger Rail Project

The Federal Railroad Administration (FRA) hereby announces the availability of the Finding of No Significant Impact (FONSI) entitled Atlantic City Passenger Rail Project. Section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 854(a)(1)] directs the Secretary of Transportation to make $30 million of Northeast Corridor Improvement Project funds available to the National Railroad Passenger Corporation (Amtrak) for rehabilitation and other improvements to the mainline track between Amtrak's Northeast Corridor main line and Atlantic City, New Jersey for the purpose of restoring intercity passenger rail service.

For further information, or receipt of the FONSI, contact Mr. Mark E. Yachmetz, Office of Passenger and Freight Services, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 472–4444. Should the supply of documents be depleted, additional copies may be obtained for the cost of reproduction.

Louis S. Thompson,

Associate Administrator for Passenger and Freight Service.

[FR Doc. 85–26608 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–06–M

Maritime Administration

[Docket No. S–779]

Moore McCormack Bulk Transport, Inc.; Application for a Waiver of Section 804(a) of the Merchant Marine Act, 1936, as Amended, To Charter a Foreign-Flag Vessel for Carriage of Bulk Cement

Notice is hereby given that Moore McCormack Bulk Transport, Inc. (MMBT) by letter dated May 1, 1985, has applied to the Maritime Administration for permission under section 804 of the Merchant Marine Act, 1936, as amended (Act), to permitMoore McCormack Cement, Inc. (MMC) (a wholly owned subsidiary of Moore McCormack Resources, Inc.) to charter foreign-flag dry bulk vessels for the carriage of cement. MMBT also requests that the waiver be granted for the period of the balance of its Operating-Differential Subsidy Agreement (ODSA), Contract No. MA/MSB–295, which expires October 5, 1993.

Since October 5, 1973, MMBT has been receiving operating-differential subsidy for the operation of three 39,000 DWT tankers pursuant to its ODSA, Contract No. MA/MSB–295. Both MMBT and MMC are wholly owned subsidiaries of Moore McCormack Resources, Inc. MMC manufactures and sells, either directly or through subsidiaries, cement, concrete products and related materials. In addition, MMC imports cement for resale in the domestic market.

Further, MMC intends to import from Spain, although it wishes to retain the right to purchase the product in any foreign country. If granted the section 804(a) waiver, MMC will employ those foreign-flag dry bulk ships that can most efficiently carry the import tonnage contemplated and would probably use vessels larger than 10,000 DWT.

Section 804(a) of the Act prohibits any contractor receiving an operating-differential subsidy or any subsidiary of such contractor directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined to be essential as provided in section 211 of this Act, unless granted a waiver pursuant to section 804(a) of the Act under special circumstances and for good cause shown.

MMBT states in its May 1 letter that it does not believe section 804 is applicable to the proposed charter activities described herein. In support of this claim, MMBT further stated that the foreign-flag charters contemplated are for the carriage of proprietary goods owned by MMC, its subsidiaries or joint ventures. Moreover, at the present time, there are no available U.S.-flag dry bulk cement carriers.

However, alternatively, MMBT does put forth arguments supporting a waiver of the section if MARAD should decide that section 804 is applicable. For example, MMBT avers that the proprietary nature of the contemplated charter activity and the absence, now and in the foreseeable future, of U.S.-flag dry bulk ships, which are specifically equipped to carry cement in bulk, are special circumstance and good cause that justify the Secretary's waiver of section 804(a) of the Act.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in MMBT's application 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 PM on November 22, 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, as filed or as may be amended. The Maritime Administration 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)

Dated: November 4, 1985.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 85–26627 Filed 11–6–85; 8:45 am]

BILLING CODE 4910–61–M

[Docket No. S-780]

Boston VLCC Tankers, Inc. VI, Boston VLCC Tankers, Inc. IV; Applications for Permission in Accordance With 46 CFR Part 250 for the MARYLAND or NEW YORK To Operate in the Domestic Alaskan Oil Trade

Notice is hereby given that Boston VLCC Tankers, Inc. VI and Boston VLCC Tankers, Inc. IV, owners of the MARYLAND and NEW YORK, respectively, by application dated November 1, 1985, have applied for written permission in accordance with 46 CFR Part 250, for one of these vessels to operate in the Alaskan oil trade for six months. These 265,000 deadweight ton tankers MARYLAND and NEW YORK, which were built with construction-differential subsidy (CDS), would carry crude oil from Valdez, Alaska, to Panama commencing about January 1–15, 1986. The applicants will nominate one of the vessels prior to commencement of service. The vessel will be operated pursuant to consecutive voyage charters with Exxon Shipping Company (Exxon).

The applicants submitted a letter from Exxon dated October 31, 1985 requesting the owners of the MARYLAND and NEW YORK to apply for a six month waiver. Exxon's letter also stated that, to the best of its knowledge no suitable Jones Act vessels are available during this period to carry substantial quantities of crude oil to Panama. The applicants also indicate that all vessels of competitors as defined by 46 CFR 250.2 are subject to charter during the period.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, DC 20590.

Protests must be received within five working days after the date of publication of this Notice in the **Federal Register**. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received, concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidy (CDS))

By Order of the Maritime Administrator.

Dated: November 5, 1985.

Georgia P. Stamas,

Secretary.

[FR Doc. 85-26698 Filed 11-6-85; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 31-85]

Treasury Notes, Series N-1989

Washington, October 30, 1985.

The Secretary announced on October 29, 1985, that the interest rate on the notes designated Series N-1989, described in Department Circular—Public Debt Series—No. 31-85 dated October 29, 1985, will be 9⅜ percent. Interest on the notes will be payable at the rate of 9⅜ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-26615 Filed 11-6-85; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 32-85]

Treasury Notes, Series G-1992

Washington, October 31, 1985.

The Secretary announced on October 30, 1985, that the interest rate on the notes designated Series G-1992, described in Department Circular—Public Debt Series—No. 32-85 dated October 29, 1985, will be 9¾ percent. Interest on the notes will be payable at the rate of 9¾ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-26614 Filed 11-6-85; 8:45 am]

BILLING CODE 4810-40-M

Customs Service

[T.D. 85-185]

Reimbursable Service; Excess Cost of Preclearance Operation

Washington, DC, November 10, 1985.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 10, 1985.

Installation	Bi-weekly excess cost
Montreal, Canada	$18,636
Toronto, Canada	27,916
Kindley Field, Bermuda	12,191
Nassau, Bahama Islands	19,611
Vancouver, Canada	14,414
Winnipeg, Canada	2,235
Freeport, Bahama Islands	10,954
Calgary, Canada	7,934
Edmonton, Canada	5,533

D. Lynn Gordon,

Acting Comptroller.

[FR Doc. 85-26611 Filed 11-6-85; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

Treasury Current Value of Funds Rate

Correction

In FR Doc. 85-25998 appearing on page 45524, in the issue of Thursday, October 31, 1985, in the second column, seventeenth line, the date reading "December 11, 1986" is corrected to read, "December 31, 1986."

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirement Under OMB

AGENCY: United States Information Agency.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval and to publish a notice in the Federal Register notifying the public that such a submission has been made. USIA is requesting approval of an information collection which requires prospective grantees to sign a statement that they

will, if awarded a grant, comply with provisions of the Civil Rights act of 1964, The Rehabilitation Act of 1973, and the Education Amendments of 1972, regarding discrimination.

DATE: Comments must be received by November 30, 1985.

Copies: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, DC 20547, telephone [202] 485–8676. And OMB review: Bruce McConnell, Office of Information and Regulatory Affiars, Office of Management and budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395–3785.

SUPPLEMENTARY INFORMATION: Title: "Assurance of Compliance." Signing the "Assurance of Compliance" form indicates a commitment on the part of the grantee to comply with the three statutes referred to in the Summary above, as required by law. This assurance is given in connection with any and all financial assistance from the U.S. Information Agency after the date the form is signed, including payments after that for financial assistance approved previously. The applicant recognizes and agrees that any such financial assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and on the authorized official whose signature appears on the form.

Dated: October 29, 1985.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 85–26590 Filed 11–6–85; 8:45 am]

BILLING CODE 8230–01–M

[Delegation Order No. 85–6]

Authority Delegation to the Deputy Director and to the Associate Directors

Pursuant to the authority vested in me as Director of the United States Information Agency by Reorganization Plan No. 2 of 1977, the Act entitled "An Act to provide certain basic authority for the Department of State," approved August 1, 1956, as amended (22 U.S.C. 2697), hereinafter referred to as the "State Department Basic Authorities Act", Executive Order 12048 of March 27, 1978 and Executive Order 12388 of October 14, 1982, I hereby delegate to the Deputy Director and to each Associate Director of the Agency:

the authority to exercise the functions vested in the Director under Section 25 of the State Department Basic Authorities Act and under Section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961, as amended.

This authority may only be redelegated to one senior officer in each Bureau. In the event of any vacancy in the Office of any Associate Director, or during the incapacity or absence of any of them, the authority delegated hereunder may be exercised by the respective Acting Associate Director.

Notwithstanding any other provision of this Delegation, the Director may at any time exercise any authority delegated herein.

This delegation is effective immediately.

Dated: October 31, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85–26640 Filed 11–6–85; 8:45 am]

BILLING CODE 8230–01–M

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency (USIA) will meet in Washington, DC, on Tuesday, November 19, 1985, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the Patrick Henry Building of the USIA, 601 D Street NW, Room 10017. The meeting will begin at 9:00 AM. Point of contact for the meeting is Terry Balazs, tel: 202–485–8048.

This meeting will include reports from senior members of the VOA management and engineering staff on the progress being made on the overall VOA modernization and enhancement effort. Specific topics of discussion will include systems engineering coordination, the status of site negotiations and major construction projects, development of appropriate radio broadcasting signal standards in a jammed environment, further investigation of satellite broadcasting applications, and other technical and regulatory issues relating to VOA modernization.

This meeting will be closed to the public because issues relating to future site negotiations for Voice of America relay stations will be discussed throughout the meeting. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact is properly classified pursuant to such Executive Order (5 U.S.C. 552b(d)(1)).

Dated: October 28, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85–26639 Filed 11–6–85; 8:45 am]

BILLING CODE 8230–01–M

Artistic Ambassador Advisory Committee Meeting

The Artistic Ambassador Advisory Committee will be holding its third session on November 20 and 21, 1985.

Committee members will be observing and judging the performance of twelve candidates from the field of classical piano and selecting up to five finalists to perform overseas under the sponsorship of the United States Information Agency. Successful candidates will occasionally live with host families overseas and be involved with local musical communities.

Time: November 20—10:30 a.m. to 12:30 p.m. (lunch break) and 2:00 p.m. to 6:00 p.m.

November 21—8:30 a.m. to 12:30 p.m. (lunch break) and 2:00 p.m. to 4:30 p.m.

Place: Coolidge Auditorium, Library of Congress, 10 First Street, S.E., Washington, D.C. 20540.

Agenda: Six candidates will perform the first day, and six the second day. Each candidate will be given fifty minutes, and there will be a ten minute break after every performance.

Seating: Seating of the public will be limited to the first 500 people, the capacity of the auditorium.

Final selection of candidates will be decided during discussions following the final day's performances. This session will be closed to the public in accordance with 5 U.S.C. 552B(c)(9)(B). Public disclosure of discussions would inhibit candid deliberations and advice and therefore is likely to frustrate the implementation of future Agency actions.

For further information, contact Mr. Jack Murphy at (202) 485–7338.

Charles Z. Wick,

Director.

[FR Doc. 85–26670 Filed 11–6–85; 8:45 am]

BILLING CODE 8230–01–M

VETERANS' ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 21, 1985, at 9:00 a.m., the Washington Regional Office Station Committee on Educational Allowances shall at 941 North Capitol Street, NE., Washington, DC, Room 8300B conduct a hearing to determine whether Veterans, Administration benefits to all eligible persons enrolled in the Culinary School of Washington, LTD., 1050 Connecticut Avenue, NW., Washington, DC, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated October 30, 1985.

W. David Smith,

Director, VA Regional Office.

[FR Doc. 85–26569 Filed 11–6–85; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Supply Working Group of the President's Commission on Americans Outdoors will be held Thursday, November 21, 1985, starting at 9:00 am, in the Conference Room of the American Forestry Association, 1319–18th Street, NW., Washington, DC 20036. This will be a hearing to obtain information on the kinds of programs that the Federal agencies and related parties dealing with recreation programs provide to the public.

The meeting will be opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111–20th Street, NW., Washington, DC 20036–8547, (202) 634–7310.

Dated: November 5, 1985.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 85–26803 Filed 11–6–85; 12:00 pm]

BILLING CODE 4310–70–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 216
Thursday, November 7, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday November 13, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, November 14, 1985 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC. (Fifth Floor.)

STATUS: This meeting will be open to the public.

MATTERS TO BE DISCUSSED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Draft AO 1985-26
Randall E. Johnson, General Mills, Inc.
Draft AO 1985-31
June E. Edmondson, CIGNA Corporation, Political Action Committee
Draft AO 1985-32
William G. Dalton, 10th International Congress of Essential Oils, Fragrances, and Flavors
Status of Pending Regulations Projects
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 85-26753 Filed 11-5-85; 3:58 pm]
BILLING CODE 6715-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, November 13, 1985.

PLACE: Marriner S. Eccies Federal Reserve Board Building, C. Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Federal Reserve Bank and Branch director appointments. (This item originally announced for a closed meeting on November 7, 1985)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne. Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 5, 1985.

James McAfee,
Associated Secretary of the Board.
[FR Doc. 85-26750 Filed 11-5-85; 3:53 pm]
BILLING CODE 6210-01-M

3

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, November 18, 1985.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of Staff Recommendation Concerning Health Spa Rulemaking Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523-1892, Recorded Message: (202) 523-3806.

Emily H. Rock,
Secretary.
[FR Doc. 85-26690 Filed 11-5-85; 11:34 am]
BILLING CODE 6750-01-M

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, November 14, 1985.

PLACE: Suite 410, 1825 K Street, NW., Washington, DC.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTER TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634-4015.

Dated: November 5, 1985.

Earl R. Ohman, Jr.,
General Counsel.
[FR Doc. 85-26727 Filed 11-5-85; 2:26 pm]
BILLING CODE 7600-01-M

5

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting

TIME AND DATE: 2:00 p.m., Wednesday, November 13, 1985.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street, NW., Suite 400, Washington, DC 20006.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy S. McCarthy, Associate Director Communications, 202/653-2705.

AGENDA:

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, August 14, 1985
III. Executive Director's Report
IV. Election of Officers
—Director, Research and Design
—Director, Field Operations
V. Treasurer's Report
VI. Personnel Committee Report
VII. Resolution: Eighth Annual Meeting
VIII. Resolution: Regular Meetings of the Board

Carol J. McCabe,
Secretary
No. 38, November 5, 1985.
[FR Doc. 85-26735 Filed 11-5-85; 3:24 pm]
BILLING CODE 7570-01-M

Federal Register

Thursday
November 7, 1985

Part II

Department of Justice

28 CFR Part 17

National Security Information Program; Revision; Final Rule

DEPARTMENT OF JUSTICE

28 CFR Part 17

[Order No. 1112-85]

Regulations Implementing Executive Order 12356, "National Security Information"

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order revises Part 17 of Title 28, Code of Federal Regulations, to update the security regulations of the Department of Justice so that they reflect provisions of Executive Order 12356, entitled "National Security Information," and the Information Security Oversight Office's Implementing Directive to Executive Order 12356. They replaced Executive Order 12065 and its implementing directive. Since Executive Order 12356 and its implementing directive made numerous substantive changes in the system of classification, declassification and downgrading of National Security Information, a complete revision of the Department's document security regulations, as contained in Part 17 of Title 28, Code of Federal Regulations, became necessary.

EFFECTIVE DATE: October 17, 1985.

FOR FURTHER INFORMATION CONTACT: D. Jerry Rubino, Department Security Officer, Department of Justice, Washington, DC 20530 (202-633-2094).

SUPPLEMENTARY INFORMATION: This regulation is exempt from the requirements of Executive Order 12291 as a regulation related to agency organization and management. Furthermore, this regulation will not have a significant impact on a substantial number of small entities because its effect is internal to the Department of Justice and is therefore exempt from the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 17

Classified information and Foreign relations.

By virtue of the authority vested in me by E.O. 12356, 5 U.S.C. 301 and 28 U.S.C. 509, 510, Part 17 of Title 28, Code of Federal Regulations is revised to read as set forth below.

PART 17—REGULATIONS IMPLEMENTING EXECUTIVE ORDER 12356, "NATIONAL SECURITY INFORMATION"

Subpart A—General Provisions

Subpart B—Security Classification

Subpart C—Declassification and Downgrading

Subpart D—Identification and Marking

Subpart E—Safekeeping and Storage

Subpart F—Foreign Government Information

Subpart G—Access, Dissemination, and Accountability

Authority: Exec. Order 12356 of April 2, 1982; 5 U.S.C. 301; 28 U.S.C. 509, 510.

