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Federal Register

Thursday
December 19, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

CONTINUED INSIDE

Selected Subjects

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

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

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

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.

WASHINGTON, DC

WHEN: January 17; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

NOTE: There will be a sign language interpreter for hearing impaired persons at this briefing.

Contents

Federal Register
Vol. 50, No. 244
Thursday, December 19, 1985

Separate Parts in This Issue

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 50, No. 244
Thursday, December 19, 1985

Presidential Documents

Title 3—

The President

Proclamation 5422 of December 17, 1985

Wright Brothers Day, 1985

By the President of the United States of America

A Proclamation

From the time the first human being glimpsed the first bird, the dream of flight has captivated the human imagination. The great Leonardo da Vinci sketched elaborate designs for flying machines, and the poet Tennyson had a vision of the heavens filled with commerce and "argosies of magic sails."

But it was not until early in this century that the remarkable ingenuity and dogged determination of two young Americans finally made that dream come true. On a sandy strip of the North Carolina coast on the morning of December 17, 1903, Orville Wright, then 32, made the first piloted power-driven flight in a heavier-than-air vehicle. He did it in a 750-pound machine designed and built by him and his older brother, Wilbur. It was the culmination of four years of intensive research by the two inseparable brothers whose talents and temperament complemented each other perfectly.

That first conquest of the sky lasted only 12 seconds and took Orville only 120 feet, far less than the wingspan of today's great jets. But it changed forever the course of human history.

The lives of the Wright Brothers reveal a quintessentially American success story. Their father first sparked their interest in flight when he gave them a toy helicopter powered by rubber bands. Neither of these boys from Dayton, Ohio had ever attended college. Indeed, although they were bright students, neither ever formally graduated from high school. They made a living manufacturing bicycles, but all their spare time was devoted to the conquest of the skies. Wilbur read everything available in the local library and then wrote away to the Smithsonian Institution for more.

But what others had written was not enough. The Wright Brothers experimented for years with kites and gliders. They took detailed notes and made up tables of ratios. To master the challenge of controlling their craft, they designed and built their own wind tunnel and tested hundreds of different wing designs in small scale models.

For all its historic importance, only five people were present that fateful morning eight days before Christmas when Orville at the controls of his 12-horsepower plane took off into a 27-miles-per-hour wind and managed to stay aloft 12 seconds. Later that day with Wilbur piloting it, the craft covered 852 feet in 59 seconds.

Three years after that first flight the Wright Brothers were awarded U.S. Patent No. 821,393. They continued to pioneer developments in flight for as long as they lived. Wilbur died in 1912, while jealous rivals were still contesting their claims to priority and just before the rapid development of aviation. But Orville, who sold the Wright company in 1915, served for many years on the National Advisory Committee for Aeronautics and lived to see his and his brother's claim fully vindicated and universally recognized. Before he died in 1948 the revolution they had set in motion was moving on to new achievements. Jet planes had broken the sound barrier and Bill Odum had flown around the world in just over 73 hours.

That revolution continues, and America has stayed on its cutting edge. This year some 400 million passengers will fly some 334 million miles, and almost 66 percent of all the aircraft they will fly on are made in the U.S.A. America leads in space, reaching the moon and beyond. And today our engineers are working on aircraft that will be able to travel coast to coast in 12 minutes and reach any point on the globe in an hour and a half.

Truly, the age of flight is still young and its greatest achievements are yet to come, but we must never forget those two extraordinary young men, the Wright Brothers. Eighty-two years ago they turned an impossible dream into reality.

To commemorate the historic achievement of the Wright Brothers, the Congress, by joint resolution of December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), has designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 17, 1985, as Wright Brothers Day, 1985, and I call upon the people of this Nation and local and national governmental officials to observe this day with appropriate ceremonies and activities, both to recall the accomplishments of the Wright Brothers and to provide a stimulus to aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of December, 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. 85-30159
Filed 12-17-85; 3:01 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 244
Thursday, December 19, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 618]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 618 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 20–26, 1985. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 618 (§ 907.918) is effective for the period December 20–26, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. The Adminstrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1985–86 adopted by the Navel Orange Administrative Committee. The committee met publicly on December 10, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for fresh navel oranges is very good. The prorate regulation is needed to continue providing stability in the market and promote orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The authority citation for 7 CFR 907 continues to read:

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

2. Section 907.618 is added to read as follows:

§ 907.618 Navel Orange Regulation 618.

The quantities of navel oranges grown in California and Arizona which may be handled during the period December 20, 1985, through December 26, 1985, are established as follows:

(a) District 1: 700,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: December 13, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–30031 Filed 12–18–85; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–30–AD; Amdt. 39–5195]

Airworthiness Directives: Fokker B.V. Model F27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires inspection of various structural items on certain Fokker F27 series airplanes and modification or repair, as necessary, to correct certain unsafe conditions which may exist. This action is necessary to ensure the structural integrity of the landing gear, the elevator trim tab control bracket and supporting structure, and the wing/fuselage fittings.

DATE: Effective January 26, 1986.

ADDRESSES: The applicable service information may be obtained from the Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schiphol Oost, The Netherlands. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Baldwin, Standardization Branch, ANM–113; telephone (206) 431–2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection of the main landing gear drag stay tubes, and replacement if cracks are found; modification of the elevator trim tab, the elevator control bracket.

and the supporting rib structure; and inspection and modification of the wing to fuselage attach fittings on certain Fokker Model F27 airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on May 3, 1985 (50 FR 18873). This action was considered necessary to maintain the structural integrity of the main landing gear, the elevator trim tab and support structure, and the wing-to-fuselage joint.

The comment period for the NPRM, which ended June 24, 1985, afforded interested persons an opportunity to participate in making the rule.

One commenter, an operator of Fokker F27 airplanes, pointed out that paragraph C. of the proposed AD would require inspections and modification of the wing-to-fuselage attach fitting within 180 days after the effective date of the AD; however, the Fokker Structural Inspection Program (SIP) does not require these inspections and modifications until an airplane has accumulated 45,000 landings. The commenter suggested that the proposed AD be changed to require these inspections and modifications within 180 days after the effective date of the AD or by 45,000 landings, whichever occurs later. Upon reconsideration of the available data, the FAA concurs with this suggestion and the final rule has been changed accordingly. The FAA has determined that this change will not increase the burden on any operator, nor will it compromise safety of flight.

After a careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously mentioned.

Approximately 31 U.S. registered airplanes will be affected by this AD; however, not every airplane will be affected by each of the requirements of the AD. It is estimated that 24 airplanes will be affected by the requirements of paragraph A., which will require 3 manhours to accomplish; 9 airplanes will be affected by the requirements of paragraph B., which will require 40 manhours to accomplish; and 28 airplanes will be affected by the requirements of paragraph C., which will require 295 manhours to accomplish and $4,000 for parts for each airplane. The average labor cost will be $40 per manhour. Based on these figures, the total cost impact to U.S. operators will be $460,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Fokker Model F27 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F27 airplanes as indicated in the applicability statement of each service bulletin listed below, certified in any category. Compliance is required within the time interval specified in each of the following paragraphs, unless already accomplished:

A. To prevent collapse of the main landing gear, within 120 days after the effective date of this AD, inspect the drag stay tube for cracks, in accordance with Fokker Service Bulletin F27/32-147 dated September 1, 1981, and replace if cracks are found.

B. To prevent damage to the elevator trim tab, the elevator control bracket support, and the elevator control bracket supporting rib structure, modify the structure in accordance with Fokker Service Bulletin F27/55-31 dated May 31, 1965, within 120 days after the effective date of this AD.

C. To prevent failure of the wing/fuselage joint, inspect and modify the joint in accordance with Fokker Service Bulletin F27/57-54, Revision 1, dated April 2, 1984, within 180 days after the effective date of this AD or prior to the accumulation of 45,000 landings, whichever occurs later.

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

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1172J Schiphol Oost, The Netherlands. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 26, 1986.

Issued in Seattle, Washington, on December 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-29971 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 24866; Amdt. No. 1310]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anicipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Approaches, standard instrument.

Issued in Washington, DC on December 13, 1985.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§ 97.23 [Amended]

2. By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective 13 March, 1986

Denver, CO—Stapleton Intl, ILS RWY 35L, Amdt. 26

. . . Effective 13 February, 1986

Rogers, AR—Rogers Muni Arpt-Carter Fld, VOR RWY 1, Amdt. 10
Oakland, CA—Metropolitan Oakland Intl, ILS RWY 29, Amdt. 22
Benton Harbor, MI—Ross Field-Twin Cities, VOR RWY 9, Amdt. 7
Benton Harbor, MI—Ross Field-Twin Cities, VOR RWY 27, Amdt. 16
Benton Harbor, MI—Ross Field-Twin Cities, LOC BC RWY 9, Amdt. 7
Benton Harbor, MI—Ross Field-Twin Cities, NDB RWY 27, Amdt. 8
Benton Harbor, MI—Ross Field-Twin Cities, ILS RWY 27, Amdt. 5
Cadillac, MI—Wexford County, NDB RWY 07, Amdt. 10
Cadillac, MI—Wexford County, NDB RWY 25, Amdt. 6
Cadillac, MI—Wexford County, MLS RWY 25, Amdt. 1
Cadillac, MI—Wexford County, RNAV RWY 7, Amdt. 5
Cadillac, MI—Wexford County, RNAV RWY 25, Amdt. 4
Menominee, MI—Menominee-Marinette Twin County, VOR-A, Orig.
Menominee, MI—Menominee-Marinette Twin County, VOR RWY 18, Amdt. 8, Cancelled
Columbus, OH—Rickenbacker, VOR RWY 23L, Orig.
Coshocton, OH—Richard Dowing, RNAV RWY 22, Orig.
Dayton, OH—Dayton General Arpt South, LOC RWY 20, Amdt. 2
Middletown, OH—Hook Field Muni, LOC RWY 23, Amdt. 6
Middletown, OH—Hook Field Muni, NDB-A, Amdt. 1
Middletown, OH—Hook Field Muni, NDB RWY 23, Amdt. 7
McKinney, TX—McKinney Muni, NDB RWY 17, Amdt. 2
LaCrosse, WI—LaCrosse Muni, NDB RWY 18, Amdt. 13
LaCrosse, WI—LaCrosse Muni, ILS RWY 18, Amdt. 3
New Richmond, WI—New Richmond Muni, NDB RWY 13, Amdt. 2
Pulaski, WI—Carter, VOR-A, Amdt. 3

Sturgeon Bay, WI—Door County Cherryland, SDF RWY 1, Amdt. 2
Strugeon Bay, WI—Door County Cherryland, NDB RWY 1, Amdt. 6
Wausau, WI—Wausau Muni, VOR-A, Amdt. 16
Wausau, WI—Wausau Muni, VOR/DME RWY 12, Amdt. 2

Effective 16 January, 1986

Pontiac, MI—Oakland-Pontiac, VOR RWY 9R, Amdt. 22
Pontiac, MI—Oakland-Pontiac, VOR RWY 27L, Amdt. 13
Pontiac, MI—Oakland-Pontiac, LOC BC RWY 27L, Amdt. 6
Pontiac, MI—Oakland-Pontiac, ILS RWY 9R, Amdt. 10
Winston Salem, NC—Smith Reynolds, NDB RWY 33, Amdt. 22
Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 23
Williamsport, PA—Williamsport-Lycoming County, ILS RWY 27, Amdt. 16

Effective 10 December, 1985

Honolulu, HI—Honolulu Intl, NDB RWY 8L, Amdt. 18
Honolulu, HI—Honolulu Intl, ILS RWY 8L, Amdt. 20

Effective 27 November, 1985

Santa Ana, CA—John Wayne Airport-Orange County, VOR RWY 19R, Amdt. 23

Effective 21 November, 1985

Hilo, HI—General Lyman Field, ILS RWY 26, Amdt. 11

[FR Doc. 85-29970 Filed 12-18-85; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9150]

Weyerhaeuser Co. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: The Federal Trade Commission has dismissed a complaint that charged Weyerhaeuser Co.'s acquisition of a corrugating-medium mill from Menasha Corp. could substantially lessen competition in the manufacture of corrugating medium in the western U.S. The Commission based its dismissal on its findings that a number of market characteristics show that the acquisition did not lessen competition.

DATES: Complaint issued Feb. 9, 1981. Dismissal Order issued Sept. 26, 1985.[1]

[1] Copies of the Complaint, Initial Decision, and Opinion of the Commission are filed with the original documents.

FOR FURTHER INFORMATION CONTACT: Dennis F. Johnson, FTC/G-402, Washington, DC 20580. (202) 254-6978.

SUPPLEMENTARY INFORMATION: In the Matter of Weyerhaeuser Company, a corporation, and Weyerhaeuser West Coast, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Corrugating medium, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

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

In the matter of Weyerhaeuser Company, a corporation, and Weyerhaeuser West Coast, Inc., a corporation: Docket No. 9150.

Final Order

This matter has been heard by the Commission upon the appeal of complaint counsel from the initial decision and upon briefs and oral argument in support of and in opposition to the appeal. For the reasons stated in the accompanying Opinion, the Commission has determined to sustain the initial decision. Complaint counsel's appeal is denied. Accordingly, it is ordered that the complaint is dismissed.

By the Commission, Commissioners Bailey and Calvani not participating.