Subpart A—General Provisions

§ 17.1 Purpose.

The purpose of this regulation is to insure that information within the Department of Justice, herein referred to as the Department, relating to the national security (as used hereinafter, a collective term which means the national defense and foreign relations of the United States) is protected, pursuant to the provisions of Executive Order 12356 and its implementing directive. (See § 17.2(a) and § 17.2(b)). This regulation prescribes: a progressive system for classification, downgrading and declassification; information safeguarding policies and procedures; a monitoring system to insure the effectiveness of the National Security Information Program throughout the Department; and a system for reporting and investigating security violations and sanctions for such violations. The provisions of this regulation become effective upon approval by the Attorney General.

§ 17.2 Authority.

(a) This regulation is issued in compliance with, and as a supplement to, the provisions of:

(1) 28 U.S.C. 503 and 509;

(2) 5 U.S.C. 301;

(3) Executive Order No. 12356 entitled, "National Security Information," dated April 2, 1982.

(4) Director of Central Intelligence Directive Number 1/14 entitled, "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information."

(5) The Information Security Oversight Office Directive No. 1 entitled, "National Security Information," dated June 23, 1982.

(6) 28 CFR 0.75(p), which outlines the security policy functions of the Justice Management Division (Security Staff).

(7) Department Order 2600.2A entitled, "Security Programs and Responsibilities."

(b) *List of references.* (1) Department Order 2620.4 entitled, "Physical Security Manual for Safeguarding Classified National Security Information (E.O. 11652)."

(2) Department Order 2620.6 entitled, "Procedures for Requesting a Department of Justice Security Clearance for Non-Contractor Personnel Outside the Executive Branch."

(3) Department Order 2600.3A entitled, "Requirements for Safeguarding Classified Information and Material Released to Industry in Connection with Contracts or Grants."

(4) Department Order 2660.1A entitled, "Department of Justice Special Security Center (Room 6744—Main Justice)."

(5) Offices, Boards and Divisions (OBD) Order 2710.3A entitled, "Files Maintenance and Records Disposition."

§ 17.3 Applicability.

This regulation governs the Department's National Security Information Program and takes precedence over all Department publications affecting that program. It establishes, for uniform application throughout the Department, the policies, standards, criteria and procedures for the classification, downgrading, declassification and safeguarding of National Security Information originated, produced or handled by, or in the custody of, the Department.

§ 17.4 Application to non-Executive Branch personnel.

Except as otherwise provided herein (see § 17.96), the provisions of this regulation apply to non-contractor personnel outside of the Executive Branch and to contractor personnel or employees who are entrusted with National Security Information originated within or in the custody of the Department. Clearance procedures for the aforementioned personnel are contained in Department Orders 2620.6 and 2600.3A, respectively. Procedures for clearing Department personnel are contained in § 17.98 of this regulation.

§ 17.5 Atomic Energy Act.

Nothing in this regulation supersedes any requirements made by or under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011–2394. "Restricted Data" shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2161–2166, and the regulations issued pursuant thereto.

Subpart B—Security Classification

§ 17.6 Policy.

(a) Except as provided in § 17.5, Executive Order 12356, as implemented by this regulation, provides the only basis for classifying information.

(b) Unnecessary classification and higher than necessary classification shall be scrupulously avoided.

(c) Classification shall be continued no longer than is necessary for the protection of national security.

(d) Information may not be classified except for the purposes of preventing damage to the national security.

§ 17.7 Classification levels.

(a) *General.* Official information which requires protection against unauthorized disclosure in the interests of national security shall be classified in one of three levels, namely, "Top Secret," "Secret" or "Confidential." No other terms shall be used to identify official information as requiring protection in the interests of national security, except as otherwise expressly provided by statute.

(b) *Top Secret.* "Top Secret" is the designation which shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" could include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of extremely sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with restraint.

(c) *Secret.* "Secret" is the designation which shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security. Examples of "serious damage" could include disruption of foreign relations affecting the national security; impairment of a program or policy directly related to the national security; revelation of military plans or intelligence operations; and compromise of scientific or technological developments relating to national security.

(d) *Confidential.* "Confidential" is the designation which shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security. Examples of damage could include the compromise of information which indicates strength of armed forces in the United States and overseas areas; disclosure of technical information used for intelligence operations; a written inspection report of classified areas; revelation of performance characteristics, test data, design, and production data on intelligence gathering equipment.

§ 17.8 Original classification authority.

Authority for original classification of information as Top Secret, Secret or Confidential may be exercised only by the Attorney General and by officials to whom such authority is specifically delegated in accordance with and subject to the restrictions of this Section. In the absence of an authorized classifier, the person designated to act in his or her absence may exercise the classifier's authority.

(a) *Top Secret.* Only the Attorney General or the Assistant Attorney General for Administration may delegate original Top Secret classification authority. Such delegation may only be made to principal subordinate officials who are determined to have frequent need to exercise such authority. The delegation of authority must specify whether the Top Secret classification authority is authorized to delegate original Secret and Confidential classification authority.

(b) *Secret and Confidential.* Only the Attorney General, the Assistant Attorney General for Administration and officials with delegated original Top Secret classification authority who are specifically authorized in writing to do so may delegate original Secret and Confidential classification authority to subordinate officials whom they determine to have frequent need to exercise such authority.

(c) A request for delegation of original classification authority pursuant to section 1.2 of Executive Order 12356 original classification authority shall be in writing. The Department Security Officer shall maintain a current listing of officials delegated original classification authority by name, position, or other identifier. If possible, the listing shall be unclassified.

(d) Except for the Attorney General and the Assistant Attorney General for Administration, officials to whom original classification authority is delegated may not, under any circumstances, redelegate such authority. However, those officials so designated by the Attorney General may delegate a lesser level of classification authority.

(e) Annual reviews, and special review as requested by the Department Security Officer, shall be made by Security Programs Managers to ensure that those to whom such authority has been delegated have demonstrated a continuing need to exercise it. the annual reviews are to be conducted at the end of each calendar year. Findings of this review are to be forwarded to the Department Security Officer.

§ 17.9 Propriety of classification actions.

In accordance with § 17.144, all personnel assigning classifications to information within the Department are accountable for the propriety of such classifications, whether in the exercise of original classification authority or in the determination and application of classifications assigned in source documents or classification guides (i.e., derivative classification), and are required to maintain adequate records to support their classification actions.

§ 17.10 Challenges to classification.

(a) Improper classification actions shall be reported initially by the holder of the information to the appropriate Security Programs Manager within the Department. The Security Programs Manager must report each case of improper classification within his/her area of concern to the Department Security Officer. Cases of improper classification, if willful and knowing, must then be reported to the Director of the Information Security Oversight Office.

(b) If holders of classified information have reason to believe that the information is classified improperly or unnecessarily or that an overly restrictive period for continued classification has been assigned, they are encouraged to challenge such classification with their Security Programs Manager or the classifier of the information, with a view to bringing about corrections.

§ 17.11 Accounting for classification actions.

The Department Security Officer shall establish, in coordination with the Information Security Oversight Office, a system for maintaining information on classification actions within the Department.

§ 17.12 Identification of classification authority.

Information classified under the provisions of this regulation shall indicate on its face, in the case of documents, or by notice or other means, in the case of material, the identity of the classifier. Such identification shall

be shown on the "CLASSIFIED BY" line. In those cases where the personal identity of the authorized classifier would be classifiable, an alternate identification method may be used provided it is approved by the Department Security Officer.

§ 17.13 Derivative classification.

(a) Information extracted or derived from a classified source document or classification guide and used in a Department originated document will be classified, or not classified, as the case may be, in accordance with the classification guide or source document. The overall marking and paragraph marking of the source document should supply adequate classification guidance to the person making the extraction.

(b) If a person who applies derivative classification markings believes that the paraphrasing, restating, or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult for a determination an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade, or declassify the information.

(c) Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(d) Persons who apply derivative classification markings shall:

(1) Observe and respect original classification decisions; and

(2) Carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

(e) If paragraph markings are lacking, and when no classification guidance is included in the source document and no reference is made to an applicable classification guide which is available for use by the person making the extraction, the extracted or derived information will be classified in accordance with guidance specifically sought and received from the original classifier of the source material. If such guidance cannot be obtained, the information or material will be given the classification which corresponds to the overall marking of the source document.

§ 17.14 Positive judgment requirement.

Classification is a positive judgment, i.e., there must be a reasonable basis for classification. All principles and criteria within this Subpart must be considered before classification determination is made or a classification marking is applied. If there is reasonable doubt about which classification designation is appropriate, the information will be safeguarded at the higher level of classification until a determination, which shall be made in 30 days, is made by the original classification authority. If there is reasonable doubt about whether the information should be classified at all, it shall be safeguarded as if it were "Confidential" information pending the determination about its classification which shall be made by the original classification authority within 30 days.

§ 17.15 Classification in context of related information.

Certain information which would otherwise be unclassified may require classification when combined or associated with other classified or unclassified information, including that which the classifier knows already has been officially released into the public domain.

§ 17.16 Classification categories.

(a) A determination to classify may be made only if the information concerns one or more of the categories in § 17.16(b) and if the unauthorized disclosure of the information reasonably could be expected to cause damage to the national security.

(b) Information must be considered for classification if it concerns:

(1) Military plans, weapons, or operations;

(2) The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;

(3) Foreign Government Information;

(4) Intelligence activities (including special activities), sources or methods;

(5) Foreign relations or foreign activities of the United States;

(6) Scientific, technological, or economic matters relating to the national security;

(7) United States Government programs for safeguarding nuclear materials or facilities;

(8) Cryptology;

(9) A confidential source; or

(10) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President by a person designated by the President or by the Attorney General. Requests for any such additional category of information shall be forwarded through the Department Security Officer and the Assistant Attorney General for Administration to the Attorney General for approval. Any additional categories of information approved by the Attorney General must be reported promptly to the Director of the Information Security Oversight Office.

§ 17.17 Duration of classification.

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor orders shall remain valid unless the classification is extended by an authorized official who has classification authority over the information. Any decision to extend an automatic declassification shall be made with respect to individual documents or categories of information. The Department is responsible for notifying holders of the information of such extensions. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Department Security Officer.

(c) Information marked for declassification review under predecessor orders shall remain classified until reviewed for declassification under the provisions of this regulation.

§ 17.18 Classification of Foreign Government Information.

(a) Unauthorized disclosure of Foreign Government Information or the identity of a confidential foreign source is presumed to cause damage to the national security and, accordingly, such information shall normally be assigned a classification of at least "Confidential."

(b) If the fact that information is Foreign Government Information must be concealed, a marking shall not be used and the document shall be marked as if it were wholly of United States origin.

§ 17.19 Prohibitions.

(a) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization or agency; or to restrain competition. Information may be classified, notwithstanding that it falls within the otherwise prohibited categories of this subsection, if disclosure would result in damage to the national security as set forth in § 17.7.

(b) Classification may not be used to prevent or delay the release of information that does not require protection in the interest of national security.

(c) Basic scientific research information not clearly related to the national security may not be classified.

(d) Information may not be classified unless it is owned by, produced by or for, or is under the control of the United States government. This prohibition does not affect the provisions of Chapter 17 of Title 35, United States Code.

(e) References to classified documents, when such references do not disclose classified information, may not be classified or used as a basis for classification.

(f) Information may be classified or reclassified after receipt of a request for it under the Freedom of Information Act or the Mandatory Review provisions of this regulation (Subpart C) if such classification is consistent with this regulation and is authorized by the Attorney General, the Deputy Attorney General, the Assistant Attorney General for Administration or an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis.

(g) Markings other than "Top Secret," "Secret," or "Confidential," such as "For Official Use Only," "Limited Official Use" or "Eyes Only," shall not be used to identify National Security Information. No other term or phrase shall be used in conjunction with these markings, such as "Secret Sensitive" or "Agency Confidential," to identify National Security Information. The terms "Top Secret," "Secret," and "Confidential" should not be used to identify nonclassified Executive Branch information.

§ 17.20 Effect of open publication.

Appearance in the public domain of information currently classified or being considered for classification does not preclude initial or continued classification. However, such disclosures require reevaluation of the information to determine whether the publication has been compromised to the degree that downgrading or declassification is required. Similar consideration must be given to related items of information in all programs, projects, cases or items incorporating or pertaining to the compromised items of information. Holders should continue classification until advised to the contrary by a competent Government authority.

§ 17.21 Classification of previously declassified information.

(a) Declassified information, once communicated as such to a member of the public, may be reclassified only when an authorized official determines in writing that:

(1) The information requires protection in the interest of national security; and

(2) The information may be reasonably retrieved either voluntarily or by litigation from the persons not approved for access.

(b) In addition, before reclassifying the information, the authorized official must consider:

(1) The elapsed time following disclosure;

(2) The nature and extent of the disclosure;

(3) The ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed; and

(4) The ability to prevent further disclosure.

(c) All reclassifications of information previously declassified and disclosed must be reported promptly to the Department Security Officer. This information must then be reported by the Department Security Officer to the Director of the Information Security Oversight Office.

§ 17.22 Requirement for issuance of classification guides.

(a) Executive Order 12356 requires that classification guides be prepared to facilitate the proper and uniform derivative classification of information by those heads of an Office, Board, Division or Bureau having original classification authority. Such guides shall be issued based upon classification determinations made by appropriate classification authorities in coordination with the Department Security Officer.

(b) Each classification guide must be approved personally and in writing by the Assistant Attorney General for Administration or an official who:

(1) Has program or supervisory responsibility over the information; and

(2) Is authorized to classify information originally at the highest level of classification contained in the guide.

§ 17.23 Waiver of classification guide requirements.

(a) The Attorney General may for good cause grant and revoke waivers for classification guides for specified classes of documents or information. Any waivers granted shall be reported through the Department Security Officer to the Director of the Information Security Oversight Office.

(b) The decision to waive the requirement to issue classification guides will be based, at a minimum, on an evaluation of the following factors:

(1) The ability to segregate the specified classes of information;

(2) The impracticality of producing the guide because of the nature of the information;

(3) The anticipated lack of usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for classifying the information in a uniform manner.

§ 17.24 Classification guide components.

Classification guides shall:

(a) Identify the information elements to be protected, using categorization and subcategorization to the extent necessary to ensure that the information involved can be readily and uniformly identified.

(b) State which of the classification designations, i.e., Top Secret, Secret, or Confidential apply to the identified information.

(c) State the declassification instructions for each element or category of information in terms of a period of time, future event, or a notation that the information shall not be automatically declassified without the approval of the originating agency.

§ 17.25 Review of classification guides.

Classification guides shall be reviewed for currency and accuracy not less than once every two years. If no changes are made, the originator or his representative shall so annotate the record copy and show the date of the review. A listing of all Department classification guides in use shall be maintained by the Department Security Officer.

§ 17.26 Emergency classification authority.

(a) When an employee, contractor, licensee or grantee not authorized to classify National Security Information within the Department originates or develops information which requires immediate classification and safeguarding and no authorized classifier is available, that person shall:

(1) Safeguard the information in the manner prescribed for the intended classification.

(2) Mark the information (or cover sheet if applicable) with the appropriate classification.

(3) Transmit the information within five working days to the organization

that has appropriate subject matter interest and classification authority. If it is not clear which organization has classification responsibility for this information, it shall be sent to the Department Security Officer. The Department Security Officer shall determine the organization having primary subject matter interest and forward the information with appropriate recommendations to that organization for a classification determination.

(b) When designating information as classified with such security classification markings, the requirements pertaining to overall classification markings contained in this regulation shall be followed.

(c) The organization with classification authority shall decide within 30 days whether to classify this information.

§ 17.27 Emergency action.

If an emergency requires immediate communication of information believed to require classification, such information may be transmitted after taking the action prescribed in § 17.26. Care shall be taken that the security clearance of the person to whom the classified material or information is being transmitted is correspondent to or higher than the initial classification, in accordance with the provisions of Subpart G of this regulation. Additionally, the means of transmission shall be commensurate with the level of the initial classification, as prescribed in Subpart G.

§ 17.28 Raising to a higher level of classification.

The upgrading of classified information to a higher level than previously determined, by officials with appropriate authority, shall be followed by prompt notification to all known holders of the information.

§ 17.29 Classification of previously unclassified information.

Unclassified information, once communicated as such, may be classified only when a classifying authority satisfies the requirements described for upgrading in § 17.28 and determines that control of the information has not been lost by public dissemination or access.

§ 17.30 Notification.

Prompt notification of all upgrading and unscheduled downgrading actions shall be provided to all known holders of the information.

Subpart C—Declassification and Downgrading

§ 17.31 Policy.

Information shall be declassified or downgraded as soon as national security considerations permit. The Department shall coordinate its review of classified information with other agencies that have a direct interest in the subject matter. Information that continues to meet the classification requirements prescribed by § 17.16 despite the passage of time will continue to be protected in accordance with this regulation.

§ 17.32 Authority.

(a) Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the Attorney General or the Assistant Attorney General for Administration.

(b) The Department Security Officer shall ensure that a current listing of officials delegated declassification authority as prescribed in § 17.32(a) is maintained. If possible, this listing will be unclassified.

§ 17.33 Declassification by the Director of the Information Security Oversight Office.

If the Director of the Information Security Oversight Office determines that Department information is classified in violation of Executive Order 12356, the Director may require the information to be declassified by the Department. Any such decision by the Director may be appealed to the National Security Council, through the Department Review Committee. The information shall remain classified until the appeal is decided.

§ 17.34 Systematic review for declassification.

Executive Order 12356 requires the Archivist of the United States, in accordance with established procedures, to conduct systematic reviews for declassification of classified information accessioned into the National Archives and classified Presidential papers and records under control of the Archivist.

§ 17.35 Systematic review responsibilities.

(a) The Attorney General shall:

(1) Issue guidelines to assist the Archivist of the United States for systematic declassification review and, if applicable, downgrading of classified information originated by the Department. These guidelines shall be developed in consultation with the Archivist and the Director of the Information Security Oversight Office;

(2) Designate experienced personnel to provide timely assistance to the Archivist in the systematic review process; and

(3) Review and update guidelines for systematic declassification review and downgrading at least every five years unless earlier review is requested by the Archivist.

(b) The Attorney General may issue, in consultation with the Archivist of the United States and the Director of the Information Security Oversight Office, specific systematic declassification review guidelines for Foreign Government Information over which the Attorney General has declassification authority. These guidelines shall be reviewed and updated every five years unless earlier review is requested by the Archivist.

(c) The Department may conduct internal systematic review programs for classified information originated by its organizations contained in records determined by the Archivist of the United States to be permanently valuable but that have not been accessioned into the National Archives of the United States.

§ 17.36 Systematic review procedures.

(a) Only permanently valuable records shall be subjected to systematic review for declassification. Classified nonpermanent records that are scheduled to be retained for more than 30 years need not be systematically reviewed, but shall be reviewed for declassification upon request.

(b) The Attorney General, through the Department Security Officer, shall require that all classified records 30 years old or older, whether held in storage areas under Department control or in Federal Records Centers, be surveyed to identify those that require scheduling for future disposition. The Security Programs Managers and Records Management Officials shall coordinate this effort with the Department Security Officer and Department Records Management Officials, respectively.

(c) All Department information accessioned into the National Archives and Records Service that is permanently valuable and more than 30 years old is to be systematically reviewed for declassification by the Archivist of the United States (using the guidelines issued pursuant to § 17.35(a)) with the assistance of the Department's personnel designated for that purpose pursuant to § 17.35.

(d) The Security Programs Managers shall receive from the Archivist of the United States information which requires the originating agency's determination for declassification or information which the Department's systematic review guidelines state shall not be automatically declassified after 30 years without review by the Department. Security Programs Managers within the Office, Board, Division or Bureau with primary jurisdiction over the classified information either received from the Archivist or in the Office, Board, Division or Bureau's custody, over 30 years old, shall proceed as follows:

(1) Classified information over which the Office, Board, Division or Bureau exercises exclusive or final original classification authority and which, in accordance with the systematic review guidelines developed under this section, is to be declassified, shall be marked and handled as such.

(2) Classified information over which the Office, Board, Division or Bureau exercises exclusive or final original classification authority, and which the head of such organization recommends should be kept protected, shall be identified under appropriate category headings.

§ 17.37 Mandatory review for declassification.

(a) Upon request by a United States citizen, a permanent resident alien, a Government agency or a State or local government to declassify and release information classified under the provisions of Executive Order 12356, such information shall be subject to mandatory review by the originating Office, Board, Division or Bureau for possible declassification in accordance with the procedures of this subpart.

(b) Mandatory declassification review requests for cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense or the Director of Central Intelligence.

(c) The Department, upon conducting a mandatory review for declassification, shall declassify information no longer requiring protection under this regulation. This information will be released unless withholding is otherwise authorized under applicable law.

§ 17.38 Mandatory review for Presidential Papers.

(a) Information which was originated by the President, the White House Staff, by committees, commissions or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of the President is exempted from mandatory review for declassification under the provisions of § 17.37.

(b) Information described in § 17.38(a) that is under control of the Archivist of the United States or the Administrator of the General Services Administration is subject to review by the Archivist for declassification or downgrading. This review will be in accordance with procedures developed by the Archivist which shall provide for consultation with the Department in matters of primary subject interest to this Department.

(c) Decisions by the Archivist of the United States may be appealed to the Director of the Information Security Oversight Office. When the Department has primary subject matter interest, it shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

§ 17.39 Mandatory review for Foreign Government Information.

Except as provided in this section, the Department shall process mandatory declassification review requests for classified records containing Foreign Government Information in accordance with § 17.41. The agency that initially received or classified the Foreign Government Information shall be responsible for making a declassification determination after consultation with concerned agencies. If the Office, Board, Division or Bureau receiving the request did not originally receive or classify the Foreign Government Information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request. See Subpart F for additional procedures for Foreign Government Information.

§ 17.40 Submission of requests for mandatory review.

Requests for mandatory review of classified information shall be submitted in accordance with the following procedures.

(a) Requests for mandatory declassification review under this Subpart shall be submitted to the Director, Office of Information and Privacy, Office of Legal Policy, 10th and Constitution Avenue, NW., Washington, DC 20530. The Office of Information and Privacy shall promptly forward such requests to the Office, Board, Division or Bureau concerned, provided:

(1) A department (any agency of the Government or other governmental unit) or employee thereof, or a United States citizen or permanent resident alien requests the review.

(2) The request is in writing and reasonably describes the classified information or material with sufficient particularity to enable the Department to identify it.

(3) The classified information or material can be located with a reasonable amount of effort.

(b) When the description in a request is deficient, the requester should be asked to provide as much additional identifying information as possible. Before denying a request on the basis that the information or material is not obtainable with a reasonable amount of effort, the requester should also be asked to limit his request to information or material that is reasonably obtainable. If the requester then fails to describe the information or material he seeks with sufficient particularity, or if it cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal the decision to the Department Review Committee.

(c) The Office of Information and Privacy shall assign the request to the appropriate Office, Board, Division or Bureau within the Department for action, and shall immediately acknowledge receipt of the request to the requester in writing. The Office, Board, Division or Bureau concerned shall thereafter make a determination within 60 days of receipt of the request or shall explain to the requester the reasons why further time is necessary (including where consultation with other agencies is required pursuant to § 17.46(b)). Unless there are unusual circumstances, the Department will make a final decision within one year from receipt of the request. If at the end of one year from receipt of the request for review no determination has been made, the requester may apply to the Department Review Committee for a determination.

(d) If the Office, Board, Division or Bureau determines that continued classification is required, the requester shall promptly be notified, and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Department Review Committee and the notice of determination shall advise him

of this right. If, after appeal by the requester, the Department Review Committee determines that continued classification is required, it shall promptly notify the requester.

(e) After review, the information or any reasonably segregable portion thereof that no longer requires protection under this regulation shall be declassified and released to the requester unless withholding is otherwise warranted under applicable law. If the information, although declassified, is withheld, the requester shall be given a brief statement as to the reasons for denial and a notice of the right to appeal the determination to the Office of Information and Privacy.

(f) Appeals are to be sent to the Office of Information and Privacy, Office of Legal Policy, 10th and Constitution Avenue, NW., Washington, DC 20530. All appeals of denials must be filed with the Department within 60 days in order to be considered and each notification to a requester must contain a notice to that effect.

(g) In making its determinations concerning requests for declassification of classified information, the Department Review Committee shall impose, for administrative purposes, the burden of proof on the originating Office, Board, Division or Bureau to show that continued classification is warranted.

(h) Requests for declassification which are submitted under the provisions of the Freedom of Information Act, or Privacy Act of 1974, shall be processed in accordance with the provisions of those Acts.

§ 17.41 Information classsified by agencies other than the Department subject to mandatory review.

(a) When the Office, Board, Division or Bureau receives a request from the Office of Information and Privacy for information in Department custody that involves information classified by another agency, it shall forward the request to the appropriate agency for review. The forwarding Department organization shall include a copy of the document containing the information requested, where practicable, and its recommendation to withhold any of the information, where appropriate.

(b) Unless the agency that classified the information objects on grounds that its association with the information requires protection in the interest of national security, the Office, Board, Division or Bureau shall also notify the requester of the referral.

(c) Where the agency that classified the information objects on the grounds that its association with the information requires protection in the interest of national security, the Office, Board, Divison Bureau shall not notify the requester of the referral. After the agency that classified the information completes its review (in coordination with other agencies that have a direct interest in the subject matter) and informs the Department, a response shall be sent by the Office, Board, Division or Bureau to the requester in accordance with § 17.40 or comparable procedures.

§ 17.42 Mandatory review appeal.

The Director, Office of Information and Privacy, shall establish detailed procedures that will normally enable action within 30 working days upon all appeals of denials of requests for declassification. These procedures shall provide for meaningful appellate consideration by the Department Review Committee. In accordance with these procedures, the Department shall determine whether continued classification is required in whole or in part, notify the requester of the determination, and make available any information that is a declassified and otherwise releasable. If continued classification is required under the provisions of section 3.1 of Executive Order 12356, the requester shall be notified of the reasons therefor. If requested, the Department shall also communicate the appeal of denial determination to any referring agency.

§ 17.43 Fees.

If the request requires the rendering of services for which fair and equitable fees may be charged pursuant to 31 U.S.C. 9701, such fees may be imposed at the discretion of the Office of Information and Privacy, in accordance with the schedule set forth in 28 CFR 16.9(b).

§ 17.44 Confirmation of existence of classified information.

The Department shall refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classifiable under this regulation.

§ 17.45 Material officially transferred.

In the case of classified information or material transferred by or pursuant to statute or Executive order from one department or agency to another in conjunction with a transfer of functions (as distinguished from transfers merely for the purpose of storage), the receiving department or agency shall be deemed to be the original classifying authority over such material for purposes of downgrading and declassification.

§ 17.46 Material not officially transferred.

(a) When any Office, Board, Division or Bureau of the Department has in its possession any classified information or material originated in an agency or department outside of the Department, which has since ceased to exist, and whose files and other property have not been officially transferred to another agency or department within the meaning of § 17.45, the head of the Office, Board, Division or Bureau (or his/her designee) with custodial jurisdiction over the information shall have the authority to declassify or downgrade such information. In addition, if it is impossible for the possessing Office, Board, Division or Bureau of the Department to identify the originating agency, and a review of the material indicates that the classified information contained therein should be downgraded or declassified, the head of the Office, Board, Division or Bureau concerned (or his/her designee) shall have the authority to declassify or downgrade such classified information.

(b) When it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing Office, Board, Division or Bureau within the Department shall not exercise the declassification authority discussed in § 17.46(a), except following consultation with the other department or agency, until 60 days after the Office, Board, Division or Bureau concerned has notified, in writing, such other department or agency of the nature of the information and of its intention to downgrade or declassify the information concerned. During such a 60-day period, the other department or agency may, if it so desires, express its objections to downgrading or declassifying the particular information; however, the authority to make the ultimate decision shall reside with the head of the possessing Office, Board, Division or Bureau (or his designee).

(c) Classification guidance may be sought from appropriate officials of the Office, Board, Division or Bureau concerned, from the Department Security Officer or from the Department Review Committee, in such instances, as described in this Subpart. In cases of conflict, the Department Review Committee shall be the resolving authority.

§ 17.47 Information transferred for storage or retirement.

(a) Insofar as practicable, documents containing classified information shall be reviewed to determine whether or not such information can be downgraded or declassified prior to being forwarded to the Archives of the United States for permanent preservation. When such a review is complete, certification of classification review shall be entered on or affixed to the transmittal form or on the document itself by an authorized classifying or declassifying official. Appropriate markings reflecting downgrading or declassification shall also be indicated, pursuant to § 17.66, on each document reviewed.

(b) Classified information transferred to the General Services Administration for accession into the archives of the United States shall be downgraded or declassified by the Archivist of the United States in accordance with Executive Order 12356, the directives of the Information Security Oversight Office, and Department guidelines pursuant to § 17.36.

§ 17.48 Downgrading upon reconsideration.

Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by an official authorized to declassify the same information (see § 17.32). Notice of downgrading shall be provided to known holders of the information to the extent practicable.

§ 17.49 Notification of changes to a lower classification or declassification.

(a) When documents containing classified information have been properly marked with specific dates or events for declassification, it is not necessary to issue notices of declassification to any holders. However, when a downgrading or declassification action is taken earlier than originally scheduled, the authority making such changes shall ensure prompt notification to all addressees to whom the information or material was originally transmitted. The notification shall specify the marking action to be taken, the authority therefor and the effective date. Upon receipt of notification, recipients shall effect the proper changes and shall notify addressees to whom, it turn, they have transmitted the classified information or material.

(b) Automatic declassification determinations under predecessor orders remain valid, unless extended pursuant to § 17.17, and the information will be downgraded or declassified without notification to holders.

§ 17.50 Foreign Relations series.

Heads of the Offices, Boards, Divisions and Bureaus should assist the Department of State in its preparation of the *Foreign Relations of the United States* series by facilitating access to appropriate classified material in their custody and by expediting declassification review of documents proposed for inclusion in the *Foreign Relations of the United States*.

Subpart D—Identification and Marking

§ 17.51 Policy.

(a) Information determined to require classification protection under the provisions of this regulation shall be so designated. These designations shall also be affixed to material other than paper documents, or the originator shall provide holders or recipients of the information with written instructions for protecting the information.

(b) Identification and markings shall not be used when the markings would reveal a confidential source or relationship not otherwise apparent in the documents.

(c) Information assigned a level of classification under predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the officials specified in section 3.1(b) of Executive Order 12356.

§ 17.52 Marking documents (general).

(a) At the time of original classification, the following shall be shown on the face of originally classsified documents:

(1) One of the three classification levels defined in § 17.7;

(2) The identity of the original classification authority, unless he or she is the signer or approver of the document;

(3) The "Department of Justice" and the Office, Board, Division or Bureau of origin; and

(4) Either the date or event for declassification or the caveat, "Originating Agency's Determination Required."

(b) Should any downgrading markings or action be made or be scheduled to be taken, the date the downgrading should be shown on the face of the document.

(c) At the time of origin, paper copies of derivatively classified documents shall show on their face:

(1) The source of classification, i.e., a source document(s) or classification guide. If classification is derived from more than one source, the phrase "multiple sources" will be shown and the identification of each source will be maintained with the file or records copy of the document;

(2) The identity of the office within the Department originating the derivatively classified document;

(3) The overall classification of the document;

(4) The date or event for automatic declassification which shall be carried forward from the source material or classification guide. If the classification is derived from multiple sources, the latest date or event for declassification to the various source documents shall be applied to the new document.

(d) Foreign Government Information shall either retain its orginal classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(e) In addition to the foregoing, paper copies of classified documents shall be marked as prescribed in this Subpart or in Subpart F if the document contains Foreign Government Information. Such notations shall be carried forward from source documents to derivatively classified documents when appropriate.

§ 17.53 Marking the document with the identity of classifier.

(a) Identification of a classification authority shall be shown on the "Classified by" line prescribed under § 17.66 and shall be such that, standing alone, it is sufficient to identify a particular official, source document or classification guide.

(1) If any information in a document or material is classified as an act of original classification, the classification authority who made the determination shall be identified on the "Classified by" line, unless the classifier if also the signer or approver of the document.

(2) If the classification of all information in a document or material is derived from a single source (for example, a source document or classification guide), the "Classified by" line shall identify the source of original classification or classification guide, including its date.

(3) If the classification of information contained in a document or material is derived from more than one source document, classification guide, or combination thereof, the "Classified by" line shall be marked "multiple sources" and identification of all such sources shall be maintained with the file or record copy of the document.

(4) If an official with requisite classification authority has been designated by the head of an Office, Board, Division or Bureau to approve security classifications assigned to all information leaving that component, the name and title of that designated official shall be shown on the "Classified by" line. The designated official shall maintain records adequate to support derivative classification actions by other organizations.

(5) If the identification of the classifier in itself is classified information, a substitute identifier can be used provided that adequate records are maintained by the classifying organization to identify the classifier by name.

(b) Guidance concerning the identification of the classification authority on electronically transmitted messages is contained in § 17.60.

§ 17.54 Overall and page marking.