Issued: September 26, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-30032 Filed 12-18-85; 8:45 am]
BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1010

Export of Noncomplying, Misbranded, Banned Products Subject to Regulation Under Consumer Product Safety Act or Federal Hazardous Substances Act; Statement of Policy and Interpretation; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy and interpretation; correction.

SUMMARY: This document corrects three typographical errors contained in a final statement of policy and interpretation that was published on October 10, 1984 (49 FR 39663-70).

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6980.

The following corrections are made to 16 CFR Part 1010: In FR Doc. 84-26723, published on Wednesday, October 10, 1984, make the following changes.

1. On page 39667, in the heading of the Part, the first word should be "STATEMENT" (an "E" was missing).

2. On page 39668, in § 1010.1(b)(5), the abbreviation in line 5 should be "FFA" (not FAA).

3. On page 39668, in § 1010.1(b)(6), the Docket in line 10 should be numbered "80-2" (not 8-2).

Dated: December 12, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-29843 Filed 12-18-85; 8:45 am]
BILLING CODE 6355-01-M

16 CFR Part 1032

Commission Involvement in Voluntary Standards Activities; General Standards of Policy; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy; correction.

SUMMARY: This document corrects an error contained in the revised statement of policy that was published on May 4, 1978 (43 FR 19216, 19223).

FOR FURTHER INFORMATION CONTACT: Douglas Noble, Voluntary Standards Coordinator, Office of the Executive Director, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6550.

The following correction is made to 16 CFR Part 1032: In FR Doc. 78-12203, in the Federal Register of Thursday, May 4, 1978, on page 19223, in the second sentence of §1032.6(b)(1), the word "relay" should be replaced by the word "delay".

Dated: December 12, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-29844 Filed 12-18-85; 8:45 am]
BILLING CODE 6355-01-M

16 CFR Parts 1610 and 1611

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Amendments to Implementing Regulations; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects final rules issued by the Commission to amend regulations implementing the flammability standards for clothing textiles and vinyl plastic film. The amendments were published in the **Federal Register** of February 26, 1985 (50 FR 7754), to announce the manner by which the Commission will interpret test results and apply the standards to certain kinds of fabrics, film, and related materials. This action is necessary to correct omissions from the **Federal Register** notice by which the Commission issued the final amendments.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6400.

The following corrections are made to the rule amending regulations in Part 1610 and Part 1611, published in FR Doc. 85–4575 in the **Federal Register** of February 26, 1985 (50 FR 7754–7764).

1. On pages 7761–2, the paragraph designated with the number 3 is corrected to read as follows:

3. The heading of § 1610.35 and the text of § 1610.35(a) are revised to read as follows:

§ 1610.35 Procedures for testing special types of textile fabrics under the standard.

(a) *Fabric not customarily washed or dry cleaned.* (1) Except as provided in paragraph (a)(2) of this section, any textile fabric or article of wearing apparel which, in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not be dry cleaned or washed as prescribed in §§ 1610.4(d) and 1610.4(e) when tested under the standard if such fabric or article of wearing apparel, when marketed or handled, is marked in a clear and legible manner with the statement: "Fabric may be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to in this paragraph is bridal illusion.

(2) Section 1610.4(a)(4), which requires that certain samples shall be dry cleaned or washed before testing, shall not apply to disposable fabrics and garments. Additionally, such disposable fabrics and garments shall not be subject to the labeling requirements set forth in paragraph(a)(1) of this section.

* * * * *

2. On pages 7762–3, the paragraph designated with the number 3 is corrected to read as follows:

3. The heading of § 1611.35 and the text of §§ 1611.35 (a) and (d) are revised to read as follows:

§ 1611.35 Testing certain classes of fabric and film.

(a) *Fabric not customarily washed or dry cleaned.* (1) Except as provided in paragraph (a)(2) of this section, any textile fabric or article of wearing apparel, which, in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not be dry cleaned or washed as prescribed in §§ 1610.4 (d) and (e) when tested under the Standard for the Flammability of Clothing Textiles if such fabric or article of wearing apparel, when marketed or handled, is marked in a clear and legible manner with the statement: "Fabric may be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to in this paragraph is bridal illusion.

(2) Section 1610.4(a)(4) of the Standard for the Flammability of Clothing Textiles, which requires that certain samples shall be dry cleaned or washed before testing, shall not apply to disposable fabrics and garments. Additionally, such disposable fabrics and garments shall not be subject to the labeling requirements set forth in paragraph(a)(1) of this section.

* * * * *

(d)(1) Items which are subject to the Standard for the Flammability of Vinyl Plastic Film from which a test specimen 3 inches by 9 inches cannot be taken lengthwise to the direction of processing shall not be tested in the lengthwise direction.

(2) Items which are subject to the Standard for the Flammability of Vinyl Plastic Film from which a test specimen 3 inches by 9 inches cannot be taken transverse to the direction of processing shall not be tested in the transverse direction.

Dated: December 12, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85–29842 Filed 12–18–85; 8:45 am]

BILLING CODE 6355–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Domestic Exchange-Traded Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effective date of rule amendment.

SUMMARY: On November 4, 1985, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an amendment to Regulation 33.4(a)(6) which will permit domestic boards of trade to be designated as a contract market for up to eight options on futures contracts not involving the domestic agricultural commodities specifically enumerated in section 2(a)(1)(A) of the Commodity Exchange Act ("Act") (7 U.S.C. 2). See 50 FR 45811. The Commission indicated, however, that the amendment would not become effective until the expiration of 30 calendar days of continuous session of Congress after the transmittal of the rule amendment and related materials to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and the publication in the **Federal Register** of a notice of the effective date of the rule amendment.

The Congressional review period specified in section 4(c) of the Act (7 U.S.C., 6c(c)) has now expired. Accordingly, the Commission now provides notice that the amendment to § 33.4(a)(6) of its regulations, as published at 50 FR 45811 became effective on December 9, 1985.

EFFECTIVE DATE: December 9, 1985.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–6990

Lists of Subjects in 17 CFR Part 33

Commodity options, Commodity futures, Commodity exchange designation procedures.

Issued in Washington, D.C., on December 16, 1985 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–30058 Filed 12–18–85; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33–6613; 34–22705; FRR–23; AAER–82]

The Significance of Oral Guarantees to the Financial Reporting Process

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: Based upon the applicable accounting literature, the Commission believes that oral statements, which are in substance guarantees, are contingent liabilities which may, under certain circumstances, require disclosure. They may also have material significance in accounting for transactions. The Commission emphasizes that the substance of oral agreements should be considered by financial institutions and others in completing audit confirmations. Agreements which in substance constitute guarantees should be reported in response to an audit confirmation request.

The audit process is central to the Commission's financial reporting requirements and to the full and fair disclosure policy underlying the federal securities laws. The inability of an independent auditor to obtain material audit evidence interferes with the audit of the issuer's financial statements. Financial institutions and other entities which provide information to auditors, such as audit confirmations, should provide accurate and complete information. Additionally, auditors should take steps to ensure that audit confirmations clearly request information necessary to the proper conduct of their audit responsibilities.

FOR FURTHER INFORMATION CONTACT: Laurel R. Bond or Edmund Coulson, (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing its views regarding the significance of oral guarantees to the financial reporting process. This release discusses the responsibility of financial institutions and other entities to report oral guarantees in response to audit confirmation requests.

I. Background

During the course of a private investigation, the Commission learned that an issuer engaged in schemes to manipulate and materially overstate its earnings and financial position. As a result of these schemes, the issuer materially overstated its income and net assets. These material misstatements were not discovered by the issuer's independent auditor, in part, because a bank responding to an audit confirmation request from the issuer's independent auditors failed to report a material oral guarantee.

One of the schemes to defraud in this matter involved the improper removal of a substantial amount of assets from the balance sheet of a foreign subsidiary of the issuer by means of a purported sale of such assets to an unrelated foreign company. The scheme was effected in order to raise cash to improve the subsidiary's debt-to-equity ratio. However, no sale occurred under generally accepted accounting principles ("GAAP") because the risks of ownership never passed to the unrelated foreign company. The issuer's subsidiary was obligated, by side letters and oral agreements, to repurchase an amount of assets sufficient to enable the unrelated foreign company to pay its debt incurred in purchasing the "sold" assets.

In order to obtain financing for the transaction, the unrelated foreign company sought standby letters of credit from several banks. In an effort to assist the unrelated foreign company in obtaining the standby letters of credit, the issuer told the banks it would issue comfort letters stating that the issuer had full knowledge of the obligations of its subsidiary arising from its agreement with the unrelated foreign company. A senior financial executive, with the approval of his superior, assured a representative of one bank that the issuer viewed its comfort letter as a guarantee. In making the decision to extend credit, the bank relied upon, among other things, the issuer's oral guarantee. However, the bank did not report the existence of the guarantee to the issuer's independent auditor in response to an audit confirmation request for information regarding guarantees, liabilities or other third party obligations. The bank's failure to respond accurately to the audit confirmation request caused, in part, the filing of financial statements with the Commission which were materially false and misleading.

II. Discussion

As a result of this private investigation, the Commission believes that the conduct and procedures of certain banks in responding to audit confirmation requests may impair the integrity of the financial reporting process, insofar as certain banks may be failing to report the existence of oral guarantees that may affect an issuer's financial statements.

The audit process generally involves the issuer's independent auditor confirming, with banks and other lending institutions ("financial institutions"), the existence and amount of account balances, loans and contingent liabilities, including guarantees, among other items. Additionally, auditors routinely confirm financial information with other entities that have business relationships with the issuer. The Commission is concerned that financial institutions and other entities which respond to such audit confirmation requests may fail to include information concerning contingent liabilities created by oral guarantees. These failures may be due to, among other things, lack of an adequate system for recording such contingent liabilities, a failure to understand that oral guarantees may create contingent liabilities, or an agreement to honor a borrower's request for confidential treatment.

In particular, the above-referenced Commission investigation revealed that a senior financial executive of the issuer told representatives of a large New York bank that the issuer viewed its comfort letter, provided in connection with the bank's extension of credit to an unrelated foreign company, as a guarantee. The executive further informed the bank, in substance, that in the event of a default by the unrelated foreign company, the issuer would make sure that the bank was paid and did not lose money on the transaction. The executive made it clear that his oral guarantee to the bank was a representation made on behalf of the issuer's senior management. In making the decision to extend credit, the bank relied upon the issuer's oral guarantee. However, the bank did not report the existence of the oral guarantee to the issuer's independent auditor in the bank's response to a subsequent audit confirmation request. The fact that an oral guarantee was given to the bank was not disclosed for at least two reasons. First, bank officers failed to consider whether the oral guarantee was an item which required disclosure on the audit confirmation request. Additionally, information of material significance concerning the issuance of the oral guarantee was routinely retained by the loan officers responsible for the issuer's account and was not placed in the central credit files. Such information was not accessible to the department and had primary responsibility for answering audit confirmation requests. As a result of the failure to report that an oral guarantee had been provided to the bank, the bank

returned a false and misleading response to the audit confirmation request. The false and misleading response contributed to the issuer's failure to properly account for this transaction, the failure of the issuer's independent auditor to discover the improprieties in the issuer's financial statements, and therefore to the issuer's filing with the Commission materially false and misleading financial statements.

The Commission believes that it is critical that financial institutions and other entities which receive audit confirmation requests maintain a system by which information of material significance concerning guarantees and other contingent liabilities is available to those persons responding to audit confirmation requests and employ reasonable procedures to keep such information current, accurate and complete. Failure to maintain such a system may prevent auditors from receiving all information of material significance to the audit of the issuer's financial statements.

Even though representatives of the bank conceded that, in deciding to extend credit, the bank relied upon, among other things, the issuer's guarantees, representatives of both the issuer and the bank argued, as a matter of contract law, that oral guarantees were not legally binding under applicable state law and that only legally binding guarantees should be reported in response to an audit confirmation request. However, the Commission is of the view that, depending upon the facts and circumstances, oral guarantees, even if legally unenforceable, may have the same finacial reporting significance as written guarantees. Statement of Financial Accounting Standards No. 5, paragraph 12, states that material undertakings which in substance have the characteristics of a guarantee should be disclosed in financial statements.

Thus, whether oral or written, a material commitment which is in substance a guarantee should be reported. One factor, among others, in determining whether statements made by an issuer constitute an oral guarantee which should be reported is whether the financial institution relied upon the statements in making the decision to extend credit.

Guarantees and guarantees-in-substance can affect the accounting treatment for transactions. For example, Statement of Financial Accounting Standards No. 49 includes guarantees as indicia that a product financing arrangement is a borrowing rather than a sale. Therefore, financial institutions and other entities should report those oral arrangements which constitute guarantees-in-substance in response to an audit cinfirmation request.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Add a New Section 104, entitled as follows:

104. The Significance of Oral Guarantees to the Financial Reporting Process.

2. Include in Section 104 the Sections entitled "Background", "Discussion" and "Summary", identified as specified below

a. Background
b. Discussion
c. Summary

The codification is a separate publication issued by the SEC. It will not be published in the **Federal Register**/ Code of Federal Regulation System.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and Recordkeeping requirements, Securities.

PART 211—[AMENDED]

Commission Action: Subpart A of 17 CFR Part 211 is amended by adding thereto reference to this release [FRR No. 22].

By the Commission.

Dated: December 12, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30039 Filed 12-18-85; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. 14711A; File No. S7-25-85]

Custody of Investment Company Assets Outside the United States; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments; correction.