(a) Except as otherwise specified for working papers, the highest classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked, stamped or affixed permanently at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page shall be marked with the designation "UNCLASSIFIED" when appropriate.

(b) As an alternative, the highest classification of the document may be conspicuously marked or stamped at the top and bottom of each interior page (regardless of the actual classification of the information contained on that page), provided that such marking is necessary to achieve reproduction efficiency and that the particular information in the interior pages to which classification is assigned is otherwise sufficiently identified consistent with the intent of § 17.56. In no event shall the overall classification marking of a page take the place of the classification marking of portions of the page marked with lower levels of classification.

§ 17.55 Marking components of documents.

When major components of complex documents are likely to be used separately, each major component shall be marked as a separate document. Examples include: Each annex, appendix, or similar component of a plan or program; attachments and appendices to a memorandum or letter; and each major part of a report.

§ 17.56 Paragraph or portion marking.

(a) Each section, part or paragraph, of a classified document shall be marked to show the level of classification of the information contained in or revealed by it, or that it is unclassified. Portions of documents shall be marked in a manner that eliminates doubt as to which portions contain or reveal classified information.

(1) Classification levels of paragraphs or portions of a document shall be shown by placing a parenthetical designator immediately preceding or following the text that it governs. In marking sections, parts, paragraphs, subparagraphs, or similar portions, the parenthetical designators "(TS)" for Top Secret, "(S)" for Secret, and "(C)" for Confidential, shall be used.

(2) When appropriate, the symbol "U" for Unclassified may be used, provided its use or nonuse is consistent throughout the document. Where required the symbols "RD" for Restricted Data and "FRD" for Formerly Restricted Data shall be added, e.g., "(S–RD)" or "(C–FRD)." In addition, portions that contain Critical Nuclear Weapon Design Information will be marked "CNWDI" following the classification.

(b) Illustrations, photographs, figures, graphs, drawings, charts and similar portions of classified documents will be clearly marked to show their classification or unclassified status. Such markings shall not be abbreviated and shall be prominent and placed within or contiguous to the portion. Captions of such portions shall be marked on the basis of their content alone, by placing the symbol "(TS)," "(S)," "(C)," or "(U)" immediately preceding the caption.

(c) If the application of parenthetical designation marking is determined to be impracticable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification. When all portions of a classified document are classified at the same level, this fact may be indicated by a statement to that effect, which is included in the document.

(d) When elements of information in one portion require different classifications, but segregation into separate portions would destroy continuity or context, the highest classification required for any item shall be applied to that portion or paragraph.

(e) The Attorney General may, for good cause and in writing, grant and revoke waivers of the foregoing portion marking requirements.

(1) Requests for a waiver of portion marking requirements shall be submitted to the Department Security Officer from the Security Programs Managers and shall include the following:

(i) Identification of the information or class of documents for which the waiver is sought;

(ii) A detailed explanation of why the waiver should be granted;

(iii) The written determination of the Office, Board, Division or Bureau that the anticipated dissemination of the information or class of documents for which the waiver is sought is minimal; and

(iv) The extent to which such information subject to the waiver may be a basis for derivative classification in future documents.

(2) If there is some other basis to conclude that the potential benefits of portion markings are clearly outweighed by the increased administrative burdens, a letter to the Department Security Officer from the Security Programs Manager should be submitted setting forth the circumstances.

(3) The Director of the Information Security Oversight Office shall be notified by the Department Security Officer of any waivers.

§ 17.57 Subjects and titles of documents.

Subjects or titles of classified documents must be marked with the appropriate symbol, "(TS)," "(S)," "(C)," or "(U)" and shall be placed immediately to the right of such subjects or titles. When applicable, other appropriate symbols, e.g., "(RD)" and "(FRD)," shall be added. Every effort should be made to use unclassified titles or subjects. However, if a title or subject requires classification, an unclassified identifier may be assigned to facilitate reference.

§ 17.58 Files, folders or groups of documents.

Files, folders or groups of documents shall be marked conspicuously according to the highest classification of any classified document included therein. Document cover sheets may be used for this purpose.

§ 17.59 Transmittal documents.

A transmittal document shall carry on its face a prominent notation as to the highest classification of the information transmitted with it and a legend showing the classification, if any, of the transmittal document standing alone. For example, an unclassified document that transmits a classified document shall bear a notation substantially as follows: "UNCLASSIFIED WHEN

CLASSIFIED ENCLOSURE IS REMOVED."

§ 17.60 Messages.

It is recognized that marking some electronically transmitted classified messages poses serious technical problems, requiring certain exceptions. However, every reasonable effort shall be made to mark such messages consistent with the provisions of this Subpart. Message abbreviations examples are included in § 17.66.

§ 17.61 Translations.

Translations of United States classified information into a language other than English shall be marked to show the United States as the country of origin, with the appropriate United States classification markings and the foreign language equivalent.

§ 17.62 Markings on special categories of material.

(a) Security classification and declassification instructions assigned by the classifier shall be consistent with § 17.51. In addition to use of a stamped marking, classification levels may be printed, written, painted, or affixed by means of a tag, sticker, decal or similar device, on classified material other than paper copies of documents, with preference given to the most durable.

(b) If marking the material or container is not practicable, written notification of the security classification and declassification instructions shall be furnished to recipients. The following procedures for marking various kinds of material containing classified information are not all inclusive and may be varied to accommodate the physical characteristics of the material containing the classified information as well as organizational and operational requirements.

§ 17.63 Charts, maps and drawings.

Charts, maps and drawings shall bear the appropriate classification marking under the legend, title block or scale, in a manner that differentiates between the overall classification of the document and the classification of the legend or title itself. The higher of these markings shall be inscribed at the top and bottom of each such document. If folding or rolling charts, maps or drawings would obscure the classification markings, additional markings shall be applied that are clearly visible when the document is folded or rolled.

§ 17.64 Photographs, films and recordings.

Photographs, films (including negatives), recordings, and their containers shall be marked in such a manner as to assure that a recipient or viewer will know that classified information of a specified level of classification is involved.

§ 17.65 Applying derivative declassification markings.

New material that derives its classification from existing classified material shall be treated as follows:

(a) If the source material bears a declassification date or event, the date or event shall be carried forward to the new material.

(b) If the source material has no declassification date or event, or bears an indeterminate date or wording such as "Upon Notification by Originator," "Cannot Be Determined," "Impossible to Determine," or "Date of Review," the new material shall be marked "Originating Agency's Determination Required."

§ 17.66 Examples of commonly used markings.

(a) *Original Classification.* At the time of origin, each classified document is marked on its face with one or more standard markings substantially as shown below in addition to other markings contained in § 17.52.

(1) The following markings are used with an original classification when there is a specific event or date for declassification:

CLASSIFIED BY: (Classification Authority)
DECLASSIFY ON: (Date or Event)
and Message Abbreviation: DECL (Date or Event)

(2) The following markings are used with an original classification when a date or event for declassification cannot be determined:

CLASSIFIED BY: (Classification Authority)
DECLASSIFY ON: Originating Agency Determination Required or (OADR)
and Message Abbreviation: DECL (OADR)

(b) *Downgrading and Declassification.* Declassification and, as applicable, downgrading instructions shall be shown as follows:

(1) For information to be declassification automatically on a specific date:

DECLASSIFY ON: (Date)
and Message Abbreviation: DECL: (Date)

(2) For information to be declassified automatically upon occurrence of a specific event:

DECLASSIFY ON: (Description of Event)
and Message Abbreviation: DECL: (Description of Event)

(3) For information not to be declassified automatically:

DECLASSIFY ON: Originating Agency's Determination Required or OADR
and Message Abbreviation: DECL: OADR

(4) For information to be downgraded automatically on a specific date or upon occurrence of a specific event:

DOWNGRADE TO (Classification Level)
ON (Date or Description of Event)
and Message Abbreviation:
DNG (abbreviation of classification level to which the information is to be downgraded and date or description of event on which downgrading is to occur)

(c) *Derivative Classification.* Documents classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 17.51 through § 17.66 as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide.

(1) The authority for derivative classification shall be shown as follows:

CLASSIFIED BY: (Description of source document or classification guide)
and a Message Abbreviation is not required.

(i) If a document is classified on the basic of more than one source document or classification guide, the authority for classification shall be shown as follows:

CLASSIFIED BY MULTIPLE SOURCES

In these cases, the derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document.

(ii) A document derivatively classified on the basis of a source document that is marked "CLASSIFIED BY MULTIPLE SOURCES" shall cite the source document in its "CLASSIFIED BY" line rather than the term "MULTIPLE SOURCES."

(2) Dates or events for automatic declassification or downgrading, or the notation "ORIGINATING AGENCY'S DETERMINATION REQUIRED" to indicate that the document is not to be declassified automatically, shall be carried forward from the source document, or as directed by a classification guide, and shown on a "DECLASSIFY ON" line as follows:

DECLASSIFY ON: (Date, Description of Event, or Originating Agency's Determination Required or OADR)
and Message Abbreviation: DECL (Date, Description of Event, or OADR)

(d) *Restricted Data.* The Restricted Data and Formerly Restricted Data markings are, in themselves, evidence of extended classification. Therefore, except for electronically transmitted messages, only a completed "Classified By" line is required with such a marking.

(1) Classified documents or material containing Restricted Data as defined in the Atomtic Energy Act of 1954, as

amended, shall be marked as follows on the bottom of each page:

RESTRICTED DATA
This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Unauthorized disclosure subject to Administrative and Criminal Sanctions.

(2) Classified documents or material containing Formerly Restricted Data, as defined in the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2162(d), but no Restricted Data, shall be marked as follows on the bottom of each page:

FORMERLY RESTRICTED DATA
Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Dissemination. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2164(b)."

(e) *Intelligence Sources or Methods Information.* Classified information or material involving intelligence sources or methods that is subject to specific dissemination controls shall be marked with the following additional warning notice, unless otherwise proscribed by the Director of Central Intelligence.

WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED.
The message abbreviation WNINTEL shall be used on applicable electrically transmitted messages unless proscribed by the Director of Central Intelligence.

(f) *Foreign Government Information.* Documents that contain Foreign Government Information shall include either the marking "FOREIGN GOVERNMENT INFORMATION," or a marking that otherwise indicates that the information is Foreign Government Information. When Foreign Government Information must be concealed, the document shall be marked as if it were wholly of United States origin. The message abbreviation FGI shall be used on applicable electrically transmitted messages unless the fact that the information is of foreign origin must be concealed.

§ 17.67 Upgrading.

When material is upgraded it shall be promptly and conspicuously marked, except that in all such cases the old classification markings shall be cancelled and new markings substituted therefor. All upgrading shall be in accordance with § 17.28.

§ 17.68 Limited use of posted notice for large quantities of material.

(a) When the volume of material is such that prompt remarking of each classified item cannot be accomplished without unduly interfering with operations, the custodian may attach upgrading, downgrading or declassification notices to the storage unit. Each notice shall specify the authority for the classification action, the date of the action, and the storage unit to which it applies.

(b) When individual documents or materials are permanently withdrawn from storage units, they shall be remarked promptly. However, if documents or materials subject to a downgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or materials is transferred from one place to another, the transfer may be made without remarking, provided that in all instances the notice is attached to or remains with each shipment. Items permanently withdrawn from such storage units shall be promptly remarked in accordance with this Subpart.

§ 17.69 Additional warning notices.

Should the marking requirements prescribed in § 17.52 not be adequate, additional warning notices shall be prominently displayed on classified documents or materials, as applicable. In the case of documents, these warning notices shall be marked conspicuously on the outside of the front cover, or on the first page, if there is no front cover.

§ 17.70 Dissemination and reproduction notice.

Classified information that is determined by a Department originator to be subject to special dissemination or reproduction limitations, or both, shall include an appropriate statement(s) on its cover sheet or the first page of the text, substantially as follows:

"Reproduction requires approval of originator or higher Department of Justice Authority."
"Further dissemination only as directed by [Insert appropriate office or official] or higher Department of Justice authority." or "Eyes Only."

Subpart E—Safekeeping and Storage

§ 17.71 Policy.

(a) Classified information may be used, discussed, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. The exact nature of security requirements will depend on a thorough security evaluation of local conditions and circumstances. Security requirements must permit the accomplishment of essential functions while affording selected items of information reasonable degrees of security with a minimum of risk. The requirements specified in this regulation represent the minimum acceptable standards.

(b) Funds, weapons, medical items, or other items of intrinsic value will not be stored in containers with classified National Security Information. This restriction does not apply to valuable items which are themselves classified.

§ 17.72 Standards for storage equipment.

The General Services Administration establishes and publishes minimum uniform standards, specifications, and supply schedules for containers, vaults, alarm systems and associated security devices suitable for storage and protection of classified information and material throughout the Government. Department Order 2620.4 entitled, "Physical Security Manual for Safeguarding Classified National Security Information" contains information regarding acceptable security equipment for the physical protection of National Security Information within the Department. No other equipment to be used for the storage of classified National Security Information shall be procured without the prior approval of the Department Security Officer.

§ 17.73 Storage of classified material.

Classified material, including classified information stored on removable storage media used by typewriters, word processors or remote terminal equipment, must be protected at all times. Whenever classified material is not under the personal control of an authorized and appropriately cleared person, whether during or outside of working hours, it will be guarded or stored in a locked security container as prescribed below:

(a) *Top Secret.* Top Secret information or material shall be stored in: (1) A safe-type steel file container having a built-in, three-position, dial-type changeable combination lock appoved by the General Services Administration or a vault or secure area which meets the standards as contained in the Subject Manual cross referenced in Department Order 2620.4, or

(2) An alarmed area, provided such facilities are judged by the Department Security Officer to afford protection equal to or greater than that prescribed in § 17.73(a)(1). When an alarmed area is utilized for the storage of Top Secret information and material, the physical barrier must be adequate to prevent surreptitious removal or observation of the material. The physical barrier must also be such that attempted forcible entry will give evidence of such entry into the area or room. As a minimum the alarm system must provide for an immediate response by a security force

to an attempted surreptitious or forced entry.

(b) *Secret and Confidential.* Secret and Confidential material may be stored in a manner authorized for Top Secret; or in a vault-type room, or secure storage room which has been approved in accordance with the standards prescribed in the Subject Manual cross referenced in Department Order 2620.4, or until phased out, in containers described in § 17.73(d).

(c) *Specialized Security Equipment—*
(1) *One and two-drawer containers.* One and two-drawer security containers which are approved by the General Services Administration shall be used primarily in mobile facilities or in areas where small amounts of classified information are stored. Such containers should be securely fastened or guarded to prevent the theft of the container.

(2) *Map and plan file.* A General Services Administration approved Map and Plan File container has been developed for storage of odd-sized items such as computer cards and tapes, maps, charts, plans, and other classified material.

(d) *Non-General Services Administration Approved Containers.* In addition to the security containers meeting General Services Administration standards, Secret and Confidential classified information may be stored in a steel filing cabinet equipped with a built-in, three-position, dial-type changeable combination lock; or as a last resort, in an existent steel filing cabinet equipped with a steel lock bar, provided it is secured by a General Services Administration approved changeable combination padlock. If a steel filing cabinet with a steel lock bar is used for Secret information, the procedures in Department Order 2620.4 must be adhered to.

(e) *Sensitive Compartmented Information Storage.* Sensitive Compartmented Information will be stored only in accredited facilities which meet approved physical security standards for such material pursuant to Director of Central Intelligence Directive 1/19 entitled, "Uniform Procedures for Administrative Handling and Accountability of Sensitive Compartmented Information" and other applicable Department regulations. When maintained in Sensitive Compartmented Information facilities, classified information may be stored in the same container prescribed for storage of Sensitive Compartmented Information; however, when removed from the Sensitive Compartmented Information facility, the provisions of § 17.73 (a) through (d) above apply.

§ 17.74 Procurement and phase-in of new storage equipment.

Whenever new security storage equipment is procured, it will be from the security containers listed on the Federal Supply Schedule, General Services Administration.

(a) Further acquisition for unapproved security containers or modification of cabinets to bar-padlock type as storage equipment for classified information and material is prohibited. Exceptions may be made by the Department Security Officer, upon written request from the Security Programs Manager concerned.

(b) When a security storage container is acquired, the Security Programs Manager shall ensure that a new combination is set before the container is put into use.

§ 17.75 Designations of security containers.

There shall be no external marking as to the level of classified information authorized to be stored in a container. However, each vault, secure area or security container shall be assigned a number or symbol for the purpose of identifying what level or category of clasified information is stored therein. The number or symbol shall be affixed in a conspicuous location on the outside of the vault or security container. Security Programs Managers shall keep a record of the vaults and security containers under their cognizance along with the designation of the level of classified information authorized to be stored therein.

§ 17.76 Changing combinations to security containers.

Combinations to security containers and dial-type locks will be changed only by individuals having an appropriate security clearance and who have received instruction on how to correctly change such combinations. Combinations shall be changed:

(a) When the container is placed in use;

(b) When an individual knowing the combination no longer requires or is authorized access to classified information stored in the container;

(c) When the combination or record of combination has been subject to compromise;

(d) When taken out of service; or

(e) At least annually.

§ 17.77 Equipment out of service.

When security storage equipment is taken out of service, it shall be inspected to ensure that no classified information remains.

(a) Security Programs Managers shall establish procedures to certify that whenever security equipment is moved or relocated or "out of service" or "excess" that the security equipment does not contain classified information.

(b) When taken out of service, built-in combination locks shall be reset to the standard combination 50–25–50. Combination padlocks shall be reset to the standard combination 10–20–30.

§ 17.78 Classification of combinations.

The combination of a vault or container used for the storage of classified information and material shall be assigned a security classification no lower than the highest level of the classified material autorized to be stored therein. No downgrading/declassification instructions or classifier identity are required to be made when classifying records of combinations to security containers. Accordingly, classification actions for such combinations are not required to be reported. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes.

§ 17.79 Recording storage facility data.

A record shall be maintained by Security Programs Managers or their designees for each vault, secure area, or container used for the storage of classified information. The record shall show its location, and the names and other appropriate identifying data of persons having knowledge of the combinations to such storage facilities. General Services Administration Optional Form 63, entitled, "Security Container Information" may be used within the Department for these purposes. The OF–63 containing security combinations shall be marked with the appropriate overall classification, and shall be safeguarded and stored in accordance with the protection afforded to that classification.

§ 17.80 Care during working hours.

Each individual shall take all necessary precautions to prevent access to classified information by unauthorized persons (i.e., persons who do not possess an appropriate security clearance, and who do not possess the required need-to-know). Among the precautions to be followed are:

(a) Classified documents, when removed from storage for working purposes, shall be kept under constant surveillance and turned face-down or covered when not in use. Department Cover Sheets should be utilized to cover classified documents.

(b) Preliminary drafts, carbon sheets, plates, stencils, stenographic notes,

worksheets, and all similar items containing classified information shall be either destroyed by the person responsible for their preparation immediately after they have served their purposes, or shall be given the same classification and safeguarded in the same manner as the classified information they contain.

(c) Classified information handled by word processors or remote terminals is susceptible to interception by unauthorized persons due to unintended electrical emanations. Word processors or remote terminals used frequently to handle classified information must have a reduced level of emanations (e.g., approved by the Subcommittee on Compromising Emanations) or located in an area with a sufficient perimeter of control.

(d) Typewriter ribbons used in typing classified information shall be protected in the same manner as the highest level of classification for which they have been so used. When destruction is necessary, it shall be accomplished in the manner prescribed for classified working papers (See Subpart H) of the same classification. After the upper and lower sections of the ribbon have been cycled through the typewriter five times in the course of regular typing, all fabric ribbons may be treated as unclassified. Carbon and plastic typewriter ribbons and carbon paper which have been used in the production of classified information shall be destroyed after initial usage in the manner prescribed for working papers of the same classification. As an exception to the foregoing, any typewriter ribbon which remains substantially stationary in the typewriter after it has received at least five consecutive impressions may be treated as unclassified.

§ 17.81 Care after working hours.

Heads of Offices, Boards, Divisions and Bureaus shall require and institute through their Security Programs Managers, a system of security checks at the close of each working day to ensure that the classified information in the possession of such Offices, Boards, Divisions and Bureaus is properly protected. Security Programs Managers shall require the custodians of classified information in their Offices, Boards, Divisions or Bureaus to make periodic inspections of their respective areas which shall ensure that the following minimum requirements are met:

(a) All classified information is stored in approved security containers. This includes removable storage media, e.g., floppy disks used by word processors, that contain classified information.

(b) Burn bags, if utilized, are either stored in approved security containers or destroyed.

(c) Classified shorthand notes, carbon paper, carbon and plastic typewriter ribbons, rough drafts and similar papers have been properly stored or destroyed.

§ 17.82 Administrative aids for safeguarding classified material.

Appropriate forms shall be used on security containers for check purposes. Such forms shall be conspicuously attached to the outside of each container used for the storage of classified information. Each authorized person will record the time and date that he or she unlocks or locks the security container, followed by the person's initials. At the close of each working day, a person other than the individual locking the container will check the container, in the presence of the individual locking the container, to ensure that it is secure. The time of the check followed by the checker's initials will be recorded. The check will be conducted each working day. If a container has not been opened, the date and the phrase "Not Opened" will be noted in addition to the time and the checker's initials. A container will not be left unattended until it has been locked by an authorized person and checked by a second person. The person locking a container is responsible for insuring that another person checks the container. Reversible "OPEN-CLOSED" signs, shall be utilized on security containers containing classified information. The respective side of the sign shall be displayed to indicate when the container is open or closed.

§ 17.83 Telephone or telecommunication conversations.

(a) Classified information shall not be discussed over nonsecure telephones. Classified telephone conversations are authorized only over approved secure (encrypted) communication circuits. Information concerning which telephones in the Department are secure may be obtained from Security Programs Managers or the Department Security Officer.

(b) Classified information shall not be transmitted over nonsecure radio equipment or facsimile devices. Classified information may be transmitted using approved secure (encrypted) communication equipment. Guidance on which communication equipment is secure may be obtained from the Security Programs Manager or the Department Security Officer.

§ 17.84 Security of meetings and conferences.

The official responsible for arranging or convening a conference or other meeting is also responsible for instituting procedures and selecting facilities which provide adequate security if classified information is to be discussed or disclosed. (See Department Order 2660.1A.) The responsible official will:

(a) Notify each person who is to be present or who is to discuss classified information or any security limitations that must be imposed because of:

(1) The level of access authorization.

(2) Requirement for access to the information by the attendees.

(3) Physical security conditions.

(b) Ensure that each person attending the classified portions of meetings has been authorized access to information of equal or higher classifiation than the information to be disclosed.

(c) Ensure that the area in which classified information is to be discussed affords adequate acoustical security against unauthorized disclosure.

(d) Ensure that adequate storage facilities are available, if needed.

(e) Control and safeguard any classified information furnished to those in attendance and retrieve the material or obtain receipts, as required.

(f) Monitor the meetings to ensure that discussions are limited to the level authorized.

(g) Ensure that meetings at which classified information is to be discussed will be held only in a United States Government area or at a cleared facility of a Department contractor or consultant. When necessary for the accomplishment of essential functions, a meeting involving classified information may be held at another location provided it has been specifically authorized by the Department Security Officer.

Subpart F—Foreign Government Information

§ 17.85 Identification of documents.

Foreign Government Information under this regulation is of two types and shall be classified in accordance with this Subpart.

(a) Information, whether classified or unclassified, provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, express or implied, that the information, the source of the information, or both, are to be held in confidence shall be classified by the

Office, Board, Division, or Bureau receiving the document.

(b) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence shall be classified.

§ 17.86 Classification.

(a) Foreign Government Information classified and provided by a foreign government or international organization of governments shall retain its original classification designation or be assigned a United States classification designation that will ensure a degree of protection equivalent to that required by the government or organization that furnished the information. Original classification authority is not required for this purpose.

(b) Foreign Government Information that was not classified by a foreign entity but was provided with the expectation, expressed or implied, that it be held in confidence must be classified. Therefore, such Foreign Government Information shall be classified at least Confidential, and higher whenever the damage criteria for Secret and Top Secret in Subpart B are determined to be met.

§ 17.87 Presumption of damage by unauthorized disclosure.

Unauthorized disclosure of Foreign Government Information, the identity of a confidential foreign source or intelligence sources or methods is presumed to cause damage to the national security.

§ 17.88 Duration of classification.

(a) Foreign Government Information marked for automatic declassification shall be declassified unless extended by an authorized official of the originating agency.

(b) Unless classification guidelines developed pursuant to Subpart B prescribed dates or events for declassification, Foreign Government Information may be classified by the Department as required by national security considerations.

§ 17.89 Systematic review.

(a) The Attorney General may, in consultation with the Archivist of the United States and, where appropriate, with the foreign governments or international organizations concerned, develop systematic review guidelines for 30-year old Foreign Government Information in the possession or under the control of the Department. These guidelines shall be kept current through review by the Attorney General at least once every five years unless earlier review for revision is requested by the Archivist of the United States.

(b) The Director, Office of Information and Privacy, shall perform administrative functions necessary to effect such review by the Attorney General.

(c) These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the Attorney General, be used by any agency having custody of the same categories of information.

§ 17.90 Mandatory review.

(a) Requests for mandatory review for declassification of Foreign Government Information shall be processed and acted upon in accordance with the provisions of §§ 17.37 through 17.46, except that Foreign Government Information will be declassified only in accordance with the classification guidelines developed for such purpose and after necessary consultation with other Government agencies with subject matter interest.

(b) In cases where the above guidelines cannot be applied to the Foreign Government Information requested, or in the absence of such guidelines, consultation with the foreign originator through appropriate channels should be effected prior to final action on the request. When the responsible Office, Board, Division or Bureau is knowledgeable of the foreign originator's view toward declassification or continued classification of the types of information requested, consultation with the foreign orginator may not be necessary.

(c) If the Office, Board, Division or Bureau receiving the mandatory review request did not receive or classify the Foreign Government Information, it shall refer the request to the appropriate agency for action. The agency that initially received or classified the Foreign Government Information shall be responsible for making a declassification determination after consultation with other concerned agencies.

§ 17.91 Equivalent United States classification designations.

Except for the foreign security classification designation "restricted," foreign classification designations, including those of international organizations of governments, i.e., NATO and CENTO, generally parallel United States classification designations.

§ 17.92 Marking other foreign government documents.

(a) If the security classification designation of foreign government documents is shown in English, no other classification marking shall be applied. If the security classification designation is not shown in English, the equivalent overall United States classification designation shall be marked conspicuously on the document. In those cases where foreign government documents are marked with a classification designation having no United States equivalent, such documents shall be marked and handled in accordance with § 17.92(b).

(b) Certain foreign governments and international organizations of governments use a fourth classification designation below Confidential. Such classification is frequently designated as "Restricted" by such entities. If foreign government documents are marked with such a classification designation, whether or not in English, the United States classification marking Confidential shall be applied and the Foreign Government Information so designated shall be protected as United States Confidential information.

(c) Dates for declassification or for review for declassification shall be marked on foreign government documents only as required by § 17.88 and § 17.89.

(d) In most cases, other marking requirements prescribed by this regulation for United States classified documents are not applicable to documents of foreign governments or international organizations of governments.

§ 17.93 Marking of Foreign Government Information in Department documents.

(a) When Department documents contain Foreign Government Information, the marking "FOREIGN GOVERNMENT INFORMATION" or a marking that otherwise indicates that the information is Foreign Government Information shall be shown on the face of the document.

(b) Where such markings would reveal Foreign Government Information incorporated into Department documents that must be concealed as to its source, the markings shall not be used.

(c) The requirement for portion markings may be satisfied by including the appropriate identification in the portion or paragraph classification markings, e.g., (NATO-S) or (U.K.-C).

§ 17.94 Other Foreign Government Information.

Classified Foreign Government Information held by an Office, Board, Division or Bureau shall be safeguarded or protected as prescribed by this regulation for United States classified information of a comparable level.

Subpart G—Access, Dissemination, and Accountability

§ 17.95 Policy.

(a) No person may be given access to classified information or material originated by, in the custody or under the control of the Department, unless that person has been determined to be trustworthy and (except as provided in §17.96(e)) unless access is necessary for the performance of official duties. Procedures shall be established by the Security Program Managers of the Offices, Boards, Divisions and Bureaus to prevent any unnecessary access to classified information. No person is authorized to have access to classified information solely by virtue of rank or position. Accordingly, all requests from the heads of the Offices, Boards, Divisions and Bureaus to the Department Security Officer for a personnel security clearance shall contain a demonstrable need for access to classified information. Further, the number of persons cleared and granted access to classified information shall be maintained at the minimum number that is consistent with operational requirements and needs.

(b) The determination of trustworthiness for eligibility for access to classified information (referred to as a security clearance) shall be made by the Department Security Officer or his designee and shall be based on appropriate security background investigations in accordance with applicable Executive Orders, Department regulations, Intelligence Community directives and Office of Personnel Management guidelines. Current and valid clearances issued to persons by other agencies of the Executive Branch may be accepted, for access purposes only, in lieu of granting such clearances by the Department Security Officer. Such clearance certification shall be accomplished by the Department Security Officer, upon request.

(c) The Department Security Officer may delegate, in writing, the authority to grant Department employees security clearances to qualified Security Programs Managers when the operational need justifies such delegation and the Department Security Officer is assured that such officials shall continually apply all clearance criteria in a uniform and correct manner during the adjudication of personnel security investigations. In those instances where such authority is delegated, the Department Security Officer shall reserve the right to review all personnel security cases which contain derogatory information that could be a deterrent to eligibility for clearance. The Department Security Officer shall reserve the right to withdraw such authority in any instance where it is determined that Department clearance policy and criteria set forth herein are not being expressly followed.

§ 17.96 Access by persons outside the Executive Branch.

Classified information shall not be disseminated outside the Executive Branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the Executive Branch.

(a) *General.* In accordance with the provisions of Department Order 2620.6, classified information originated by, or in the custody of, the Department may be made available to individuals or agencies outside the Executive Branch provided that such information is necessary for performance of a function from which the Government will derive a benefit or advantage, and that such release is approved by the Attorney General or the Assistant Attorney General for Administration, and is not prohibited by the originating department or agency (or foreign government in the case of Foreign Government Information). Recipients must be shown to be trustworthy by the Department Security Officer and recipients must agree to safeguard the information in accordance with the provisions of this regulation. Heads of Offices, Boards, Divisions and Bureaus shall determine, prior to the release of classified information, the propriety of such action, in the interest of the national security and the recipient's security clearance status and need-to-know.

(b) *Congress.* Access to classified information by Congress, its committees, members, and staff representatives shall be in accordance with the provisions of Department Order 2620.6. Any Department employee testifying before a Congressional Committee in executive session in relation to a classified matter shall obtain the assurance of the committee that individuals present have a security clearance commensurate with the highest classification of the information that may be discussed. Members of Congress, by virtue of their elected positions, are not investigated or cleared by the Department.

(c) *Non-Contractor Personnel.* Personnel outside the Executive Branch who are not subject to any Department contracts or grants and therefore are exempt from the provisions of the Defense Industrial Security Program and who require access to classified information originated by or in the custody of the Department shall be processed for such clearance in accordance with the provisions of Department Order 2620.6.

(d) *Contractor Personnel.* Personnel who are subject to a Department contract or grant or who are rendering consultant services to the Department and require access to classified information originated by or in the custody of the Department shall be processed for such access/clearance in accordance with the provisions of the Defense Industrial Security Program and Department Order 2600.3A.

(e) *Historical Researchers and Former Presidential Appointees.* (1) The requirement in § 17.95 that access to classified information may be granted only as is necessary for the performance of official duties may be waived for persons who:

(i) Are engaged in historical research projects or

(ii) Have previously occupied policymaking positions to which they were appointed by the President.

(2) All persons receiving access pursuant to this subparagraph must have been determined to be trustworthy by the Department Security Officer as a precondition before receiving access. such determination shall be based on such investigation as the Department Security Officer deems appropriate. Historical researchers and former Presidential appointees shall not have access to Foreign Government Information without the written permission from appropriate authority of the foreign government concerned.

(3) Waivers of the "need-to-know" requirement under this paragraph may be granted by the Department Security Officer provided that the Security Programs Manager of the Office, Board, Division or Bureau with classification jurisdiction over the information being sought;

(i) Makes a written determination that such access is consistent with the interests of national security;

(ii) Limits such access to specific categories of information over which the Department has classification jurisdiction;

(iii) Maintains custody of the classified information at a Department facility; and

(iv) Obtains the recipient's written and signed agreement to safeguard the information in accordance with the provisions of this regulation and to authorize a review of any notes and manuscript for determination that no classified information is contained therein;

(v) And in the case of former Presidential appointees, limits their access to items that such former appointees originated, reviewed, signed or received while serving as a Presidential appointee and ensures that such appointee does not remove or cause to be removed any classified information reviewed.

(4) If access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to 31 U.S.C. 9701, the requester shall be so notified and fees may be imposed.

(f) *Access by Persons Within the Judicial Branch.* To have access to classified information, every person except for Federal judges appointed by the President, including but not limited to court reporters, typists and secretaries, law clerks and translators must be granted the appropriate clearance by the Department Security Officer. Before clearance can be granted to any individual outside the Executive Branch who requires access to classified information originated by or in the custody of the Department, the person must have a complete and current full-field background investigation to allow a determination of eligibility for a security clearance to be made. This full-field investigation is conducted by the Federal Bureau of Investigation or the Office of Personnel Management. The length of time it generally takes to complete an expedited full-field background investigation is 90 days. Therefore, the courts should be advised of the time required to satisfy Executive Branch security regulations. All persons requiring access to classified information should be identified as promptly as possible by the Department's legal counsel to ensure the earliest possible beginning of clearance procedures.