SUMMARY: On September 11, 1985, the Commission issued a release [50 FR 37654; September 17, 1984] adopting amendments to clarify Rule 17f-5 [17 CFR 270.17f-5] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et. seq.*]. The Commission is today amending that relese in order to correct an inadvertent error in those amendments.

FOR FURTHER INFORMATION CONTACT: Jack W. Murphy, Attorney, Office of Regulatory Policy (202) 272-2048..

Accordingly, in FR Doc. 85-22179, page 37655 in the issue of September 17, 1985, the amendatory language for number 2 is corrected to read as follows:

"2. Section 270.17f-5 is amended by adding paragraph (a)(4) and revising paragraphs (c)(2)(i) and (c)(2)(ii) as follows:" and the text of the rule is correctly designated as paragraph (a)(4).

Dated: December 16, 1985.

John Wheeler,

Secretary

[FR Doc. 85-30072 Filed 12-18-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-85-1226; FR-1954]

Use of Loan Correspondents in Connection With FHA Mortgage Insurance

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This rule revises the eligibility criteria for FHA loan correspondents by (1) increasing the net worth requirement from $5000 to $25,000, (2) permitting nonsupervised and governmental HUD-approved mortgagees to sponsor loan correspondents, (3) requiring, except under the direct endorsement program (where loans must be underwritten by the mortgagee-sponsor), that all loans be underwritten and closed in the loan correspondent's own name, and (4) permitting loan correspondents to maintain branch offices upon meeting an additional $25,000 net worth requirement for each branch office until an adjusted net worth of $100,000 is reached.

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

FOR FURTHER INFORMATION CONTACT: John Coonts, Director, Office of Lender Activities and Land Sales Registration, Room 9146, Department of Housing and

Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–6924. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 2, 1985 the Department published a proposed rule (50 FR 18680) to create a new category of approved program participants in the FHA single family mortgage insurance programs, to be known as commitment correspondents. (Commitment correspondents were proposed to be authorized, on behalf of HUD-approved mortgagees, to accept and process FHA loan applications, obtain commitments from HUD, and assign commitments to approved sponsor mortgagees. With respect to the single family Direct Endorsement program, commitment correspondents would be empowered to carry out all loan processing up to the point of actual loan closing and submission for endorsement to HUD.)

Included in the proposed rule, in addition to the above, were provisions that would revise 24 CFR 203.5 (Loan correspondents). Loan correspondents would be required, except in the case of mortgages insured under the Direct Endorsement program (24 CFR 200.163–200.184a), to process and close all mortgage loans in their own name. With respect to mortgages under the Direct Endorsement program, the underwriting would be carried out by the approved sponsor mortgagee. Section 203.5 was also proposed to be revised to (1) increase the adjustment net worth a loan correspondent must maintain from $5000 to $25,000, (2) permit HUD-approved nonsupervised and government institution mortgagees (not just supervised institutions) to sponsor loan correspondents, (3) permit loan correspondents to maintain branch offices for the processing of loan applications and the submission of applications for firm commitment, where the loan correspondent meets an additional net worth requirement of $25,000 for each branch until it reaches an adjusted net worth of at least $100,000 and (4) exempt loan correspondents from the warehouse line of credit requirements of § 203.4(b)(2) where there is a written agreement by a sponsor to fund all mortgages originated by the loan correspondent.

This rule adopts as final, with minor revisions, the provisions in the proposed rule relating to loan correspondents (24 CFR 203.5). It does not adopt the more comprehensive provisions of the proposed rule which would have established commitment correspondents as a new category of FHA program participants. In view of reservations concerning the commitment correspondent concept expressed in public comments on the proposed rule, as well as a continuing assessment of this concept within the Department since publication of the rule, the adoption of final regulatory provisions relating to commitment corespondents is being held in abeyance.

The Department received eight timely public comments concerning the proposed rule—four from individual business organizations and four from national or state associations (the Mortgage Bankers of America, the National Association of Homebuilders, the United States League of Savings Institutions and the Florida League of Financial Institutions). The comments expressed a number of reservations and concerns about (1) the possible role of commitment correspondents vis-a-vis current participants in the mortgage market; (2) potential problems with respect to quality control; and (3) questions concerning compliance with consumer protection and information requirements. Our responses to public comments in this rule, however, are limited to those relating to the loan correspondent provisions.

Only one substantive comment was received relating to loan correspondents. The U.S. League of Savings Institutions did not approve of the proposal to permit loan correspondents to be sponsored by nonsupervised morgtagees. The League felt that a nonsupervised lender could develop a significant volume of business through these relatively low capitalized originators (i.e., loan correspondents), and questioned whether HUD has the quality control system and auditing facilities necessary to prevent potentially servere losses that could occur.

The Department does not share the commenter's concern. The Department's monitoring systems are designed to assure that all types of approved lenders comply with HUD processing requirements, and we do not expect a nonsupervised lender using loan correspondents to originate poorer quality loans than would a supervised institution.

The revision to 24 CFR 203.5 (Loan Correspondents) contained in this final rule is the same as that found in the proposed rule, except that a provision in § 203.5(a) of the proposed rule limiting loan correspondents to single family mortgage transactions has been deleted. Although loan correspondence have, to date, limited their activities to the single family area, there is no reason why they should, by regulation, be restricted to this area, as was inadvertently done in the proposed rule. Also, a sentence is added to § 203.5(b)(4) making clear that a loan correspondent is fully responsible to the Commissioner for the actions of its branch offices. Nonsubstantive technical or clarifying changes have also been made.

Procedural Requirements

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

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(a)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410.

This Rule was listed as item H–60–84 (Sequence Number 795) under Office of Housing in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166, 44182), under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance Program numbers are 14.117, 14.120, 14.123 and 14.133.

Under 5 U.S.C. 605(b) (The Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The use of loan correspondents in HUD's mortgage insurance programs enhances opportunities for both small and large business entities, and no new burdens on small entities are included in this rule.

Paperwork Reduction Act

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for approval under the

provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. §§3501–3520) and have been assigned OMB Control Number 2502–0005.

List of Subjects in 24 CFR Part 203

Mortgage insurance.

PART 203—[AMENDED]

Accordingly, 24 CFR Part 203 is amended as follows:

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

Authority: Secs. 203 and 211, National Housing Act [12 U.S.C. 1709, 1715b; sec. 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3536(d)

2. Section 203.5 is revised to read as follows:

§ 203.5 Loan correspondents.

(a) A loan correspondent is an institution that originates and closes HUD/FHA insured mortgage loans for sale to its sponsor or sponsors. Except for the Direct Endorsement program authorized in §§ 200.163 through 200.164a, it must process and close all loans in its own name. A loan correspondent may not sell insured mortgages to any mortgagee other than its sponsor or sponsors without the prior approval of the Commissioner, nor may it retain insured mortgages in its own portfolio. In connection with the Direct Endorsement program, a loan correspondent may not underwrite, but shall close in its own name, all loans for submission to HUD/FHA for insurance endorsement. Underwriting of Direct Endorsement loans shall be the responsibility of the loan correspondent's sponsor.

(b) A mortgagee may be approved as a loan correspondent if it meets the approval requirements of § 203.4, except that:

(1) Its approval must be requested by one or more sponsors that are HUD/FHA approved mortgagees under § 203.3, 203.4, or 203.7.

(2) It shall be exempt from the warehouse line of credit requirements of § 203.4(b)(2) where there is a written agreement by a sponsor to fund all mortgages originated by the loan correspondent.

(3) It shall have and maintain an adjusted net worth or trust estate of not less than $25,000 in assets acceptable to the Commissioner. Previously approved loan correspondents that have a net worth of less than $25,000 must meet this $25,000 net worth requirement on or before (insert date which is two years from effective date of rule).

(4) It may not, as authorized in § 203.4(c), maintain branch offices for the processing of loan applications and the submission of applications for a firm commitment without the prior approval of the Commissioner. Approval may be granted where the loan correspondent meets an additional $25,000 net worth requirement for each branch office it maintains until it has reached an adjusted net worth of not less than $100,000. Loan correspondents with an adjusted net worth of $100,000 or more may, with the prior approval of the Commissioner, open and maintain branch offices without meeting any additional net worth requirements. A loan correspondent shall remain fully responsible to the Commissioner for the actions of its branch offices.

(5) A loan correspondent and its sponsor or sponsors shall promptly notify the Commissioner upon termination of any loan correspondent agreement, and termination of its agreements with all its sponsors shall be cause for withdrawal of the loan correspondent's approval.

(Approved by the Office of Management and Budget under OMB control number 2502–0005)

Dated: December 13, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85–30084 Filed 12–18–85; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-85-1228; FR-2016]

Community Development Block Grants for Indian Tribes and Alaskan Native Villages; Conflict of Interest

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts a proposed rule that advised that the Department intended to promulgate specific regulations governing conflict of interest situations for the Community Development Block Grant (CDBG) program for Indian Tribes and Alaskan Native Villages. This rule addresses those circumstances that are peculiar to Indian and Alaskan Native Communities.

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

FOR FURTHER INFORMATION CONTACT: Leroy P. Gonnella, Room 7134, Office of Program Policy Development, Office of Community Planning and Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 755–6092. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department published a proposed rule on June 24, 1985 (50 FR 25999) which explained that, generally, the conflict of interest provisions in 24 CFR 570.611, applicable to the CDBG entitlement program, are also applicable to the Indian CDBG programs, and that major portions have been included without change in this rule. However, as indicated in the proposed rule, this rule making is specifically intended to address certain conflict of interest situations that are unavoidable for grantees that are small Tribes and Villages. In order to proceed with their funded projects, these grantees now must request exceptions from the responsible HUD field office. Exceptions are usually granted, because the person affected is of the same group or class as the beneficiaries of the project. To eliminate the delay in grantees' projects while exceptions are being considered by HUD, the proposed rule added § 571.607(e) to provide for circumstances under which the conflict prohibition would not apply.

This final rule provides, in adopting § 571.607(e) unchanged from the proposed rule, that the grant recipient may make the exception under the described circumstances, provided that to do so will not result in a violation of Tribal or State laws on conflict of interest. Records showing the decisions reached by recipients on exceptions must be maintained for HUD review.

The proposed rule of June 24, 1985 invited public comment for a 60-day period ending August 23, 1985. One comment was received. The comment endorsed the rule as being beneficial to small Tribes and Villages, especially because it eliminated the time-consuming process involved in receiving HUD clearance in conflict of interest situations.

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public

inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington DC 20410.

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

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule simplifies and reduces the requirements for grant recipients with respect to potential conflict of interest situations, but would impose no economic burden nor have a significant economic impact on these recipients.

This rule is listed as item number 920 (CPD–5–84; FR–2016) in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166, 44202) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and have been assigned OMB Control Number 2506–0043.

The Catalog of Federal Domestic Assistance number is 14.223.

List of Subjects in 24 CFR Part 571

Community development block grants, Grant programs: housing and community development, Grant programs: Indians, Indians.

Accordingly, the Department amends 24 CFR Part 571 as follows:

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

1. The authority citation for 24 CFR Part continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Part 571, Subpart G is amended by adding a new § 571.607, to read as follows:

§ 571.607 Conflict of interest.

(a) *Applicability.* (1) In the procurement of supplies, equipment, construction, and services by grantees and subrecipients (including those specified at § 570.204(c) of this title), the conflict of interest provisions in Attachment O of OMB Circulars A–102 (grantees), and A–110 (subrecipients) shall apply.

(2) In all cases not governed by Attachment O of OMB Circulars A–102 and A–110, the provisions of this section shall apply. Such cases include the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities under § 570.202; or grants, loans, and other assistance to businesses, individuals and other private entities under § 570.203 or § 570.204).

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who have or had any functions or responsibilities with respect to Community Development Block Grant (CDBG) activities assisted under this Part, or who are in a position to participate in a decision, or gain inside information about such activities, may obtain a personal or financial interest or benefit from these activities. Further, such persons may not have an interest in any contract, subcontract, or agreement concerning such activities; and such persons may not, during their employment or tenure in office and for one year thereafter , have an interest in the proceeds from these activities, either for themselves or for those with whom they have family or business ties. This paragraph does not apply to approved eligible administrative or personnel costs.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient, or of any designated public agencies, or subrecipients under § 570.204 of this title, receiving funds under this Part.

(d) *Exceptions requiring HUD approval.*

(1) *Threshold requirements.* Upon the written request of a recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis, when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(i) A disclosure of the nature of the possible conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate Tribal laws on conflict of interest, or applicable State laws.

(2) *Factors to be considered for exceptions:* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or essential expert knowledge to the program or project which would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or from the decision-making process, with reference to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(v) Whether undue hardship will result, either to the recipient or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict;

(vi) Any other relevant considerations.

(e) *Circumstances under which the conflict prohibition does not apply—*

(1) In instances where a person who might otherwise be deemed to be included under the conflict prohibition is a member of a group or class of beneficiaries of the assisted activity and receives generally the same interest or benefits as are being made available or provided to the group or class, the prohibition does not apply, except that if, by not applying the prohibition against conflict of interest, a violation of Tribal or State laws on conflict of

interest would result, the prohibition does apply.

(2) All records pertaining to the recipient's decision under this section shall be maintained for HUD review upon request.