(g) *Judicial Proceedings.* (1) Any Department employee or organization receiving an order or subpoena from a Federal or State court to produce National Security Information, required to submit National Security Information for official Department litigative purposes, or receiving National Security Information from another organization for production of such in litigation, shall immediately determine from the agency originating the classified information whether the information can be declassified.

(2) If declassification is not possible, the Department employee or organization and the assigned Department legal counsel in the case shall take all appropriate action to protect such information pursuant to the provisions of this paragraph.

(3) If a determination is made to produce such information in a judicial proceeding in any manner, the assigned Department legal counsel shall take all steps necessary to ensure the cooperation of the court and where appropriate, opposing counsel, in safeguarding and retrieving the information pursuant to the provisions of this regulation.

(4) The Classified Information Procedures Act, Pub. L. 96-456, 94 Stat. 2025, 18 U.S.C. App. (Supp. 1983), and the "Security Procedures Established Pursuant to Pub. L. 96-456, 94 Stat. 2025, by the Chief Justice of the United States for the Protection of Classified Information," may be used in Federal criminal cases involving classified information. In judicial proceedings other than Federal criminal cases or where the Classified Information Procedures Act is not used, the following minimum security safeguards shall be requested of the court and, where appropriate, sought to be included in a judicial protective order:

(i) Every effort shall be made to limit production of classified information to an *in camera, ex parte* review by the court to determine the relevance of the classified information in question.

(ii) Classified information shall not be introduced into evidence or otherwise disclosed at a proceeding without the prior approval of either the originating agency, the Attorney General, or the President.

(iii) Attendance at any proceeding where classified information is to be introduced or disclosed should be limited to the judge(s) as defined in Department Order 2620.6 and to those other persons whose duties require knowledge or possession of the classified information who have been determined to be trustworthy by the Department Security Officer.

(iv) All such proceedings shall be held in a court facility which can provide appropriate protection for the classified information as determined by the Department Security Officer.

(v) Dissemination and accountability controls shall be established for all classified information offered for indentification or introduced into evidence at such proceedings.

(vi) All transcripts of such proceedings shall be appropriately marked to show the classified portions and placed under seal upon transcription.

(vii) All classified information including the appropriate portions of the transcript shall be handled and stored in a manner consistent with the provisions of this regulation.

(viii) At the conclusion of the proceeding, all classified information shall be returned to the Department or placed under seal by the court.

(ix) All classified notes, drafts, or any other documents generated during the course of the proceedings and containing classified information shall be retrieved by Department employees and immediately transferred to the Department for safeguarding and destruction as appropriate.

(x) All persons who become privy to classified information disclosed under the provisions of this section shall be fully advised as to the classification level of such information, all pertinent safeguarding and storage requirements, and their liability in the event of unauthorized disclosure.

(xi) The Department Security Officer, in consultation with the agency originating classified case-related information and Government attorneys, may waive any of the security requirements identified in § 17.96(g)(4)(iii)-(x), if it has been determined that such a waiver is in the interest of the national security.

(5) This paragraph shall apply to all litigation, including matters arising under the Freedom of Information Act, 5 U.S.C. 552, as amended.

§ 17.97 Access by foreign nationals, foreign governments, international organizations, and immigrant aliens.

(a) Classified information may be released to foreign nationals, foreign governments and international organizations only when authorized under the provisions of the National Disclosure Policy (NDP-1) issued by the Secretary of Defense.

(b) If it is in the interest of the national security, Secret and Confidential information may be released, on a limited basis, to immigrant aliens in the performance of official duties, provided that the Department Security Officer determines the individual is reliable and trustworthy in accordance with this Subpart.

(c) Immigrant aliens may be granted a Limited Access Authorization to Top Secret information provided that the head of the Office, Board, Division or Bureau concerned makes a personal written request and determination to the

Department Security Officer that such access is essential to meet Government requirements and that the Department Security Officer determines that the individual is reliable and trustworthy in accordance with this subpart.

§ 17.98 Procedures for requesting a security clearance for a Department employee.

Requests for determination of eligibility for a security clearance shall be in the form of a memorandum addressed from the head of the Office, Board, Division or Bureau concerned to the Department Security Officer. Exception to this requirement may be granted in accordance with the provisions of § 17.95(c). Two copies of the request shall be submitted. The memorandum shall contain the following items:

(a) *Degree of clearance requested.* National security clearances are categorized into three levels, namely, Top Secret, Secret, and Confidential. The categories of security clearances are related directly to the levels of National Security Information to which access is required.

(b) *Justification for requested clearance.* A person must have a need for access to the particular classified information or material sought in connection with his/her official duties or obligations. This need-to-know is the essence for any justification for a security clearance. The justification for a clearance does not have to be long or detailed; however, a strict need-to-know shall be established before consideration to grant a security clearance can be given.

(c) *Continuous evaluation of need-to-know.* A continuing review of the established need-to-know shall be conducted by the Security Programs Manager.

(d) *Request for administrative withdrawal.* The head of each Office, Board, Division or Bureau shall make provision to request the administrative withdrawal of a security clearance of persons for whom there is no foreseeable need for access to classified information or material in connection with the performance of their official duties; for example, termination of employment or change in position. Likewise, when a person no longer needs access to classified material bearing a particular security classification category, a request that the security clearance be adjusted to the classification category still required for the performance of his/her official duties and obligations shall be made by the Security Programs Manager of the Office, Board, Division or Bureau concerned. In both instances, such action resultant from these requests will be without prejudice to the person's eligibility for future security clearances.

§ 17.99 Other access situations.

When necessary in the interests of national security, the Attorney General or the Assistant Attorney General for Administration may authorize access by persons outside the Federal Government, other than those enumerated above, to classified information upon determining that (a) the recipient is trustworthy for the purpose of accomplishing a national security objective and (b) that the recipient can and will safeguard the information from unauthorized disclosure. The clearance procedures and provisions of Department Order 2620.6 shall be followed in such instances.

§ 17.100 Dissemination.

(a) *Policy.* Except as otherwise provided in section 102 of the National Security Act of 1947, 50 U.S.C. 403, and 17.96(f) of this regulation, classified information originating within the Department may not be disseminated outside any other agency to which it has been made available without the consent of the Department. Conversely, classified information originating in a department or agency other than the Department shall not be disseminated outside the Department without first obtaining the consent of the originating department or agency. Office, Board, Division and Bureau Security Programs Managers shall establish procedures consistent with this regulation for the dissemination of classified information. The originating official or Office, Board, Division or Bureau may prescribe specific restrictions on dissemination of classified information when necessary.

(b) *Restraint on Reproduction.* No documents or materials or any portions thereof that contain Top Secret information shall be reproduced without the consent of the originator or higher authority. Any stated prohibition or markings on any classified document (regardless of classification) against reproduction shall be strictly observed. (See § 17.70.) The folowing measures apply to reproduction equipment and to the reproduction of classified information:

(1) Copying of documents containing classified information shall be minimized;

(2) Officials within each Office, Board, Division or Bureau shall be authorized by the Security Programs Manager, in writing, to approve the reproduction of Top Secret and Secret information; shall be designated by position title, and shall review the need for reproduction of classified documents with a view toward minimizing reproduction;

(3) Specific reproduction equipment shall be designated for the reproduction of classified information. Rules for reproduction of classified information shall be posted on or near the designated equipment;

(4) Notices prohibiting reproduction of classified information shall be posted on equipment used only for the reproduction of unclassified information;

(5) Security Programs Managers shall ensure that equipment used for reproduction of classified material does not leave latent images in the equipment or on other material;

(6) All copies of classified documents reproduced for any purpose, including those incorporated into a working paper, are subject to the same controls prescribed for the document from which the reproduction is made; and

(7) Records shall be maintained to show the number and distribution of reproduced copies of all Top Secret documents and of all classified documents covered by special access programs distributed outside the Department. Also, records shall be maintained concerning all Secret and Confidential documents which are marked with special dissemination and reproduction limitations.

§ 17.101 Transmission of Top Secret information.

Transmission of Top Secret information shall be effected only by:

(a) Authorized and cleared Department messenger-courier services;

(b) The Department of State Courier System;

(c) The Armed Forces Courier Service;

(d) Cleared and designated Department employee traveling on a conveyance owned, controlled or chartered by the Government;

(e) Cleared and designated Department employees traveling by surface transportation;

(f) Cleared and designated Department employees traveling on scheduled commercial passenger aircraft within and between the United States, its Territories and Canada;

(g) Cleared and designated Department contractors traveling within and between the United States and its Territories provided that the transmission has been authorized in writing by the appropriate contracting officer or his/her designated representative and, the designated employees have been briefed in their

responsibilities as couriers or escorts for the protection of Top Secret material; or

(h) A cryptographic communication system authorized by the Director, National Security Agency, or other secure communications circuits approved by the Department Security Officer.

§ 17.102 Transmission of Secret and Confidential information.

Transmission of Secret and Confidential information may be effected by:

(a) Any of the means approved for the transmission of Top Secret information except that Secret information may be introduced into the Armed Forces Courier Service only when the control of such information cannot be otherwise maintained in United States custody;

(b) Appropriately cleared Department contractors within and between the United States and its Territories provided that (1) the designated individuals have been briefed in their responsibilities as couriers or escorts for protecting classified information; and (2) the classified information remains under the constant custody and protection of the contractor personnel at all times;

(c) United States Postal Service registered mail with registered mail receipt within and between the 50 States, the District of Columbia, and Puerto Rico;

(d) United States Postal Service registered mail with registered mail receipt through DOD Postal Service facilities outside the 50 States, the District of Columbia, and Puerto Rico, provided that the information does not at any time pass out of United States citizen control and does not pass through a foreign postal system or any foreign inspection;

(e) United States Postal Service and Canadian registered mail with registered mail receipt between United States Government and Canadian government installations in the United States and Canada; or

(f) Government and Government contract vehicles including aircraft, ships of the United States Navy, civil service operated United States Naval ships, and ships of United States registry when these carriers are under appropriately cleared escort personnel. Appropriately cleared operators of vehicles, officers of ships or pilots of aircraft who are United States citizens may be designated as escorts provided the control of the carrier is maintained on a 24-hour basis. The escort shall protect the shipment at all times, through personal observation or authorized storage to prevent inspection, tampering, pilferage, or unauthorized access. However, observation of the shipment is not required during the period it is stored in an aircraft or ship in connection with flight or sea transit, provided the shipment is loaded into a compartment that is not accessible to any unauthorized persons or in a specialized secure, safe-like container.

§ 17.103 Transmission of classified information to foreign governments.

Subsequent to a determination by competent authority that classified information may be released to a foreign government, it shall be transmitted only to an embassy or official agency or representative of the recipient government.

§ 17.104 Envelopes or containers.

(a) Whenever classified information is transmitted, it shall be enclosed in two opaque sealed envelopes or similar wrappings where size permits, except as provided below.

(b) Whenever classified material is transmitted and the size of the material is not suitable for transmission in accordance with § 17.104(a), it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings.

(c) Material used for packaging shall be of such strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate the detection of any tampering with the container. The outer wrappings shall conceal all classified characteristics.

§ 17.105 Addressing.

(a) Addresses forwarding classified information shall be specific so that couriers/messengers may easily identify the intended recipients. Use of office code numbers or such phrases in the address as "Attention: Research Department," or similar aids in expediting internal routing, in addition to the organization address is encouraged.

(b) Classified written information should be folded in such a manner that the text will not be in direct contact with the inner envelope or container. A receipt form shall be attached to or enclosed in the inner envelope or container for all classified information. When written materials of different classifications are transmitted in one package, they shall be wrapped in a single inner envelope or container. A receipt listing all classified information shall be attached or enclosed. The inner envelope or container shall be marked with the highest classification of the contents.

(c) The inner envelope or container shall show the address of the receiving activity, classification, including, where appropriate, the "Restricted Data" marking, and any applicable special instructions. It shall be carefully sealed to minimize the possibility of access without leaving evidence of tampering.

(d) An outer or single envelope or container shall show the complete and correct address of the receiving activity and the return address of the sender.

(e) An outer cover or single envelope or container shall not bear a classification marking, a listing of the contents divulging classified information, or any other unusual data or marks that might invite special attention to the fact that the contents are classified.

(f) Care must be taken to ensure that classified information intended only for the United States elements of international staffs or other organizations is addressed specifically to those elements.

§ 17.106 Receipt systems.

(a) Top Secret information shall be transmitted under a chain of receipts covering each individual who receives custody.

(b) Secret and Confidential information shall be transmitted by a receipt between activities and other authorized addressees, except that in lieu of receipts, the heads of Offices, Boards, Divisions and Bureaus may prescribe such procedures as are necessary to control effectively Secret and Confidential information.

(c) Receipts shall be provided by the transmitter of the material and the forms shall be attached to the inner envelope or cover.

(1) Receipt forms shall be unclassified and contain only such information as is necessary to identify the material being transmitted.

(2) Receipts shall be retained for at least two years.

§ 17.107 Transmission exceptions.

Exceptions to the transmission requirements for classified information may be authorized by the Department Security Officer, provided the exception affords an equal amount of protection and accountability as that provided by the requirements set forth above. Proposed exceptions that do not meet these minimum standards shall not be approved.

§ 17.108 General courier restrictions.

Appropriately cleared personnel may be authorized to escort/hand-carry classified material between their

organization and an office to be visited, subject to the following conditions:

(a) The storage provisions of this regulation shall apply at all stops en route to the destination, unless the information is retained in the personal possession and constant surveillance of the individual at all times. The hand-carrying of classified information on trips that involve an overnight stopover is not permissible without advance arrangements for proper overnight storage in a Government installation or a cleared contractor's facility.

(b) Classified material shall not be read, studied, displayed, or used in any manner in public conveyances or places.

(c) When classified material is carried in a private, public, or Government conveyance, it shall not be stored in any detachable storage compartment such as automobile trailers or luggage racks.

(d) Security Programs Managers shall provide a written statement to all individuals escorting or carrying classified material aboard commercial passenger aircraft authorizing such transmission. This authorization statement may be included in official travel orders and should ordinarily permit the individual to pass through passenger control points without the need for subjecting the classified material to inspection. Specific procedures for carrying classified documents aboard commerical aircraft are contained in § 17.110. The Security Programs Managers shall ensure that employees carrying classified information abroad have obtained an official passport and other necessary documentations as required by the Department of State.

(e) Each organization shall account for all classified information carried or escorted by traveling personnel.

(f) Individuals authorized to carry or escort classified material shall be fully informed of the provisions of this Subpart prior to departure from their duty station.

§ 17.109 Restrictions on hand-carrying classified information aboard commercial passenger aircraft.

Classified information shall not be hand-carried aboard commercial passenger aircraft unless:

(a) There are no other authorized means available to move the information to accomplish operational objectives or contract requirements in a timely manner.

(b) The hand-carrying has been authorized by the Department Security Officer or the Security Programs Manager or a designated Security Officer of the Office, Board, Division or Bureau concerned.

(c) The hand-carrying is accomplished aboard a United States carrier. Foreign carriers will be utilized only when no United States carrier is available and then the information must remain in the custody and physical control of the United States escort at all times.

§ 17.110 Procedures for hand-carrying classified information on commercial passenger aircraft.

(a) *Basic Requirements.* Advance and continued coordination by the Office, Board, Division or Bureau shall be made with departure airline and terminal officials and, where possible, with intermediate transfer terminals to develop mutually satisfactory arrangements within the terms of this issuance and Federal Aviation Administration guidance. Specifically, a determination should be made beforehand as to whether documentation described in § 17.110(c), will be required. Local Federal Aviation Administration Security Officers can be of assistance in making this determination.

(1) The individual designated as courier shall be in possession of a Department picture identification card and written authorization from the Security Programs Manager of the organization concerned or the Department Security Officer to carry classified information.

(2) The courier shall be briefed as to the provisions of this Subpart.

(b) *Procedures for Carrying Classified Information.* Persons carrying classified information should process through the airline ticketing and boarding procedure in the same manner as all other passengers except for the following:

(1) The classified information being carried shall contain no metal bindings and shall be contained in sealed envelopes or other suitable containers. Should such envelopes or packages be contained in a briefcase or other carry-on luggage, the briefcase or luggage shall be routinely offered for opening and inspection for weapons.

(2) Opening or reading of the classified document by the screening official is not permitted.

(c) *Procedures for Transporting Classified Information in Large Packages.* Classified information in large sealed or packaged containers shall be processed as follows:

(1) The Department official who has authorized the transport of the classified information shall notify the appropriate air carrier in advance.