Date: December 13, 1985.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 85-30082 Filed 12-18-85; 8:45 am]

BILLING CODE 4210-29-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 885

[Docket No. N-85-1562; FR-2174]

Loans for Housing for the Elderly or Handicapped; Fiscal Year 1986 Interest Rate

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

ACTION: Notice of section 202 Loan Interest Rate-Fiscal Year 1986.

SUMMARY: This Notice establishes 9.25 percent per annum as the interest rate for loans that are made during Fiscal Year 1986 for housing for the elderly or handicapped under section 202 of the Housing Act of 1959.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, 451 Seventh Street, SW., Room 6136, Washington, DC 20410, telephone (202) 426-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 24 CFR 885.410(g)(2), the Secretary of Housing and Urban Development is required to publish an annual notice establishing the interest rate for loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959. This interest rate may not exceed either:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made, plus an allowance to cover administrative costs and probable losses under the program. (This allowance has been determined by the Secretary of Housing and Urban Development to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods); or

(2) Any statutory ceiling on interest rates or allowances for administrative costs and probable losses for such loans as may be applicable. (24 CFR 885.410(g)(1)).

On November 25, 1985, the President signed the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99-160). This act provides that section 202 loans made in Fiscal Year 1986 shall bear an interest rate that does not exceed 9.25 percent per annum (including the allowance for administrative costs and probable losses).

The interest rate on the described interest-bearing obligations of the United States at the end of Fiscal Year 1985 (as determined by the Secretary of the Treasury) was 10.25 percent per annum. This rate plus the .25 percent per annum allowance for administrative costs and probable losses yields an interest rate of 10.50 percent per annum, a rate substantially in excess of 9.25 percent per annum. Accordingly, this Notice announces that the Secretary of HUD has established the interest rate for section 202 loans made during Fiscal Year 1986 at the statutory ceiling of 9.25 percent per annum.

Under 24 CFR 50.20(l) an environmental finding is not necessary because the statutorily required establishment of interest rates is among matters that are categorically excluded from the environmental requirements of 24 CFR Part 50.

Authority: (sec. 202, Housing Act of 1959, U.S.C. 1701q; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Dated: December 12, 1985.

Janet Hale,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 85-30002 Filed 12-18-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Criminal Division; Policy With Regard To Open Judicial Proceedings

28 CFR Part 50

[Order No. 1115-85]

AGENCY: U.S. Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends 28 CFR 50.9 to assign authority to authorize court closures to the Deputy Attorney General and the Associate Attorney General based upon the source of the closure request. This action is being taken to ensure that the authorizing official is familiar with the activities of the Division which makes the request. Requests originating from Divisions supervised by the Deputy Attorney General will require Deputy Attorney General authorization; ones originating from Divisions supervised by the Associate Attorney General will require authorization by the Associate Attorney General.

EFFECTIVE DATE: October 18, 1985.

FOR FURTHER INFORMATION CONTACT: David M. Simonson, Office of Enforcement Operations, Legal Support Unit, Criminal Division, Department of Justice, Washington, DC 20530, (202) 724-6672.

SUPPLEMENTARY INFORMATION: This order amends paragraphs (d) (1) and (2) of 28 CFR 50.9 and changes the method by which the proper authorizing official is determined. Authorization to consent to, or to request, the closure of a court proceeding will now be given by the official who has supervisory authority over the Division from which the request originates, rather than by the Deputy Attorney General in civil cases and the Associate Attorney General in criminal cases.

This Order is not a rule within the meaning of either Executive Order 12291, section 1(a), or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 28 CFR Part 50

Administrative practice and procedure.

PART 50—[AMENDED]

By virtue of the authority vested in me, as Attorney General by 28 U.S.C. 509, 510, 516, and 519, and 5 U.S.C. 301, § 50.9 of Title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 50 of Title 28, Code of Federal Regulations, is added to read as follows:

Authority: 28 U.S.C. 508, 509, 510; 5 U.S.C. 301, 552, 552a; 15 U.S.C. 16(d).

2. The authority citations after all the sections in the Part are removed.

3. 28 CFR Part 50 is amended by revising paragraph (d) of § 50.9 to read as follows:

§ 50.9 Policy with regard to open judicial proceedings.

* * * * *

(d) A government attorney shall not move for or consent to the closure of any proceeding, civil or criminal, except with the express authorization of:

(1) The Deputy Attorney General, or,
(2) The Associate Attorney General, if the Division seeking authorization is under the supervision of the Associate Attorney General

* * * * *

Dated: October 18, 1985.

Edwin Meese III,

Attorney General.

[FR Doc. 85-29991 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2203

Regulations Implementing the Government in the Sunshine Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule with request for comments.

SUMMARY: This document changes the procedures followed by the Occupational Safety and Health Review Commission in announcing its meetings and deciding whether to close them to the public. It states the Commission's intention to follow simplified procedures authorized under the Sunshine Act in announcing and closing its regularly-scheduled meetings. It also establishes separate, more formal procedures governing the public announcement of all other meetings of the Commissioners and their decisions to open or close those meetings. In addition, it includes an invitation from the Commission for public comment on its revised procedures. The Commission's present Sunshine Act regulations require it to follow formal procedures for announcing all Commission meetings even though the regularly-scheduled meetings are almost always closed to the public because they involve only the disposition of contested cases. The revised regulations allow the Commission to use a less costly and less formal procedure when the meeting will be closed on this basis.

EFFECTIVE DATE: January 21, 1986.

ADDRESSES: Comments may be mailed to: Earl R. Ohman, Jr., General Counsel, Occupational Safety and Health Review Commission, Room 402-A, 1825 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr. at (202) 634-4015.

SUPPLEMENTARY INFORMATION:

Statutory Requirements

These revised regulations implement the Government in the Sunshine Act, 5 U.S.C. 552b ("Sunshine Act"). The Sunshine Act creates two alternative procedures for announcing agency meetings and deciding whether to close them to the public. Under the Act's formal procedures, a decision to close all or part of a meeting must be made before the meeting, a public announcement must be made at least one week before the meeting, and notice of the meeting must be published in the **Federal Register**. Under the Act's simpler expedited closing procedure, the decision to close a meeting may be made at the beginning of the meeting, notice in the **Federal Register** is not required, and the only requirement concerning announcement of the meeting is that the agency provide "public announcement of the time, place and subject matter of the meeting . . . at the earliest practicable time." 5 U.S.C. 552b(d)(4).

Expedited Closing Procedure

An agency seeking to operate under the expedited closing procedure must meet two prerequisites: (a) The agency must be qualified to use this procedure, and (b) the agency must adopt regulations implementing the procedure. See 5 U.S.C. 552b(d)(4). The Commission has determined that it is qualified to use the expedited closing procedure because almost all of its meetings have been closed to the public on the ground that they involve only formal agency adjudication of particular cases. See §§ 2203.4 (a) and (b). The Commission meets the second prerequisite by adopting these regulations, which implement the expedited closing procedure.

Commission Experience Under the Present Regulations

The Commission adopted regulations implementing the Sunshine Act in March 1977. 42 FR 15414 (Mar. 22, 1977). The present regulations established a hybrid procedure. While the decision on closing a Commission meeting was made at the beginning of the meeting, as authorized under the expedited closing procedure, the public announcement of Commission meetings was governed by the Sunshine Act's formal procedures, including the requirement of publication in the Federal Register.

The Commission's experience under its present regulations has not been satisfactory. Currently, the Commmission meets on a weekly basis to consider and decide contested cases under the Occupational Safety and Health Act of 1970. Each week the Commission posts a formal public announcement of the meeting to be held the following week. In addition, it publishes, at a significant cost, a formal announcement of each meeting in the **Federal Register**. The Commission traditionally has closed all such meetings because they involve only "formal agency adjudication." See 5 U.S.C. 552b(c)(10). As a result, there has also been little or no public response to the Commission's announcements. The Commission has therefore concluded that the costly and time-consuming public announcement procedures of its present regulations are unnecessary and wasteful.

Procedural Changes

These revised regulations make several changes in the Commission's procedures for announcing its meetings and determining whether to close them to the public. The regulations create two categories of Commission meetings: (a) Regularly-scheduled meetings and (b) all other meetings of the Commission members. The regulations distinguish between these two types of meetings by identifying which matters may be considered at which type of meeting. The regulations also establish different procedures for announcing the two types of Commission meetings and for determining whether to close them.

In addition, these revised regulations clarify the statutory definition of the key term "meeting." See 5 U.S.C. 552b(a)(2). In particular, a distinction is made between meetings of the Commissioners, which are governed by these regulations, and informal background discussions among the Commissioners, which are not. This distinction is recognized in case law interpreting the Sunshine Act. See *F.C.C.* v. *ITT World Communications, Inc.*, 104 S.Ct. 1936 (1984), quoting S. REP. NO. 94-354, 94th Cong., 1st Sess. 19 (1975).

Regularly-Scheduled Meetings

The public announcement of the Commission's regularly-scheduled meetings is included in these revised regulations. See § 2203.4(c). This notice will be supplemented by posted notices only when the Commission cancels a regularly-scheduled meeting or reschedules it for another time or day. Notice of the Commission's regularly-scheduled meetings will no longer be published in the **Federal Register.**

Other Commission Meetings

If the Commission has official business that cannot be conducted in a regularly-scheduled meeting, it will schedule a special meeting or meetings for the purpose of conducting that business. The public announcement of

these meetings and decisions to close these meetings in whole or in part will be made in accordance with the Sunshine Act's formal procedures, including publication of notice of the meetings in the **Federal Register**. See § 2203.5.

Public Comment

This document revises agency rules of procedure and practice. The Commission therefore has the authority, under 5 U.S.C. 553(b)(A), to adopt these revised regulations without prior notice or public comment. Because it wishes to put these revised procedures into effect as soon as possible to avoid unnecessary expense, the Commission adopts these revised regulations as its final rule. Nevertheless, the Commission values any comments that the public may have on these matters. Public comment is accordingly invited. Comments may be mailed to the General Counsel at the address previously stated.

List of Subjects in 29 CFR Part 2203

Sunshine Act, Information, Public meetings.

For the reasons set out in the preamble, Part 2203 of Chapter XX, Title 29 of the Code of Federal Regulations is revised to read as follows:

PART 2203—REGULATIONS IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Authority: 29 U.S.C. 661(g); 5 U.S.C. 552b(d)(4); 5 U.S.C. 552b(g).

§ 2203.1 Purpose and scope.

This part applies to all meetings of the Occupational Safety and Health Review Commission. Its purpose is to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open to public observation, to the extent practicable, the meetings of the Commission, while preserving the Commission's ability to fulfill its adjudicatory responsibilities and protecting the rights of individuals.

§ 2203.2 Definitions.

For the purposes of this part:

"Expedited closing procedure" means the simplified procedures described at 5 U.S.C. 552b(d)(4) for announcing and closing certain agency meetings.

"General Counsel" means the General Counsel of the Commission, the Deputy General Counsel, or any other person designated by the General Counsel to carry out his responsibilities under this part.

"Meeting" means the deliberations of at least two Commissioners, where such deliberations determine or result in the joint conduct or disposition of "official Commission business." A conference telephone call among the Commissioners is a "meeting" if it otherwise qualifies as a "meeting" under this paragraph. The term does not include: (a) The deliberations required or permitted under §§ 2203.4(d) and 2203.5, e.g., a discussion of whether to open or close a meeting under this part; (b) business that is conducted by circulating written materials sequentially among the Commissioners for their consideration on an individual basis; (c) a gathering at which the Chairman of the Commission seeks the advice of the other Commissioners on the carrying out of a function that has been vested in the Chairman, by statute or otherwise; or (d) informal discussions of the Commissioners that clarify issues and expose varying views but do not effectively predetermine official actions.

"Official Commission business" means matters that are the responsibility of the Commission acting as a collegial body, including the adjudication of litigated cases. The term does not include matters that are the responsibility of the Commission's Chairman. See, e.g., 29 U.S.C. 661(e).

"Regularly-scheduled meetings" means meetings of the Commission that are held at 10:00 a.m. on Thursday of each week, except on legal holidays. The term includes regularly-scheduled meetings that have been rescheduled for another time or day.

§ 2203.3 Public attendance at Commission meetings.

(a) *Policy.* Commissioners will not jointly conduct or dispose of official Commission business in a meeting unless it is conducted in accordance with this part. Because the Commission was created for the purpose of adjudicating litigated cases, it can be expected that most of its meetings will be closed to the public. However, meetings that do not involve Commission adjudication or discussion of issues in cases before it will be open to the extent practicable. The public will not be allowed to participate in discussions during open meetings.

(b) *Grounds for closing meetings.* Except where the Commission finds that the public interest requires otherwise, all or part of a meeting may be closed to the public, and information about a meeting may be withheld from the public, where the Commission determines that the meeting, or part of the meeting, or information about the meeting, is likely to:

(1) Disclose matters that are: (i) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5), *Provided,* That such statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person are privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would: (i) Interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trail or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(i) Be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution, or

(ii) Be likely to significantly frustrate implementation of a proposed Commission action, except where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, discussion or disposition by the Commission of a particular case of formal Commission adjudication.

(c) *Regularly-scheduled meetings.* The Commission will hold regularly-scheduled meetings for the purpose of considering matters that may properly be closed to the public under paragraph (b)(4), (8), (9)(i) or (10) of this section, or any combination thereof. Primarily, these meetings will be held for the purpose of considering or disposing of particular cases of formal Commission adjudication. The Commission therefore expects to close all regularly-scheduled meetings. The procedures established in § 2203.4 apply to the public announcement and closing of regularly-scheduled meetings.

(d) *Other Commission meetings.* All other meetings of the Commission will be open to public observation unless the Commission determines that all or part of a meeting is likely to disclose information of the kind set forth in any subparagraph of paragraph (b) of this section. The procedures established in § 2203.5 apply to the public announcement of Commission meetings that are not regularly scheduled and to the total or partial closing of these meetings.

§ 2203.4 Procedures applicable to regularly-scheduled meetings.

(a) *Statutory authority to adopt expedited closing procedure.* The Government in the Sunshine Act provides, at 5 U.S.C. 552b(d)(4), that qualified agencies may establish by regulation expedited procedures for announcing and closing certain meetings. Specifically, "[a]ny agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c) [of the statute], or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof [through the expedited closing procedure]." See §§ 2203.3(b)(4), (8), (9)(i) and (10), which are equivalent to the referenced paragraphs of the statute. The Commission had determined, for the reasons stated in paragraph (b) of this section, that it is qualified to adopt implementing regulations under 5 U.S.C. 552b(d)(4). It hereby announces that it will follow the expedited closing procedure authorized under that statutory provision in conducting its regularly-scheduled meetings.

(b) *Commission qualification to adopt expedited closing procedure.* The Commission has determined that a majority of its meetings may be closed to the public under 5 U.S.C. 552b(c)(10). See § 2203.3(b)(10). The Commission is an adjudicatory agency that has no regulatory functions. It was established to resolve disputes arising out of enforcement actions brought by the Secretary of Labor under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651–678. *See* 29 U.S.C. 659(c). The Commission's experience under the Government in the Sunshine Act has been that almost all of its meetings have been closed, in whole or in part, under 5 U.S.C. 552b(c)(10) because they involved only formal agency adjudication of specific cases.

(c) *Announcements.* Regularly-scheduled meetings of the Commission will be held at 10:00 a.m. every Thursday, except for legal holidays, in the Hearing Room (Suite 410) of the Commission's national office at 1825 K Street NW., Washington, DC. If a regularly-scheduled meeting is rescheduled, public announcement of the time, date and place of the meeting will be made at the earliest practicable time by posting a notice in a prominent place at the Commission's national office. If a regularly-scheduled meeting is cancelled, a notice of cancellation will be posted in the same manner. Information about the subject of each regularly-scheduled meeting will be made available in the Office of the General Counsel, telephone number (202) 634–4015, at the earliest practicable time. However, no information that may be withheld under § 2203.3(b) will be made available, and individual items may be added to or deleted from the agenda at any time. Inquiries from the public regarding any regularly-scheduled meeting will be directed to the Office of the General Counsel.

(d) *Voting.* At the beginning of each regularly-scheduled meeting, the Commission will vote on whether to close the meeting. No proxy vote will be permitted and the vote of each Commissioner will be recorded. This record of each Commissioner's vote will be made available to the public at the Commission's national office immediately after the meeting.

§ 2203.5 Procedures applicable to other meetings.

(a) *Announcements.*—(1) *Meetings announced.* Public announcement will be made of every meeting that is not a regularly-scheduled meeting. This announcemet will state the time, place, and subject of the meeting, whether it is to be open or closed, and the name and phone number of the person designated to respond to requests for information about the meeting. The announcement will be made at least one week before the meeting unless at least two Commissioners determine by a recorded vote that Commission business requires that such meeting be called at an earlier date. In that case, the Commission will make its public announcement at the earliest practicable time.

(2) *Changes announced.* The time or place of a meeting may be changed following the public announcement required by paragraph (a)(1) of this section, but only if public announcement of the change is made at the earliest practicable time. The subject of a meeting, or the determination by the Commission to open or close all or part of a meeting, may also be changed following the public announcement required by paragraph (a)(1) of this section; however, these changes may be made only if: (i) At least two Commissioners determine by recorded vote that Commission business so requries and that no earlier announcement of the change was possible and (ii) public announcement of the change and the vote of each Commissioner on the change is made at the earliest practicable time.

(3) *Form of announcements.* The announcements requried under paragraph (a) of this section will be made by posting a notice in a prominent place at the Commission's national office. In addition, immediately following each announcement required by paragraph (a) of this section, notice of the same matters described in the posted notice will also be submitted for publication in the **Federal Register.**

(b) *Voting.*—(1) *Requirement that vote be taken.* Action to close all or part of a meeting that is not regularly scheduled or to withhold information about a meeting that is not regularly scheduled, under any paragraph of § 2203.3(b), will be taken only when at least two

Commissioners vote to take the proposed action.

(2) *Separate votes required.* A separate vote of the Commissioners will be taken with respect to each Commission meeting or each part of a meeting that is proposed to be closed under paragraph (b) of this section or with respect to any information that is proposed to be withheld under paragraph (b) of this section.

(3) *Single vote on a series of meetings.* A single vote may be taken with respect to closing all or part of a series of meetings under paragraph (b) of this section, or with respect to any information concerning a series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in the series.

(4) *Public requests to close meetings.* Any person whose interest may be directly affected by a portion of an open meeting may request that the Commission close that portion to the public for any of the reasons referred to in paragraph (b) (5), (6) or (7) of § 2203.3. Upon the motion of any Commissioner, the Commission will vote by recorded vote whether to grant the request.

(5) *Proxy votes; recording of votes.* No proxy vote will be permitted for any vote required under paragraph (b) of this section. The vote of each participating Commissioner will be recorded.

(6) *Public announcement of votes.* Within one day after any vote taken under paragraph (b) of this section, the vote of each Commissioner on the question will be made publicly available at the Commission's national office. If any part of a meeting is to be closed under paragraph (b) of this section, a full written explanation of the Commission's action, together with a list of all persons expected to attend the meeting and their affiliation, will be made publicly available at the Commission's national office within one day after the vote to close.

§ 2203.6 Certification by the General Counsel.

For every meeting closed under any provision of these rules, the General Counsel will be asked to certify before the meeting that in his opinion the meeting may properly be closed to the public, and to state which exemptions he has relied upon. A copy of this certification, together with a statement (from the Commissioner presiding over the meeting) setting forth the time and place of the meeting and the persons present, shall be retained by the Commission as part of the transcript, recording or minutes of the meeting described in § 2203.7.

§ 2203.7 Transcripts, recordings and minutes of closed meetings.

(a) *Record of meeting.* The Commission will make a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public. However, if all or part of a meeting is closed under paragraph (b)(8), (9)(i) or (10) of § 2203.3, the Commission shall maintain either such a transcript or recording, or a set of minutes. Such minutes will fully and clearly describe all matters discussed and will provide a full and accurate summary of any actions taken, and the reasons for the actions. The minutes will also include a description of each of the views expressed on any item and a record of any roll call vote (reflecting the vote of each Commissioner on the question). In addition, the minutes will identify all documents considered in connection with any action.

(b) *Public access to records.* The Commission will make promptly available to the public, at its national office, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines to contain information which may be withheld under § 2203.3(b). Copies of the transcript, the minutes, or a transcription of the recording disclosing the identity of each speaker, with the deletions noted in the preceding sentence, will be furnished to any person at the actual cost of duplication or transcription. Requests to inspect or to have copies made of any transcript, electronic recording or set of minutes of any meeting, or any item(s) on the agenda of any meeting, should be made in writing to the General Counsel at the Office of the General Counsel, Occupational Safety and Health Review Commission, Room 402–A, 1825 K Street, NW., Washington, DC 20006. The request should identify the time, date, and place of the meeting and briefly describe the items sought. The Commission will maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting, or closed portion of a meeting, for a period of at least two years after the meeting, or until one year after the conclusion of any Commission proceeding with respect to which all or part of the meeting was held, whichever occurs later.

Dated: December 11, 1985.

E. Ross Buckley,

Chairman.

Dated: December 11, 1985.

Robert E. Rader, Jr.,

Commissioner.

Dated: December 13, 1985.

John R. Wall,

Commissioner.

[FR Doc. 85-30023 Filed 12-18-85; 8:45 am]

BILLING CODE 7600-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: December 13, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by the VA as he finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on

manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans including graduated payment mortgage loans, and loans for home improvement purposes. Market indicators similarly favor reductions in the maximum interest rates for these types of loans. These lower interest rates should assist more veterans in the purchase of homes and condominiums or to obtain improvement loans because of the decrease in the monthly loan payments for principal and interest.

Regulatory Flexibility Act Executive Order 12291

For the reasons discussed in the May 7, 1981, **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would neessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code.

These decreases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), and 36.4311 (a), (b), and (c) and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured homes, Veterans.

Approved: December 12, 1985.

Harry N. Walters,

Administrator.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective December 13, 1985, 13 percent simple interest per annum for a loan which finances the purchases of a manufactured home unit only.

(2) Effective December 13, 1985, 12½ percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective December 13, 1985, 12½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

2. In § 36.4311, paragraphs (a), (b), and (c) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 10½ centum per annum, effective December 13, 1985, the interest rate on any home or condominium loan, other that a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 10½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 10¾ per centum per annum, effective December 13, 1985, the interest rate of any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 10¾ per centum per annum. (38 U.S.C. 1083(c)(1))

(c) Effective December 13, 1985, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements or repairs, which is guaranteed or insured wholly or in part on or after such date may not exceed 12 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the VA shall bear interest at the rate of 10½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 12 percent per annum. (38 U.S.C. 1811 (d)(1) and (2)(A))

* * * * *

[FR Doc. 85–30020 Filed 12–18–85; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 799

[OPTS-42059B; FRL-2940-5]

1,1,1-Trichloroethane; Final Test Standards and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On October 10, 1984 EPA issued a final rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring that manufacturers and processors of 1,1,1-trichloroethane (TCEA, CAS No. 71-55-6) test this chemical for developmental toxicity. In August 1985, the Agency proposed that the protocols and schedule submitted by an industry consortium be adopted as the test standings and reporting requirements for TCEA under this test rule. EPA has reviewed public comments on the proposal and has decided to promulgate a final rule that specifies these protocols and schedule as the test standards and reporting requirements for TCEA.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on January 2, 1986. This rule shall become effective on February 3, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW, Washington, DC 20460. Toll free: (800-424-9065), in Washington, DC: (544-1404), outside the U.S.A: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 10, 1984 (49 FR 39810), EPA issued a final Phase I rule under section 4(a) of TSCA to require testing of TCEA for developmental toxicity. The Agency is now promulgating a final Phase II rule specifying that the industry-submitted protocols and schedule be the test standards and reporting requirements for this testing. This test rule for 1,1,1-trichloroethane is being promulgated under 40 CFR 799.4400.

I. Background

This document is part of the implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*), which contains authority for EPA to require development of data relevant to assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

1,1,1-Trichloroethane (TCEA, CAS No. 71-55-6) was designated by the Interagency Testing Committee (ITC) for priority testing consideration (43 FR 16684; April 19, 1978). EPA promulgated in the **Federal Register** of October 10, 1984 (49 FR 39810), a final Phase I rule requiring testing of TCEA. EPA based the final testing requirements for TCEA on the authority of section 4(a)(1)(B) of TSCA. The Agency found that TCEA is produced in substantial quantities and that there is substantial occupational and consumer exposure to TCEA resulting from its manufacture, processing, and use. For a detailed discussion of EPA's findings and testing requirements for TCEA refer to the final Phase I rule. In accordance with the Test Rule Development and Exemption Procedures for two-phase rulemaking in 40 CFR Part 790, persons subject to this rule were required to submit letters of intent to perform the testing or exemption applications. Those submitting letters of intent were required to submit proposed study plans and schedules for the testing required in the final Phase I rule.

On December 20, 1984, a consortium of U.S. manufacturers and an importer of TCEA, known as the Halogenated Solvents Industry Alliance (HSIA), notified EPA of their intent to sponsor the testing required in the Phase I test rule (Ref. 7). HSIA submitted proposed study plans on February 21, 1985 and April 17, 1985. In the **Federal Register** of August 7, 1985 (50 FR 31895), EPA proposed that the submitted protocols and schedules be adopted as the test standards and reporting requirements for the testing of TCEA. EPA is now promulgating a final Phase II rule requiring the HSIA to conduct this testing in accordance with the proposed test standards and reporting requirements.

II. Proposed Test Standards

The HSIA, comprised of Dow Chemical Co., ICI Americas, Inc., PPG Industries, Inc., and Vulcan Materials Co., notified EPA of their agreement to sponsor the testing required in the final Phase I rule for TCEA in 40 CFR 790.4400. HSIA has submitted proposed study plans (Refs. 1 through 5) to conduct the following tests: Inhalation Developmental Toxicity Probe Study in rabbits; Inhalation Developmental Toxicity Study in rabbits; Inhalation Developmental Toxicity Probe Study in rats; and Inhalation Developmental Toxicity Study in rats. HSIA stated that these tests will be conducted in accordance with EPA TSCA Good Laboratory Practice Standards as set forth in 40 CFR Part 792.