(2) The passenger carrying the information shall report to the affected airline ticket counter prior to boarding, present his documentation and the package or cartons to be exempt from screening. The airline representative will be requested to review the documentation and description of the containers to be exempt.

(3) If satisfied with the identification of the passenger and his documentation, the airline official will be requested to provide the passenger with an escort to the screening station and authorize the screening personnel to exempt the container from physical or other type inspection.

(4) If the airline officials or screening personnel refuse to permit the package to be loaded onto the aircraft without inspection, the courier will contact the appropriate Department official for further instructions.

(5) The actual loading and unloading of the information will be under the supervision of a representative of the air carrier; however, appropriately cleared personnel shall accompany the material and keep it under surveillance during loading and unloading operations. In addition, appropriately cleared personnel must be available to conduct surveillance at any intermediate stops where the cargo compartment is to be opened.

§ 17.111 Accountability of Top Secret information.

(a) Top Secret Control Officers and alternate Top Secret Control Officers shall be designated, in writing, by Security Programs Managers within all Offices, Boards, Divisions and Bureaus. Copies of such designations shall be forwarded to the Department Security Officer. Such officers shall be responsible for receiving, transmitting, and maintaining accountability registers for Top Secret information. They shall be selected on the basis of experience, reliability, and shall have appropriate security clearances. Further, Security Programs Managers shall ensure that written procedures concerning accountability of Top Secret information are promulgated. A copy of such procedures shall be forwarded to the Department Security Officer.

(b) All Top Secret information received or originated with the Department shall be immediately registered by an appropriate Top Secret Control Officer or alternate. Such registering process shall include the recording of: The date the document was received and originated; the classification of the document; the number of copies; the title and description of the document; the disposition and date; the location of the document; and the serial number assigned to the document. For example,

the 25th Top Secret document received within the Criminal Division during 1982 could be assigned the following Top Secret control number: CRM-82-0025.

(c) Top Secret accountability registers shall be maintained by each originating and receiving office for all Top Secret documents received or in its custody.

(d) The name and title of all individuals, including stenographic and clerical personnel, to whom information in Top Secret documents has been disclosed, and the date of such disclosure, shall be recorded. The use of a sheet of paper permanently attached to the document concerned may serve as a disclosure record or log for these purposes. Disclosures to individuals who may have had access to containers in which Top Secret infomation is stored need not be recorded on disclosure records. Disclosure records shall be retained for two years after the document concerned is transferred, downgraded or destroyed.

§ 17.112 Inventories.

Top Secret documents and material shall be inventoried at least once annually. Organizations which store large volumes of classified information may limit their annual inventory to documents and material which have been disclosed within the past year. If a storage system contains large volumes of information and security measures are adequate to prevent access by unauthorized persons, the head of the Office, Board, Division or Bureau may submit a request for a waiver of the annual inventory requirement to the Department Security Officer. However, the request must be fully justified to provide a basis for the Attorney General to approve, in writing, the waiver of these annual inventory requirements.

§ 17.113 Accountability of Secret and Confidential information.

Security Programs Managers within all Offices, Boards, Divisions, and Bureaus are responsible for ensuring that accountability procedures for Secret and Confidential information are established within their respective organizations. Such procedures shall be written and shall pertain to Secret and Confidential information originated or received by a Department component; distributed or routed to a subelement of such component; and disposed of by the component by transfer of custody or destruction. Copies of written procedures for the accountability and control of Secret and Confidential information shall be forwarded to the Department Security Officer. At a minimum, such procedures shall provide for the identification of the document.

§ 17.114 Accountability of reproduced documents.

Reproduced copies of Top Secret, Secret and Confidential documents are subject to the same accountability and controls as the original documents. (See § 17.100(b).)

§ 17.115 Working papers.

"Working papers" are classified documents and material accumulated or created in the preparation of finished documents and material. Working papers containing classified information shall be dated when created; marked with the highest classification of any information contained therein; protected in accordance with the assigned classification; destroyed when no longer needed; and marked with a declassification or review date when placed in permanent files. Working papers shall be accounted for and controlled in the manner prescribed for a finished document of comparable classification when released by the originator or transmitted through message center channels; filed permanently; or retained more than 180 days from date of origin.

Subpart H—Disposal and Destruction of Classified Information

§ 17.116 Policy.

All National Security Information shall be destroyed in a manner described herein whenever the operational or historical need for the particular classified information ceases to exist. Every effort shall be made to destroy National Security Information as soon as practical for two basic reasons:

(a) First, the longer large volumes of National Security Information are existent, the greater the potential for compromise.

(b) Second, the physical and document security requirements involving National Security Information are expensive to fulfill and maintain. The smaller the amount of National Security Information in existence within the Department, the fewer storage containers and security areas are required and the smaller the budgetary allotment which must be allocated by the Department to fulfill security requirements.

§ 17.117 Record material.

Documentary record material made by an Office, Board, Division or Bureau of the Department in connection with the transaction of public business, and preserved as evidence of the organization, functions, policies, operations, decisions, procedures, or other activities of any Department or Agency of the government, may be disposed of or destroyed only in accordance with Offices, Boards and Divisions (OBD) Order 2710.3A, Chapter 6.

§ 17.118 Nonrecord material.

Nonrecord material containing classified information (including shorthand notes, used carbon paper, one-time typewriter ribbons, word processor disks, preliminary drafts, plates, records and tapes, stencils, negatives, and the like, and wastage incidental thereto) shall be destroyed, in accordance with this Subpart, as soon as it has served its purpose, unless it is the subject of an ongoing mandatory review for declassification request. Prior to destruction, this material must be protected in a manner to prevent unauthorized disclosure of the information in accordance with the safeguarding procedures contained in this regulation.

§ 17.119 Methods of destruction.

Top Secret, Secret and Confidential classified information and material (record and nonrecord) shall be destroyed in the presence of an appropriately cleared official by burning, melting, chemical decomposition, pulping, pulverizing, shredding or other mutilation sufficient to preclude recognition or reconstruction of the classified information. Classified information stored on floppy disks or other forms of magnetic media can also be destroyed by erasure but only when unclassified information is substituted in its place.

§ 17.120 Records of destruction.

(a) Records of destruction are required for Top Secret and Secret information and shall be dated and signed by two officials (destruction and witnessing officials) witnessing actual destruction. If destruction is accomplished by an approved central disposal system, the destruction record shall be signed by the witnessing officials at the time the material is delivered at the facility. Records of destruction shall be maintained for a minimum of two years after which they may be destroyed. Such records shall contain the identification of the document(s) destroyed, the method of destruction used, the time and place of destruction, the reason for destruction, and the name of the destroying official and witness.

(b) The Security Programs Manager, his/her appointed Security Officer(s) when appropriate, Top Secret Control

Officers or their alternates, or custodians of classified information, are authorized to destroy National Security Information. An additional person, who possesses a security clearance at the same or higher level than the classification of the material being destroyed, shall witness the destruction thereof. The destruction officials shall be trained in the operation of the equipment being used for destruction and shall ensure that destruction is accomplished in accordance with provisions of this Subpart.

Subpart I—Special Access Programs

§ 17.121 Policy.

It is the policy of the Department to utilize the standard classification categories and the applicable sections of Executive Order 12356 and its implementing Information Security Oversight Office Directive to limit access to classified information on a "need-to-know" basis to personnel who have been determined to be trustworthy. It is also the policy to apply the "need-to-know" principle so that there will be no need by the Department to resort to formal special access programs which further restrict access to classified information. If it is determined a special access program should be created, a specific showing in writing must be prepared that demonstrates:

(a) Normal management and safeguarding procedures are not sufficient to limit "need-to-know" or access.

(b) The number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved.

(c) The safeguarding requirements of Subpart E may be modified by the Attorney General as long as the modified requirements provide appropriate protection for the information.

§ 17.122 Authority for establishing special access programs.

The Attorney General may establish or continue special access programs to control access to, and distribution and protection of, particularly sensitive information originated within the Department and classified pursuant to Executive Order No. 12356. Request for such establishment shall be submitted in writing to the Department Security Officer. However, special access programs involving intelligence sources or methods, such as the Sensitive Compartmented Information Program, may be established only by the Director of Central Intelligence.

§ 17.123 Requesting the establishment or renewal of special access programs.

(a) Special access program requests shall be in writing and shall contain the information specified in § 17.124, below. Such requests shall be from the head of the Office, Board, Division or Bureau concerned and addressed to the Attorney General through the Department Security Officer. After a decision has been made concerning approval/disapproval, the original copy shall be maintained for records purposes by the Department Security Officer.

(b) Special access programs approved within the Department are required to be reviewed at least every five years by the Office, Board, Division or Bureau concerned and by the Department Security Officer.

§ 17.124 Information required in requests for special access programs.

Each special access program request, whether for establishment or renewal, shall contain the following information:

(a) Office, Board, Division or Bureau concerned (including subunit),

(b) Unclassified name or short title of the program,

(c) Relationship, if any, to other special access programs within the Department or other departments,

(d) Rationale and justification for establishment of a special access program, including the reason(s) why normal management and safeguarding procedures for classified information are inadequate,

(e) Estimated number of persons to be granted special access within the Department, in other departments, and outside the Executive Branch or United States Government, and

(f) All instructions pertaining to the program security requirements including, but not limited to, those governing access to program information.

§ 17.125 Identification markings and accounting for special access programs.

(a) The Department Security Officer may prescribe additional markings to identify information given protection by means of a special access program.

(b) The Department Security Officer shall account for and maintain a listing of those special access programs approved by the Attorney General. The Director, Information Security Oversight Office, shall have non-delegable access to all such accountings.

Subpart J—Executive Branch Oversight and Policy Direction

§ 17.126 National Security Council.

Pursuant to the provisions of Executive Order No. 12356, the National Security Council shall provide overall policy direction for the Information Security Program.

§ 17.127 Administrator of General Services.

The Administrator of General Services is responsible for implementing and monitoring the Information Security Program. In accordance with Executive Order No. 12356, this responsibility has been delegated to the Director of the Information Security Oversight Office.

§ 17.128 Information Security Oversight Office.

(a) The Information Security Oversight Office has a full-time Director appointed by the Administrator of General Services with approval of the President. The Office is supported by a staff appointed by the Director.

(b) The Director of the Information Security Oversight Office is charged with the following principal functions that pertain to the Department:

(1) Develop, in consultation with the Department and other agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of Executive Order 12356, which shall be binding on the Department and the Offices, Boards, Divisions and Bureaus;

(2) Oversee Department actions to ensure compliance with Executive Order 12356 and the Information Security Oversight Office implementing directive;

(3) Review the Department's implementing regulations and guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this regulation or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The Department regulation or guideline shall remain in effect pending a prompt decision on the appeal;

(4) Have the authority to conduct on-site reviews of the Information Security Program of each agency that generates or handles classified information and to require of each agency such reports, information, and other cooperation as may be necessary to fulfill the Director's responsibilities. If these reports pose an exceptional national security risk, the Attorney General or the Department Security Officer may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect pending a prompt decision on the appeal;

(5) Consider and take action on complaints and suggestions from persons within or outside the

Government with respect to the administration of the Information Security Program;

(6) Have the authority to prescribe, after consultation with the Department and affected agencies, standard forms that will promote the implementation of the Information Security Program;

(7) Report at least annually to the President through the National Security Council on the implementation of Executive Order 12356; and

(8) Have the authority to convene and chair interagency meetings to discuss matters pertaining to the Information Security Program.

§ 17.129 Department representatives to interagency meetings.

(a) The Counsel for Intelligence Policy is the representative of the Attorney General to interagency meetings on matters of general interest concerning information security.

(b) Concerning particular matters of information security, the Attorney General will designate a representative based on the recommendations of the Counsel for Intelligence Policy and the head of the affected Office, Board, Division or Bureau.

§ 17.130 Coordination with the Information Security Oversight Office.

Security Programs Managers of the Offices, Boards, Divisions and Bureaus shall ensure that any requirements levied directly on their organization by the Information Security Oversight Office are brought to the attention of the Department Security Officer by telephone or in writing as appropriate for the situation.

Subpart K—Department of Justice Security Responsibilities

§ 17.131 General responsibilities and duties.

(a) It shall be the responsibility and duty of each officer and employee of the Department having knowledge of Classified information or material relating to the national security no matter how such knowledge was obtained to be familiar with and adhere to the provisions of this regulation concerning National Security Information and material.

(b) It shall be the responsibility of the Department Security Officer to establish and orientation program throughout the Department for the instruction and familiarization of employees with the provisions of this regulation. Such program shall initially emphasize the changes in the rules governing classification, declassification, and protection of National Security Information and material resulting from Executive Order No. 12356, the Information Security Oversight Office's implementing directive, and this regulation.

(c) Any employee, contractor, licensee or grantee of the Department having access to and possession of classified information is responsible for protecting it from persons not authorized access to it, to include securing it in approved equipment or facilities whenever it is not under the direct supervision of authorized persons, and meeting accountability requirements prescribed by the Attorney General through the Department Security Officer.

(d) The Department Security Officer shall establish a continuing program of security awareness for the instruction of employees regarding the protection of National Security Information and potential threats of compromise to the Department.

§ 17.132 Loss or possible compromise of classified information.

Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to the Security Programs Manager designated for his/her organization. The agency that originated the information shall be notified immediately by the Security Programs Manager of the loss or possible compomise so that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of the compromise. The Office, Board, Division or Bureau under whose cognizance the loss or possible compromise occurred shall initiate an inquiry in accordance with Subpart L.

§ 17.133 The Attorney General.

The Attorney General, upon request by the head of an agency or a duly designated representative, shall personally or through authorized representatives of the Department render an interpretation of Executive Order 12356, its implementing directive or this regulation with respect to any question arising in the course of its administration.

§ 17.134 Assistant Attorney General for Administration.

The Assistant Attorney General for Administration is the senior Department official having authority and responsibility to direct and administer the Department's Information Security Program [DOJ Order 990–82 (Oct. 6, 1982)]. He/she will ensure effective and uniform compliance within the Department of this regulation. As such, the Assistant Attorney General for Administration has delegated primary responsibility for providing guidance, oversight, developing policy and procedures governing the Department of Justice Information Security Program to the Department Security Officer.

§ 17.135 Department Review Committee.

(a) The Department Review Committee is hereby established and is responsible for the following functions:

(1) To resolve all issues concerning implementation and administration of Executive Order 12356, Information Security Oversight Office Directive No. 1 concerning National Security Information and this regulation, including those issues concerning overclassification, failure to declassify, and delays in declassification not otherwise resolved (the compromise of National Security Information excepted).

(2) To review all appeals of requests for record under the provisions of Mandatory Review for Declassification of Executive Order 12356 and under the Freedom of Information Act (5 U.S.C. 552) when the proposed denial is based on their continued classification under Executive Order 12356.

(3) To recommend to the Attorney General appropriate administrative sanctions to correct abuse or violation of any provision of Executive Order 12356, the Information Security Oversight Office Directive, or this regulation (the compromise of National Security Information excepted).

(4) To review, on appeal, challenges to classification actions.

(b) The voting members of the Department Review Committee shall consist of a senior representative from each of the following elements within the Department:

(1) Office of the Deputy Attorney General;

(2) Office of Legal Counsel;

(3) Criminal Division;

(4) Justice Management Division;

(5) Federal Bureau of Investigation;

(6) Office of Intelligence Policy and Review.

(c) The head of each component listed above will designate a voting member and an alternate in writing to the Chairman of the Department Review Committee who shall be designated by the Attorney General from among the voting members.

(d) A quorum of the Department Review Committee shall consist of the voting members or alternates from at least four of the components listed above.

(e) The Office of Information and Privacy shall provide the necessary

administrative staff in support of the Department Review Committee.

§ 17.136 The Office of Professional Responsibility.

The Office of Professional Responsibility shall investigate, or cause to be investigated, all suspected or known security violations or compromises of National Security Information detected within the Department or involving Department classified information, and shall make appropriate recommendations to the Attorney General concerning administrative and criminal sanctions.

§ 17.137 The Department Security Officer.

(a) There shall be a Department Security Officer within the Justice Management Division who shall serve as the Director of the Security Staff or any successor organization. It shall be the duty of the Department Security Officer, and such assistants as he/she may designate, to supervise the administration of these regulations. Except as otherwise provided in this regulation, the Department Security Officer shall also carry out the functions and exercise the authority of the Attorney General and the Department Review Committee in the administration of this regulation within the Department.

(b) As provided in Paragraph 6.c., Department Order 2600.2A, the Department Security Officer is also responsible for the development, supervision, and administration of Department Security Programs, including the promulgation of Department-wide policy and procedures and security directives.

(c) With respect to questions of law and policy that pertain to safeguarding National Security Information, the Department Security Officer shall seek advice from the Office of Intelligence Policy and Review.