Exposure levels of 0, 1,000, 3,000, and 6,000 parts per million (ppm) for 6 hr/day were proposed for both the rat (days 6 through 15 or gestation) and rabbit (days 6 through 18 of gestation) probe studies, with exposure levels for the full inhalation developmental toxicity studies based on results of the probe studies. TCEA from a commercial source stabilized with less than 0.1 percent butylene oxide will be used as the test material. It was proposed that either Sprague Dawley or Fisher 344 rats and New Zealand white rabbits would be used for this testing. The full protocols are available in the public docket for this action. The protocols submitted by HSIA have been reviewed by the Agency and found to conform to the TSCA Health Effects Test Guidelines for Inhalation Toxicity Testing. The Agency proposed that these protocols be adopted as test standards for performing the developmental toxicity testing of TCEA required under 40 CFR 799.4400.

III. Proposed Reporting Requirements

HSIA proposed that if the protocol were made final in 1985, the testing could begin in the second quarter of 1986. The U.S. District Court in its final order for NRDC v. EPA required issuance of a final Phase II rule for TCEA by March 1986 (Ref. 6).

HSIA also proposed that within 90 days after the effective date of the final Phase II rule establishing the test standards, the manufacturers would make a final selection of the testing facility. The testing would be initiated within 6 months after the effective date of the final Phase II rule. Final reports of the probe studies would be submitted by week 36 for rabbits and week 37 for rats. The final report for the complete study on rabbits would be submitted by week 61. The final report for the complete study in rats would be submitted by week 70 (Ref. 5). EPA proposed that testing be initiated within 6 months and results reported to the Agency within 16 months of the effective date of the final Phase II rule for TCEA. In addition, it was proposed that quarterly progress reports be submitted to the Agency.

As required by TSCA section 4(d), the Agency plans to publish in the **Federal Register** a notice of the receipt of any test data submitted under this test rule within 15 days after receipt of the data. Except as otherwise provided in TSCA

section 14, such data will be made available for examination by any person.

IV. Response to Public Comments

The Agency received comments from Vulcan Chemicals and the HSIA. Both Vulcan Chemicals and the HSIA reiterated the HSIA's position that the rat probe study should be sufficient to characterize the development toxicity of TCEA in rats if the maternal toxic dose is greater than 3,000 ppm (Refs. 8 and 9). As stated in the final Phase I rule and the proposed test standard rule, the Agency believes that both the probe and full inhalation developmental toxicity studies in rats must be conducted to fully characterize the developmental toxicity of TCEA. The Agency's decision is partially based upon developmental toxicity test results submitted by industry that demonstrate that probe study results alone are inadequate for risk assessment, and at best can be used to set concentrations for definitive testing (Ref. 10). Therefore, the Agency has rejected HSIA's proposed modification to the test rule.

V. Final Phase II Test Rule

A. Test Standards

The protocols submitted by HSIA (Refs. 1 through 5) that specify test methods and conditions for conducting both probe and definitive inhalation developmental toxicity studies in rats and rabbits shall be the test standards for the testing of TCEA required under 40 CFR 799.4400. The Agency believes that the conduct of the required studies in accordance with the HSIA-submitted protocols will assist in assuring that the resulting data are reliable and adequate.

B. Reporting Requirements

The Agency is requiring that all data developed under this rule be reported in accordance with the TSCA Good Laboratory Practice (GLP) Standards (40 CFR Part 792).

The Agency is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. On the basis of its experience with developmental toxicity testing, EPA is adopting HSIA's proposed schedule for the final Phase II rule. Accordingly, testing must be initiated within 6 months, and all results must be reported within 16 months of the effective date of the final Phase II rule. In additional quarterly progress reports must be submitted to the Agency.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

C. Judicial Review

The promulgation date for the TCEA Phase I final rule was established as 1 p.m. eastern standard time on October 24, 1984 (49 FR 39810, October 10, 1984). EPA received no petitions for review of that Phase I final rule. Accordingly, any petition for judicial review on this Phase II final rule will be limited to a review of the test standards and reporting requirements for TCEA established in this notice.

D. Other Provisions

Section 4 findings, required testing, test substance specifications, persons required to test, enforcement provisions, and the economic analysis are presented in the final Phase I rule for TCEA (49 FR 39810).

VI. Public Record

EPA has established a record for this rulemaking, [docket number OPTS–42059B]. This record includes basic information considered by the Agency in developing this rule and appropriate **Federal Register** Notices.

This record includes the following information:

A. Supporting Documentation

(1) ITC designation of 1,1,1-trichloroethane to the Priority List (43 FR 16684; April 19, 1978).

(2) Proposed Phase I rule on 1,1,1-trichloroethane (46 FR 30300; June 5, 1981).

(3) Final Phase I rule on 1,1,1-trichloroethane (49 FR 39810; October 10, 1984).

(4) Proposed Test Standards for 1,1,1-trichloroethane (50 FR 31895; August 7, 1985).

(5) TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(6) Judicial Review Under EPA-Administered Statutes (50 FR 7270; February 21, 1985).

(7) Final rule on two phase test rule development and exemption procedures (49 FR 39774; October 10, 1984).

(8) Written public comments and letters.

B. References

(1) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Probe Study in Rats. Halogenated Solvents Industry Alliance. Washington, DC January 1985. Submitted to EPA February 21, 1985.

(2) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Study in Rats. Halogenated Solvents Industry Alliance. Washington, DC January 1985. Submitted to EPA February 21, 1985.

(3) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Probe Study in Rabbits. Halogenated Solvents Industry Alliance. Washington, DC January 1985. Submitted to EPA February 21, 1985.

(4) HSIA. Protocol. 1,1,1-Trichloroethane (TCEA): Inhalation Developmental Toxicity Study in Rabbits. Halogenated Solvents Industry Alliance. Washington, DC January 1985. Submitted to EPA February 21, 1985.

(5) HSIA. Letter from H. Farber to J. Moore, U.S. Environmental Protection Agency, Washington, DC 20460. April 17, 1985.

(6) Southern District of New York. Final Judgement and Order in *NRDC* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y., Oct. 30, 1984).

(7) HSIA. Letter to USEPA from Halogenated Solvents Industry Alliance. December 20, 1984.

(8) Vulcan Chemicals, Birmingham, AL 35253. Letter from Thomas A. Robinson to TSCA Public Information Office, U.S. Environmental Protection Agency, Washington, DC 20460. September 6, 1985.

(9) HSIA. Letter from H. Farber to TSCA Public Information Office, U.S. Environmental Protection Agency, Washington, DC 20460. September 20, 1985.

(10) Dow Chemical Co., Midland, MI 48640. Letter and final report on the 2-phenoxyethanol dermal teratogenicity probe study from R.L. Hagerman to Ms. Letitia Tahan, U.S. Environmental Protection Agency, Washington, DC 20460. December 24, 1984.

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E-107, 401 M St., SW., Washington, DC 20460.

VII. Other Regulatory 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 test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of TCEA is discussed in the Phase I test rule (49 FR 39810).

This final Phase II test rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments received from OMB are included in the public record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are not a significant number of small businesses manufacturing TCEA.

2. Small processors will not perform testing themselves, or participate in the organization of the testing efforts.

3. Small processors will experience only very minor costs, if any, in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this final Phase II rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. No public comments on these requirements were submitted to the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 40 CFR Part 799

Testing: Incorporation by reference, Environmental Protection Agency, Environmental protection, Hazardous substances, Chemicals.

Dated: December 11, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, Chapter I of 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. In § 799.4400 by revising paragraph (d)(1)(ii) an adding new paragraph (d)(1)(iii), to read as follows:

§ 799.4400 1,1,1-Trichloroethane.

* * * * *

(d) * * *

(1) * * *

(ii) *Testing standards.* The testing shall be conducted in accordance with the following study plans developed by the Halogenated Solvents Industry Alliance (HSIA), 1612 K St., NW., Washington, DC 20006, and submitted to the Agency on February 21, 1985 and April 17, 1985: Inhalation Developmental Toxicity Probe Study in Rats, Inhalation Developmental Toxicity in Rats, Inhalation Developmental Probe Study in Rabbits, and Inhalation Development Toxicity Study in Rabbits, which are incorporated by reference. Copies of these study plans are located in the public record for this rule (Docket No. OPTS–42059B) and are available for inspection at the Office of the Federal Register, Rm. 8401, 1100 L St., NW., Washington, DC. These incorporations by reference were approved by the Director of the Federal Register in January 1985. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the **Federal Register.** Copies of the incorporated material may be obtained from the Document Control Officer (TS–793), Office of Toxic Substances, EPA, Rm. 107, 401 M St., SW., Washington, DC 20460.

(iii) *Reporting requirements.* (A) The developmental toxicity testing shall be initiated within 6 months of the effective date of the final Phase II rule.

(B) The developmental toxicity tests shall be completed and the final results submitted to the Agency within 16 months of the effective date of the final Phase II rule.

(C) Progress reports shall be submitted quarterly to the Agency beginning 90 days from the effective date of the final Phase II rule.

* * * * *

[FR. Doc. 85–30052 Filed 12–18–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–654; RM–4702]

FM Broadcast Station in Corydon, IN, Fort Campbell, KY, and Clarksville, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Class B FM Channel 299 to Corydon, Indiana, as that community's second FM allotment in response to a petition filed by Ernest O. Sutton, Jr.

EFFECTIVE DATE: January 21, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Corydon, Indiana, Fort Campbell, Kentucky, and Clarksville, Tennessee): MM Docket No 84–654 RM–4702.

Adopted: November 25, 1985.

Released: December 13, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 Fed. Reg. 29426, published July 20, 1984, proposing the allotment of Class B FM Channel 299 to Corydon, Indiana, as that community's second FM allotment. The *Notice* was adopted in response to a petition filed by Ernest O. Sutton, Jr. ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if allotted. Comments were also filed by Fort Campbell Broadcasting Company ("FCBC") and Lifestyles, Inc. ("Lifestyles") to which petitioner filed reply comments.

2. The channel can be allotted in compliance with the minimum distance separation requirements with a site restriction 3.6 miles southwest to avoid short spacing to Station WDAO, Channel 299, Dayton, Ohio. The site restriction, however, increases the short spacing to Station WABD, Fort Campbell, Kentucky, and the *Notice* proposed that Station WABD, relocate its transmitter site 9 miles southwest of its present location to resolve the problem. FCBC comments that the petition was filed prior to March 1, 1984, the effective date of the *Report and Order* in BC Docket 80–90, 94 F.C.C. 2d 152 (1983) creating new FM Class C1 and C2 facilities which operate at reduced power and/or antenna heights reducing the separation requirements between adjacent channel facilities. FCBC states that it is currently operating "at less than maximum facilities due to FAA restrictions in the immediate area" and that if it continued to operate with reduced facilities as a Class C1 rather than a Class C, the proposed allotment of Channel 299 to Corydon would not require it to relocate. FCBC states that its "first preference" is to remain at its present location (as a Class C1 facility) rather than relocate its transmitter site as proposed in the *Notice*. Petitioner's reply comments supports the reclassification of Station WABD's facilities. Therefore, we shall allot Channel 299 to Corydon, Indiana, as requested and order the reclassification

herein. As proposed in the *Notice*, we are reallotting Channel 300 from Clarksville, Tennessee, to Fort Campbell, Kentucky, to reflect its actual usage in that community as a Class C1 facility.

3. Comments filed by Lifestyles suggests that petitioner's real intent is to serve the Louisville, Kentucky, market rather than the Corydon area. However, such allegations are generally not sufficient justification for denial of this proposal. We have held on other occasions, if the community's status is not in question, and a proponent believes that there is a need for additional local service, the Commission has no reason to question such judgment. See, *Chadron, Nebraska*, 52 R.R. 2d 1480 (1982) and *Sacramento, California*, 50 R.R. 2d 951 (1982).

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 21, 1986, the Table of FM Allotments, § 73.202(b) of the Rules, IS AMENDED with respect to the following community:

City	Channel No.
Clarksville, Tennessee	
Corydon, Indiana	243A, 299
Fort Campbell, Kentucky	300C1

5. It is further ordered, That the Secretary of the Commission SHALL SEND by Certified Mail, Return Receipt Requested, a copy of this *Report and Order* to the following: Fort Campbell Broadcasting Company; Radio Station WABD (FM); P.O. Box 521; Fort Campbell, Kentucky, 42223.

6. It is further ordered, That this proceeding IS TERMINATED.

7. The period for filing applications for Class B FM Channel 299, Corydon, Indiana, will open on January 22, 1986 and close on February 21, 1986.

8. For further information concerning this proceeding contact D. David Weston, Mass Media Bureau (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-30016 Filed 12-18-85; 8:45 am]

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Proposed Rules

Federal Register
Vol. 50, No. 244
Thursday, December 19, 1985

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 422

[Docket No. 2797S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1986 and succeeding crop years in all states, except Florida and certain California counties, and for the 1987 and succeeding crop years the remaining California counties and Florida. The intended effect of this rule is to: (1) Add provisions for insurance coverage in New Jersey; (2) change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (3) change the end of the insurance period in Delaware, Maryland, Missouri, Nevada, North Carolina, and Virginia; (4) define the type of potatoes grown in Maine for insurance purposes and change the end of the insurance period in Maine to coincide with the harvest date for such potatoes; (5) shorten the length of time an insured has to give notice when claiming an indemnity; (6) change the cancellation and termination dates in Missouri, North Carolina, and Virginia; (7) introduce, on an experimental basis, a quality potato option amendment in certain counties in Idaho, Maine, North Dakota, Oregon, and Washington; (8) shorten the length of time for acreage to qualify for entry into the Certified Seed Program; (9) require records of production to be furnished by the cancellation date; (10) delete the term "marketable potatoes" and all reference thereto from the policy; (11) add a definition for the term "ASCS"; and (12) redefine "County" to provide that land identified by an ASCS Farm Serial Number and located outside the county will be included in the county. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 21, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the potato policy and in the certified seed potato option amendment are:

1. Section 2.c—Change the method of calculating the insured's share of the indemnity on crops transferred before harvest. This limits indemnities to the insured's insurable interest at the time of loss.