§ 17.138 Security education.

The Department shall establish a security education program. The program established shall be sufficient to familiarize all necessary personnel with the provisions of this regulation and to impress upon them their individual security responsibilities. The security education program shall also provide for initial, refresher, and termination briefings as required.

§ 17.139 Oversight.

A formal review to ensure compliance with the provisions of this regulation shall be conducted periodically. The audit will be performed by the Department Security Officer or such employees of the Offices, Boards, Divisions or Bureaus recommended by the head of the organization and designated, in writing, by the Department Security Officer.

§ 17.140 Heads of Offices, Boards, Divisions and Bureaus.

Pursuant to Department Order 2600.2A, the heads of Offices, Boards, Divisions and Bureaus are responsible for effective implementation within their respective organizations of all Department security regulations and programs including the Department National Security Information Program. Heads of Offices, Boards, Divisions and Bureaus or their Security Programs Managers shall immediately report any violations of the provisions of this regulation to the Department Security Officer and the Office of Professional Responsibility.

§ 17.141 Security Programs Managers.

Pursuant to Paragraph 6.d., Department Order 2600.2A, the Security Programs Managers possess the delegated responsibility for the management and coordination of the Department's Security Program within their organization. In such a capacity, the Security Programs Managers are responsible for observing, enforcing, and implementing security regulations or procedures pertaining to the classification, declassification, safeguarding, handling, and storage of classified National Security Information. Further, Security Programs Managers are responsible for ensuring that all employees are given adequate instructions in the provisions of Department security regulations and procedures. Security Programs Managers will at least annually review the requirements for access to classified information as a part of the continuous need-to-know evaluation. For employees not having a valid need-to-know for classified information, the Security Programs Manager is to initiate a memorandum to administratively withdraw or reduce the level of access authorized.

§ 17.142. Security Officers.

Security Officers are responsible to their appointing authority for implementation and administration of the Document Security Program as delegated and assigned in accordance with Paragraph 6.e. of Department Order 2600.2A.

§ 17.143 Emergency planning.

Each Office, Board, Division or Bureau shall have current plans for the protection, removal, or destruction of classified material in case of fire, natural disaster, civil disturbance, or enemy action. These plans shall include the disposition of classified information located in the United States and in foreign countries.

§ 17.144 Employees.

(a) All persons granted access to classified information in the course of their employment at the Department of Justice are required to safeguard that information from unauthorized disclosure. This nondisclosure obligation is imposed by statutes, regulations, access agreements, and the fiduciary relationships of the persons who are entrusted with classified information in the performance of their duties. The nondisclosure obligation continues after Department of Justice employment terminates. In addition, each employee having access to classified information is personally responsible for becoming familiar with and adhering to the provisions of this regulation.

(b) All employees (except those of the Federal Bureau of Investigation which has its own regulations on this matter) with access to National Security Information are required to report to the Department Security Officer any close personal or social relationship with a foreign national, including foreign press representatives. This requirement does not include contacts or relationships developed within the scope of employment and known to the employee's supervisor. Any contacts with a foreign national which result in unofficial requests for job-related information or suspicion on the part of the employee with regard to the protection of National Security Information must also be reported.

(c) All employees of the Department (including contract employees and non-contractor personnel outside the Executive Branch) are to be aware of and comply with regulations concerning travel outside the continental United States. These regulations are summarized below:

(1) Pursuant to the provisions of Director of Central Intelligence Directive 1/20 entitled, "Security Policy Concerning Travel and Assignment of Personnel with Access to Sensitive Compartmented Information," Department personnel who have access to Sensitive Compartmented Information are required to advise the Department Security Office in writing, of any travel, whether official or unofficial, outside of the continental United States. Upon the determination of the Department Security Officer, it may be necessary that such personnel be provided a

Defensive Security Briefing, a formal advisory which alerts traveling personnel to the potential for harassment, provocation, or entrapment.

(2) Employees, contractor personnel and non-contractor personnel outside the Executive Branch having access to classified information under the control of the Department are also required to advise the Department Security Officer of any travel outside of the United States and its territories as soon as the travel plan is known. The Department Security Officer will determine whether a Defensive Security Briefing is necessary based upon the foreign countries to be visited, the sensitivity of the employee's current position and the level of access to classified information.

(3) All regular or contract employees of the Department traveling to Communist-controlled countries for Government business or for personal reasons must be provided a Defensive Security Briefing whether or not they have access to classified information. The Security Programs Manager for the employee's organization is to be advised by the employee in advance of travel to allow adequate time to receive the briefing required by the sensitivity or critical nature of the employee's current position. Should an employee have particular security concerns about travel to other foreign countries, he may request guidance from the Department Security Officer.

(d) All Department of Justice employees (including contract employees) granted access to classified information in the course of their employment with the Department, shall be required to sign a nondisclosure agreement concerning the protection of national security information and a statement that they understand and shall conform to the provisions of this regulation.

(e) All employees with authorized access to Sensitive Compartmented Information shall be required to sign nondisclosure agreements containing a provision for prepublication review to assure deletion of Sensitive Compartmented Information and other classified information. Sensitive Compartmented Information is information that not only is classified for national security reasons as Top Secret, Secret, or Confidential, but also is subject to special access and handling requirements because it involves or derives from particularly sensitive intelligence sources and methods. The prepublication review provision will require that Department of Justice employees who are authorized access to Sensitive Compartmented Information submit certain material, described further in the agreement, to the Department prior to its publication to provide an opportunity for determining whether an unauthorized disclosure of Sensitive Compartmented Information or other classified information would occur as a consequence of its publication.

(f) It must be recognized at the outset that it is not possible to anticipate each and every question that may arise under these agreements. The Department will endeavor to respond, however, as quickly as possible to specific inquiries by individuals concerning whether specific materials require prepublication review. Persons subject to these requirements are invited to discuss their plans for public disclosures of information that may be subject to these obligations with authorized Department representatives at an early stage, or as soon as circumstances indicate these policies must be considered. Except as provided in paragraph § 17.144(s) for FBI personnel, all questions concerning these obligations should be addressed to the Counsel for Intelligence Policy, Department of Justice, 10th & Constitution Avenue, NW., Washington, DC 20530; the official views of the Department on whether specific materials require prepublication review may only be expressed by the Counsel for Intelligence Policy and persons should not act in reliance upon the views of other Department personnel.

(g) Prepublication review is required only as expressly provided for in a nondisclosure agreement. However, all persons who have had access to classified information have an obligation to avoid unauthorized disclosures of such information and are subject to enforcement actions if they disclose classified information in an unauthorized manner. Therefore, persons who have such access but are not otherwise required to submit to prepublication review under the terms of an employment or other nondisclosure agreement are encouraged to submit material for prepublication review voluntarily if they believe that such material may contain classified information. Where there is any doubt, individuals are urged to request prepublication review to avoid unauthorized disclosure and for their own protection.

(h) The nature and extent of the material that is required to be submitted for prepublication review under nondisclosure agreements is expressly provided for in those agreements. It should be clear, however, that such requirements do not extend to any materials that exclusively contain information lawfully obtained at a time when the author has no employment, contract, or other relationship with the United States Government or that contain information exclusively acquired outside the scope of employment.

(i) A person's obligation to submit material for prepublication review remains identical whether such person actually prepares the material or causes or assists another person, such as a ghost writer, spouse or friend, or editor in preparing the material. Material covered by a nondisclosure agreement requiring prepublication review must be submitted prior to discussing it with or showing it to a publisher, co-author, or any other person who is not authorized to have access to it. In this regard, it should be noted that a failure to submit such material for prepublication review constitutes a breach of the obligation and exposes the author to remedial action even in cases where the published material does not actually contain Sensitive Compartmented Information or classified information. *See Snepp* v. *United States*, 444 U.S. 507 (1980).

(j) The requirement to submit material for prepublication review is not limited to any particular type of material or disclosure. Written materials include not only book manuscripts but all other forms of written materials intended for public disclosure, such as (but not limited to) newspaper columns, magazine articles, letters to the editor, book reviews, pamphlets, and scholarly papers. Because fictional treatment may convey factual information, fiction material must also be submitted if it is based upon or reflects information required to be submitted for review under the terms of a nondisclosure agreement that includes an express prepublication review provision.

(k) Oral statements are also within the scope of a prepublication review requirement when based upon written materials, such as an outline of the statements to be made. There is no requirement to prepare written materials for review, however, unless there is reason to believe in advance that oral statements may contain Sensitive Compartmented Information or other information required to be submitted for review under the terms of nondisclosure agreement. Thus, a person may participate in an oral presentation where there is no opportunity for prior preparation (e.g., news interview, panel discussion) unless there is reason to believe in advance that such oral expression may contain Sensitive Compartmented Information or other information that must be submitted for

review. This recognition of the problems inherent in oral representations does not, of course, exempt present or former employees from liability for any unauthorized disclosures of Sensitive Compartmented Information or classified information that may occur in the course of even extemporaneous oral expressions.

(l) Written materials that consist solely of personal views, opinions or judgments and do not contain or imply any statement of fact that would fall within the terms of a nondisclosure agreement requiring prepublication review, are not subject to prepublication review requirements. For example, public speeches or publication of articles on such topics as proposed legislation or foreign policy do not require prepublication review as long as the material does not directly or implicitly constitute a factual statement that falls within the purview of a nondisclosure agreement requiring prepublication review. Of course, in some circumstances the expression of "opinion" may in fact disclose information that requires adherence to a prepublication review obligation required under a nondisclosure agreement. Again, consultation is urged to ensure conformity to this obligation.

(m) Obviously, the purposes of prepublication review will be frustrated where the material in question already has been disseminated to unauthorized persons. In such cases, comparison of the material before and after the review would reveal to the unauthorized persons which items of information were considered to be classified and had been deleted at the Department's request. Consequently, the Department will consider a prepublication review obligation to have been breached in any case, whether or not the written material is subsequently submitted to the Department of prepublication review, where it already has been circulated to publishers or reviewers or has otherwise been made available to unauthorized persons. While the Department reserves the right to review such material for purposes of mitigating damage that may result from the disclosure of classified information, such action shall not prevent the United States Government and the Department from pursuing all appropriate remedies available under law as a consequence of the failure to submit the materials for prior review and any unauthorized disclosure of Sensitive Compartmented Information or classified information that may have occurred as a result.

(n) Material submitted for prepublication review will be reviewed solely for the purpose of identifying and preventing the disclosure of Sensitive Compartmented Information and other classified information. This review will be conducted in an impartial manner without regard to whether the material is critical or favorable to the Department. No effort will be made to delete embarrassing or critical statements that are unclassified. Materials submitted for review will be disseminated to other persons or agencies only to the extent necessary to identify classified information.

(o) The Counsel for Intelligence Policy (or, in the case of FBI employees, the FBI's Office of Congressional and Public Affairs) will respond substantively to prepublication review requests within 30 working days of receipt of the submission. Priority shall be given to reviewing speeches, newspaper articles, and other materials that the author seeks to publish on an expedited basis. The Counsel's decisions may be appealed to the Deputy Attorney General, who will process appeals within 15 working days of receipt of the appeal. (See § 17.144(s)(3) concerning appeal procedures for FBI emplolyees.) The Deputy Attorney General's decision is final and not subject to further administrative appeal. Persons who are dissatisfied with the final administrative decision may obtain judicial review either by filing an action for declaratory relief or by giving the Department notice of their intention to proceed despite the Department's requests for deletions of classified information, and a reasonable opportunity (30 working days) to file a civil action seeking a court order prohibiting disclosure. Of course, until any civil action is resolved, employees remain under an obligation not to disclose or publish information determined by the Government to be classified.

(p) Nothing in this subpart should be construed to alter or waive the Department's authority to seek any remedy available to it to prohibit or punish the unauthorized disclosure of classified information.

(q) A former Department of Justice employee who subsequently receives a security clearance or Sensitive Compartmented Information access approval from another department or agency is permitted to satisfy any obligation to the Department of Justice regarding prepublication review by making submissions to the department or agency that last granted the individual either a security clearance or Sensitive Compartmented Information access approval.

(r) The obligations of Department of Justice employees as described in this subpart also apply with equal force to contractors who are authorized by the Department to have access to Sensitive Compartmented Information or other classified information.

(s) The obligations of Department of Justice employees described in this subpart apply with equal force to employees of the Federal Bureau of Investigation with the following exceptions and *provisos:*

(1) Nothing in this Subpart shall supersede or alter obligations assumed under the basic FBI employment agreement;

(2) FBI employees required to sign nondisclosure agreements containing a provision for prepublication review pursuant to this Subpart shall submit materials for review to the Assistant Director, Office of Congressional and Public Affairs. Such individuals shall also submit questions as to whether specific materials require prepublication review under such agreements to that Office for resolution. Where such questions raise policy questions or concern significant issues of interpretation under such an agreement, the Assistant Director, Office of Congressional and Public Affairs, shall consult with the Counsel for Intelligence Policy prior to responding to the inquiry;

(3) Decisions of the Assistant Director, Office of Congressional and Public Affairs, concerning the deletion of classified information, may be appealed to the Director, Federal Bureau of Investigation, who will process appeals within 15 working days of receipt. Persons who are dissatisfied with the Director's decision may, at their option, appeal further to the Deputy Attorney General as provided in § 17.144(o). Judicial review, as set forth in that paragraph, is available following final agency action in the form of a decision by the Director or, if the appeal process in § 17.144(o) is pursued, the Deputy Attorney General.

Subpart L—Security Violations and Administrative Sanctions

§ 17.145 Violations subject to sanctions.

(a) Officers and employees of the Department and its contractors, grantees and consultants are subject to appropriate administrative sanctions if they:

(1) Knowingly, willfully or negligently and without authorization disclose to unauthorized persons information classified under Executive Order 12356 or prior orders or compromise classified information through negligence;

(2) Knowingly and willfully classify or continue the classification of information in violation of Executive Order No. 12356, its implementing directives or this regulation; or

(3) Knowingly and willfully violate any other provision of Executive Order 12356, any implementing directives or this regulation.

(b) Sanctions include but are not limited to warning notices, reprimands, termination of classification authority, suspension or termination of security clearance, and as permitted by law, suspension without pay, forfeiture of pay, removal or dismissal. Sanctions will be imposed upon any person subject to these regulations and responsible for a violation specified under this Subpart as determined by the appropriate Department official upon recommendation by the Office of Professional Responsibility. In cases involving the compromise of classified information, the Attorney General, upon receiving a recommendation from the Office of Professional Responsibility, shall determine and impose appropriate sanctions.

§ 17.146 Reporting securing violations.

Any person subject to these regulations who suspects or has knowledge of a violation pursuant to § 17.145 (including the known or suspected loss or compromise of National Security Information) shall promptly report and confirm in writing the circumstances. If the loss itself is classifiable, secure telecommunications must be used for the initial report. The loss must be confirmed in writing to the Security Programs Manager of the Office, Board, Division or Bureau concerned or to that official's appropriate Security Programs Manager or representative. The Security Programs Manager of the organization under whose cognizance the loss occurred shall take the following action forthwith:

(a) Prompt notification of the violation to the Department Security Officer, to the Office of Professional Responsibility, to the origination office and to any interested department or agency, if appropriate. In the event of disagreement as to which Office, Board Division or Bureau is the cognizant agency, the Department Security Officer will promptly decide and advise the concerned Security Programs Managers by telephone.

(b) The submission of a written report to the Department Security Officer and the Office of Professional Responsibility. Such report shall include the date the violation occurred, if known; the date of the discovery of the violation; the specific identification of the information involved in the violation; the national security classification or any caveats regarding the information involved; the probability of loss or compromise; an assessment of the damage incurred from a national security standpoint; corrective measures taken; the person(s) responsible for the violation; and recommended administrative, disciplinary or legal action which should be taken. The written report should be submitted no later than ten working days after the discovery of the violation.

(c) The Department Security Officer will promptly notify the Director of the Information Security Oversight Office of any violations of § 17.145(a) (1) or (2).

§ 17.147 Corrective action.

The Department Security Officer shall ensure that appropriate and prompt corrective action is taken whenever a violation of § 17.145 occurs. The Office of Professional Responsibility shall be informed by the Department Security Officer when such violations occur.

§ 17.148 Administrative discrepancies.

Repeated administrative discrepancies in the marking and handling of classified documents and material such as failure to show classification authority, failure to apply internal classification markings and incorrect computation of dates for declassification, or other repeated disregard of requirements of this regulation that are determined not to constitute a violation under § 17.145 may be grounds for adverse administrative action including warning, admonition, reprimand or termination of classification authority as determined appropriate by the head of the Office, Board, Division or Bureau concerned, in accordance with applicable policies and procedures.

Dated: October 17, 1985.

Edwin Meese III,

Attorney General of the United States.

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