2. Section 7.b.—Add New Jersey for insurance coverage and provide an August 15 end of the insurance period date. Change the end of the insurance period for Delaware and Maryland from October 31 to August 15; Missouri from October 15 to July 15; North Carolina from October 15 to July 25; Virginia from October 15 to August 15; Nevada from October 15 to October 31. Add an end of insurance period of October 31 for Maine Russett type potatoes only and change the end of the insurance period for Maine (all other types) from October 31 to October 15. These date changes are made to reflect the harvesting periods for these areas.

3. Section 8.a.—Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities more timely and efficiently.

4. Section 9.e.—Remove the word "marketable" and its related provision because it is no longer used in determining production.

5. Section 15.c.—Amend the recordkeeping requirement to require a producer to furnish records by the cancellation date. This change will provide a more up-to-date coverage based on the producer's actual production.

6. Section 15.e.—Add a December 31 cancellation and termination date for New Jersey. Change the cancellation and termination dates in Delaware, Maryland, Missouri, North Carolina, and Virginia from April 15 to December 31. This change is made to conform to the insurance period.

7. Section 17.—Add a definition for the term "ASCS". Amend the "County" definition to state that land identified by an ASCS Farm Serial Number and located outside the country will be included in the county. Delete the definition for "Marketable potatoes" since it no longer appears in the policy.

8. Add a Quality Potato Option Amendment to 7 CFR Part 422 applicable on an experimental basis in Cassia and Bingham counties, Idaho; Walsh County, North Dakota; Malheur and Umatilla counties, Oregon; Aroostook County, Maine; and Adams and Grant counties, Washington. The addition of the quality potato option amendment is in response to requests from growers and is limited to the above counties. As insuring experience is gained, consideration will be given to expansion into other counties

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register**. Written comments received pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 422

Crop insurance, Potatoes.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1986 and succeeding crop years in all states, except certain California counties and Florida, and for 1987 and succeeding crop years the remaining California counties and Florida to read as follows:

PART 422—POTATO CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years

Sec.

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

Subpart—Regulations for the 1986 and Succeeding Crop Years

§ 422.1 Availability of potato crop insurance.

Insurance shall be offered under the provisions of this subpart on potatoes in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation

§ 422.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for potatoes which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 422.3 OMB control numbers.

The OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 422.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 422.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the potato insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 422.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the potato crop as provided in the policy. The contract shall consist of the application, the policy, the Certified Seed Potato Option Amendment, if applicable, the Quality Potato Option Amendment, if applicable, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 422.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the potato crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during the such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract

contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a potato contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR § 400.37, § 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Potato Crop Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato—Crop Insurance Policy

This is continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Through out this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the potatoes have been placed in storage;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow good potato irrigation practices;

(4) The failure or breakdown of irrigation equipment or facilities;

(5) The failure to follow recognized good potato farming practices;

(6) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(7) Any cause not specified in section a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be potatoes planted for harvest as certified seed stock or for human consumption, grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be potatoes planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as detemined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured potatoes at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Planted with noncertified seed unless allowed by the actuarial table;

(2) Which does not meet the rotation procedures required by the actuarial table;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Which is destroyed, it is practical to replant to potatoes, and such acreage is not replanted;

(6) Initially planted after the final planting date contained in the actuarial table unless you agree, in writing, on our form to coverage reduction;

(7) Of volunteer potatoes;

(8) Planted to a type or variety of potatoes not established as adapted to the area or excluded by the actuarial table ;

(9) Planted with a crop other than potatoes; or

(10) Planted for the development or production of hybrid seed or for experimental purposes.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good potato irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter, spring, and summer-planted potatoes in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in potatoes planted in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit for each planting period, the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date as established by the actuarial table for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the potato policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year.

(2) The premium reduction will be increase because of favorable experience.

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year.

(4) Once the loss ratio exceeds .80, no further premium reduction will apply.

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the potatoes are planted (in California and Florida insurance attaches when the potatoes are planted in each planting period).

b. Insurance ends at the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss;

(4) The following dates of the calendar year in which potatoes are normally harvested:

(a) Missouri..... July 15;

(b) North Carolina..... July 25;

(c) Delaware, Maryland, New Jersey and Virginia..... August 15;

(d) Connecticut, Massachusetts, Nevada, New York, Oregon, Pennsylvania, Washington, and Idaho and Maine (Russet type only)..... October 31;

(e) Alaska.....October 1;
(f) Maine (all other types), all other states except California, and Florida..... October 15;
(g) California and Florida, the dates established by the actuarial table for each planting period.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the potatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the potatoes and given written consent. We will not consent to another use until it is to late to replant for that planting period. You must notify us when such acreage has been put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given and a representative sample of the unharvested potatoes (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) total destruction of the potatoes on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. We must be given the opportunity to inspect any harvested production on any unit for which you have given notice of probable loss if such production will not be delivered directly to a processing plant.

c. You must obtain written consent from us before you destroy any of the potatoes which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of potatoes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of potatoes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in hundredweight) to be counted for a unit will include all harvested and appraised prouction.

(1) The extent of any loss may be determined at the time the potatoes are placed in storage or delivered to a processor.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good potato farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than the guarantee for any acreage from which the harvested production is disposed of without our prior written consent and such disposition prevents accurate determination of production; and

(d) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent for another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of potatoes becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(4) The amount of production of any unharvested potatoes may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) If you elect to exclude hail and fire as insured causes of loss and the potatoes are damaged by hail or fire, appriasals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the potatoes are planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such viodance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our prescribed form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to

us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all potatoes produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production of units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contact: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be cancelled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be cancelled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. Prior to the cancellation date you must:

(1) Furnish to us, satisfactory production records for the crop year or the contract will be cancelled for the next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood, or other natural disaster. (If this subsection (2) applies, the Field Acturial Office may assign a yield for the year for which the records are unavailable.)

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida and all Florida counties lying south thereof.	September 30.
Contra Costa, San Joaquin, Calaveras, and Alpine Counties, California and all California counties lying south thereof.	November 30.
Delaware; Maryland; Missouri; New Jersey; North Carolina; Virginia; and all other Florida counties.	December 31.
All other California counties and all other states.	April 15.

f. If you die or are judicially declared incompetent, or if you are in entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. It two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the acturarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by:

a. June 30 prior to the cancellation date for counties with a September 30 cancellation date;

b. September 30 preceding the cancellation date for counties with a November 30 or December 31 cancellation date; or

c. December 31 preceding the cancellation date for counties with an April 15 cancellation date.

Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of potato crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding potato insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by an ASCS farm serial number for the county but physically located in another county within the State.

d. "Crop year" means the period within which the potatoes are normally grown and will be designated by the calendar year in which the spring-planted potatoes are normally harvested.

e. "Harvest" means the digging of potatoes on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Loss ratio" means the ratio of indemnity to premium.

i. "Person" means an indivdual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Planting period" means potatoes planted within the dates specified by the actuarial table, as fall-planted, winter-planted, spring-planted, or summer-planted.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the potatoes or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of potatoes in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the potatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest herein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 422.8 Certified seed potato option amendment.

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato Crop Insurance Policy—Certified Seed Potato Option Amendment

Insured's Name _____
Address _____
Contract No. _____
Crop Year _____
Identification No. _____
SSN _____
Tax _____

When you submit this Amendment each crop year on or before the final date for accepting applications and we approve such amendment, your insurable acreage of

potatoes grown for certified seed will be insured, if:

1. You are currently insured under the potato insurance program;

2. All potatoes which are grown for certified seed on insurable acreage are insured;

3. You are a person whose potatoes have qualified for entry into the Certified Seed program for the previous 3 years. (After initial approval, you will be exempt from this requirement provided you have discontinued participation in the program for not more than one crop year out of any three consecutive crop years);

4. You provide acceptable records of your certified seed potato acreage and production for at least the previous 3 years;

5. Potatoes for seed are not grown on the same land on which potatoes of the same variety as the seed potatoes have been grown more than 2 years out of the preceeding 4 years;

6. Elite or high-grade foundation seed potatoes or seed potatoes having a winter test reading of not more than 3 percent common virus are used in planting; and

7. Your acreage insured for certified seed production is managed in accordance with standard practices and procedures required for certification as prescribed by the certifying agency and applicable state regulations regarding seed potato certification.

Your production guarantee and premium rate will be provided by the actuarial table for certified seed potatoes. If, due to insurable causes occurring within the insurance period, potato production will not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you one dollar ($1.00) per cwt., times your production guarantee for such acreage, times your share. Any production which will not qualify as certified seed because of your failure to carry out the standard practices and procedures required for certification will be considered lost due to uninsured causes.

Insurable acreage grown under the provisions of this amendment may be designated as a separate unit.

Any claim for indemnity on a unit must be submitted to us on our form no later than 10 working days after you receive your records from the certification agency.

All provisions of the potato policy not in conflict with this amendment are applicable.

This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the certified seed potato option.

The insured estimates that the Certified Seed Potato Acreage for the _____ crop year will be _____.

Insured's Signature _____

Date _____

Corporation Representative's Signature and Code No. _____

Date _____

Field Actuarial Office Approval _____

Date _____

Following is the Privacy Act Statement found on the reverse side of the Certified Seed Potato Option Amendment:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)): The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring potatoes under the Potato Crop Insurance Regulations (7 CFR Part 422). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the amendment to insure certified seed potatoes, determine the correct premium and indemnity, and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies if litigation becomes necessary, a court, in response to its orders, an administrative tribunal, or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested except the Social Security Number may result in rejection of the amendment for insuring certified seed potatoes, and/or subsequent denial of any claim for indemnity which may be filed under such amendment or may substantially delay acceptance of the Certified Seed Potato Option Amendment, and any subsequent claim for indemnity.

§ 422.9 Quality potato option amendment.

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato Crop Insurance Policy—Quality Potato Option Amendment

Insured's Name _____

Address _____

Contract No. _____

Crop Year _____

Identification No. _____

SSN _____

Tax _____

Upon our approval this amendment is applicable for the 1986 crop year in the following counties: Cassia and Bingham Counties, Idaho; Aroostook County, Maine; Walsh County, North Dakota; Malheur and Umatilla Counties, Oregon; and Adams and Grant Counties, Washington.

1. A signed Quality Potato Option Amendment will be submitted to us on or before the final date for accepting applications for each crop year you wish to insure your potatoes under this amendment.

2. You must have a Federal Crop Insurance Potato Policy (Basic Policy) in force. The basic policy provides guaranteed protection on a hundredweight basis only.

3. All acreage of potatoes insured under the basic policy must be insured under this amendment.

4. Failure to submit a quality option for the crop year will result in your potatoes being insured under the terms and conditions of the basic policy.

5. In addition to subsection 9.e. of the basic policy, the total production (hundredweight) to be counted for a unit will include all harvested and appraised production as follows:

a. The production to count for any unharvested appraised mature production will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better, by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of hundredweight of such potatoes.

b. The production to count for any potatoes stored:

(1) without an acceptable inspection will be 100 percent of the gross weight; or

(2) with an acceptable inspection will be determined by dividing the actual percentage of potatoes grading U.S. No. 2[1] or better, by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of hundredweight of stored potatoes.

c. Any sold production which due to insurable causes, contains a portion of potatoes which grade less than U.S. No. 2* will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better, by your percentage factor, and multiplying the result, not to exceed 1.000 by the hundredweight of sold potatoes.

6. "Percentage factor" means your actual average percentage of potatoes grading U.S. No. 2* or better, determined from your records. If more than four continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed ten years. If less than four years of records are available, the percentage factor will be the one contained on the actuarial table. The Actuarial Table may provide for percentage factors by type.

7. Your premium rate for quality potatoes will be set by the Actuarial Table.

Insured's Signature _____

Date _____

Corporation Representative's Signature and Code Number _____

Date _____

Following is the Privacy Act Statement found on the reverse side of the Quality Potato Option Amendment:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Corp Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring quality potatoes under the Potato Crop Insurance Regulations (7 CFR Part 422). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the amendment to insure quality potatoes, determine the correct premium and indemnity, and to determine the correct parties to the insurance contract. The

[1] The actuarial table may provide U.S. No. 1 or better.

information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies, a court in response to its orders, an administrative tribunal, or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested other than the Social Security Number, may result in rejection of the amendment for insuring quality potatoes, and subsequent denial of any claim for indemnity which may be filed under such amendment or may substantially delay acceptance of the Quality Potato Option Amendment, and any subsequent claim for indemnity.

Done in Washington, DC, on October 7, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-29986 Filed 12-18-85; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 1, 3, 103, 236, 242, and 292

[AG Order No. 1113-85]

Aliens and Nationality; Rules of Procedure for Proceedings Before Immigration Judges

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth procedures to be followed in all matters brought before Immigration Judges, including deportation, exclusion, bond, and rescission proceedings, but specifically excluding administrative proceedings involving withdrawal of school approval under 8 CFR 214 and departure-control hearings under 8 CFR 215. These regulatory changes are promulgated for the purpose of assisting in the expeditious, fair, and proper resolution of issues arising in such proceedings by providing the parties involved with clear, useful, and readily accessible procedural guidelines. To achieve this purpose, it has been necessary to amend or delete portions of Parts 1, 3, 103, 236, 242, and 292 of Title 8 of the Code of Federal Regulations, as well as add a number of new provisions to several parts of this chapter as discussed below. However, these proposed rules of procedure are not intended to be read in a vacuum. Unless specifically noted to the contrary, each proposed rule of procedure is intended to be construed harmoniously whenever possible with existing regulations under this chapter.

DATE: Comments must be received on or before: January 21, 1986.

ADDRESS: Please submit written comments in duplicate to: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office of Immigration Review, 5203 Leesburg Pike, Falls Church, VA 22041, (703) 756-6470.

SUPPLEMENTARY INFORMATION: A Departmental reorganization in January, 1983, created the Executive Office for Immigration Review (EOIR). This reorganization consolidated the Department's immigration review program by placing the Immigration Judge (Special Inquiry Officer) function (formerly within the Immigration and Naturalization Service (INS)) with the Board of Immigration Appeals (BIA) in the newly created organization, thereby streamlining the Department's management of this important function and minimizing mission disparities within the INS. EOIR has determined that promulgating a set of uniform procedural rules would assist in the furthering of program goals.

This proposed regulatory change constitutes the repositioning of various procedural rules that exist throughout Title 8 of the Code of Federal Regulations, as well as some additional rules, into one section to create a set of easily accessible uniform rules. In order to maximize ease of access to the public, the proposed Rules of Procedure (incorporating 27 new sections) are offered as an entire new subpart C to Part 3 of this chapter, beginning with § 3.12.

8 CFR 3.12, as proposed, would briefly set out the scope of the Rules of Procedure and is self-explanatory.

8 CFR 3.13 is proposed as the definitions section for the rules contained in subpart C. "Administrative Control" is proposed for inclusion in this section as a term of art to clarify jurisdictional issues and to ease the filing and handling of documents. The proposed term "charging document" is included to summarize all initiating documents to allow for one set of rules for all proceedings. The terms "filing" and "service" are defined to eliminate ambiguity.

New sections 8 CFR 3.14 through 3.38 cover the proposed 25 rules of procedure which will be applicable (except where specifically stated to the contrary) to all proceedings before Immigration Judges.

8 CFR 3.14 proposes changes to when jurisdiction vests and proceedings commence before Immigration Judges. In order for EOIR to effectively manage its resources, it is necessary for it to gain full control over the docketing of cases on its hearing calendars. Under the present 8 CFR 242.1 and 242.2, deportation proceedings for an alien in the United States commence upon the issuance and service of an Order to Show Cause by the Service. The present 8 CFR 242.7, provides specified Service officials with the authority to independently cancel served Orders to Show Cause or terminate proceedings at any time prior to the actual commencement of the hearing. Under newly proposed 8 CFR 3.14(a), jurisdiction would vest and proceedings commence when a charging document is filed with the Office of the Immigration Judge. Existing 8 CFR 242.1 and 242.2 would be amended to conform to this new rule. Existing 8 CFR 242.7(a) would be amended to limit the Service's ability to cancel an Order to Show Cause to the period prior to its filing with the Office of the Immigration Judge. Similarly, existing 8 CFR 242.7(b) (regarding Service motions to dismiss) would be amended to become applicable to the Service after an Order to Show Cause is filed with the Office of the Immigration Judge, rather than after the hearing has commenced. Adoption of these proposed regulatory changes would provide EOIR with the ability to utilize its resources efficiently by ensuring optimal scheduling of matters on its hearing calendars. This in turn would ensure the expeditious hearing of new matters brought before the Immigration Judges, as well as provide the maximum possible time for systematically addressing the substantial number of backlogged cases currently in the system.

Proposed 8 CFR 3.14(b) simply restates for the sake of thoroughness and ease of reference, the existing rule found in 8 CFR 208.1(b) regarding an Immigration Judge's exclusive jurisdiction over asylum applications filed in conjunction with underlying matters already before him or her.

Proposed 8 CFR 3.15 would largely codify the current practice of recognizing party representatives where retained in matters brought before Immigration Judges. The new rule would

not be in conflict with certain specialized provisions for mandatory representation by Service attorneys because those provisions relate solely to the manner in which the Service is required to handle certain types of cases.

Proposed 8 CFR 3.16 would deal with appearances by representatives. The new rule would tighten current practice by allowing withdrawal or substitution of a representative during proceedings only in the discretion of the Immigration Judge, and only upon written or oral motion (submitted without fee). Adoption of the new rule would necessitate amendment of 8 CFR 292.4, which currently provides for substitution at any time upon the written withdrawal of the attorney or representative, or upon notification of the new attorney or representative. This new rule change is proposed in order to ensure maximum effective utilization of the Immigration Judge's time. Under current practice, substantial abuse of court calendars by representatives occurs through both nonappearances and last minute withdrawals. The new rule would give the Immigration Judges greater ability to control such abuses during actual proceedings without affecting the respondent/applicant's current ability to change his or her attorney or representative on a motion to reopen.

Proposed 8 CFR 3.17 would deal with the scheduling of cases. As noted in the discussion regarding proposed 8 CFR 3.13, the ability of Immigration Judges to control their calendars is critical to their ability to effectively deal with their caseloads. It is anticipated that the proposed rule would significantly assist Immigration Judges in caseload management. The adoption of this rule would require a regulation change in 8 CFR 242.1, as previously discussed under proposed 8 CFR 3.13.

Proposed 8 CFR 3.18 would deal with the authority of Immigration Judges (pursuant to 8 CFR 242.2) to redetermine custody and bond decisions made by the INS. Although, the proposed rule largely restates existing procedures for such hearings, some minor regulatory changes have been suggested to improve efficiency. Under the existing regulation, and application by a respondent for a custody/bond redetermination may be made to any available Immigration Judge who is stationed at the Service office which has administrative jurisdiction over the proceeding under the Order to Show Cause, or who conducts hearings there. If no such Immigration Judge is available, application may be made to any available Immigration Judge stationed in the region where that Service office is located. If there is no available Immigration Judge in that region the application may be made to any other Immigration Judge. In its restructuring of the availability of Immigration Judges for custody and bond cases, the proposed rule reflects the separation of the Immigration Judges from the Service and the creation of administrative control offices within EOIR. 8 CFR 242.2 has been amended to conform with the new Rules. Within the new organizational structure, it is anticipated that the proposed rule would maximize the prompt availability of Immigration Judges for respondents applying for custody/bond redeterminations while at the same time causing and equitable distribution of this caseload among the Immigration Judges.

In a further effort to improve administrative efficiency and increase productivity, the proposed rule would modify the existing provision in 8 CFR 242.2 requiring the Immigration Judge in all custody/bond redeterminations to state the reasons for his or her decision in a written memorandum. Under the new rule, the Immigration Judge, subsequent to entering his or her decision on the appropriate EOIR form, would have discretion to explain the reasons for his or her decision to the parties involved either orally or in writing.

Proposed 8 CFR 3.19 would establish a procedure for changes of venue on motion by one of the parties, or on the Immigration Judge's own authority. Under the proposed rule, such a motion could be granted by the Immigration Judge in his or her discretion provided good cause has been shown. Although no regulatory provisions currently exist explicity providing for changes in venue, such authority has been routinely exercised by Immigration Judges in the past pursuant to their authority under 8 CFR 236.1 (exlusion cases) and 242.8(a) (deportation cases) to take such actions as are necessary and appropriate (and not inconsistent with any other provisions of the Act) for the disposition of cases. The Board has upheld the Immigration Judge's limited authority to change venue in *Matter of Wadas*, 17 I&N Dec. 346, 348 (BIA 1980) exclusion cases), and *Matter of Seren*, 15 I&N Dec. 590, 591 (BIA 1976) deportation cases). This rule makes uniform the Immigration Judge's authority to change venue in all proceedings. It is anticipated that addoption of this rule would significantly improve EOIR's ability to control its caseload and improve overall efficiency in the hearing process.

Proposed 8 CFR 3.20 would codify current practice and provide for pre-hearing conferences to be held in the discretion of the Immigration Judge for the purpose of narrowing issues, attaining stipulations between the parties, voluntarily exchanging information, or for any other purpose which might simplify, organize, and expendite the proceeding.

Proposed 8 CFR 3.21 would deal with interpreters. As drafted, the proposed rule would streamline current practice by authorizing federal employees (other than those employed by INS) to serve as interpreters without oath. To adopt this administrative improvement would necessitate a minor regulatory change in 8 CFR 242.12, which currently requires all non-INS employed interpreters to be sworn before serving as interpreters in deportation hearings. It is anticipated that the proposed rule would improve efficiency in Immigration Judge proceedings.

Proposed 8 CFR 3.22 establishes a procedure for the submission of motions both prior to the rendering of a final order by the Immigration Judge as well as thereafter in the form of motions for reopening or reconsideration. The only novel aspect of the proposed rule is the requirement that motions to reopen for the purpose of seeking some form of specific relief must be accompanied by the appropriate application and supporting documentation. This latter requirement, while previously nonmandatory, has been routinely followed in many Immigration Judge offices with salutary results. It is anticipated that adoption of this proposed rule will improve overall efficiency and fairness in the hearing process.

Proposed 8 CFR 3.23 would deal with the waiver of fees in Immigration Judge proceedings. The new rule codifies the Board's recent decision in *Matter of Chicas*, Interim Decision 2970 (BIA 1984), authorizing the use of an unsworn declaration (made pursuant to 28 U.S.C. 1746) in lieu of a sworn affidavit for the purpose of applying for a fee waiver on the basis of inability to pay. In an effort to avoid frivolous or undocumented waiver applications, the new rule would use more stringent language than its predecessor in 8 CFR 103.7(c), by requiring the respondent/applicant to substantiate his or her indigency in the affidavit or properly executed unsworn declaration. Adoption of this regulatory change would require minor amendments to §§ 3.3(b) and 103.7(c) to conform to the new rule.

Proposed 8 CFR 3.24 would provide the Immigration Judge with discretion

for good cause to waive the presence of a respondent/applicant at a hearing where the alien is a minor child whose parent or parents are present. The new rule would also authorize the Immigration Judge to conduct hearings *in absentia* pursuant to section 242(b) of the Act with or without representation. It is anticipated that adoption of this rule would significantly improve the efficiency of the hearing process without adversely affecting due process considerations.

Proposed 8 CFR 3.25 would combine and restate the contents of 8 CFR 236.2(a) and 242.16(a) regarding public access to hearing. As drafted, the proposed rule would specify that all hearings except exclusion hearings would be open to the public subject to the Immigration Judge's discretion to reasonably limit attendance based on space availability (with priority given to the press over the general public). The proposed rule further provides that the Immigration Judge may limit attendance or hold a closed hearing to protect the parties, witnesses, or the public interest.

Proposed 8 CFR 3.26 would deal with recording equipment permitted in Immigration Judge proceedings. As drafted, the rule would prohibit the use of any photographic, video, electronic, or similar recording devices during proceedings other than the equipment used by the Immigration Judge to create the official record.

Proposed 8 CFR 3.27 would deal with continuances. As drafted, the rule would codify current procedure and restate in simpler terms the discretionary authority of Immigration Judges to grant continuances for good cause shown found in 8 CFR 242.13. The simplified language of the proposed rule is not intended to conflict with or expand the discretionary limitations delineated in 8 CFR 242.13.

Proposed 8 CFR 3.28 would provide for the lodging of additional charges during deportation proceedings. In more simplified language, the proposed rule would restate the contents of 8 CFR 242.16(d) which deals with the same topic. Adoption of this rule would not substantively change current practice.

Proposed 8 CFR 3.29 would deal with the filing of documents and applications. As drafted, the rule would provide the Immigration Judge with discretionary authority to set and extend limits for the filing of documents and applications, as well as for any related responses thereto. Applications or documents not filed within the time limits set by the Immigration Judge are deemed waived. All documents and applications would be required to be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding. Such applications or documents would not be considered filed until the required fee (if any) had been paid or a fee waiver pursuant to proposed 8 CFR 3.29 had been obtained. This is a new rule that would create stadardized filing procedures—particularly when read in conjunction with existing 8 CFR 3.11 (creation of administrative control offices) and proposed § 3.29 (fee waivers). It is anticipated that adoption of this rule would both clarify the document filing process as well as improve overall efficiency in Immigration Judge proceedings.

Proposed 8 CFR 3.30 is a new rule that would establish standards for service and size of documents. Proposed § 3.30(a) (establishing specific requirements for service on the opposing party or parties) would bolster the concept of fundamental fairness, and, in large measures, codify existing practice in many Immigration Judge offices. Proposed § 3.30(b) (dealing with standardization of document size and manner of presentation) would ease handling and review of written materials during actual proceedings and reduce file storage problems after proceedings are completed.

Proposed 8 CFR 3.31 would deal with translation of documents. As drafted, the rule would extend some of the translation requirements found in 8 CFR 103.2(b) to all Immigration Judge proceedings. It is anticipated that adoption of this rule would speed fair and proper resolution of all matters brought before the Immigration Judges involving foreign language documents.

Proposed 8 CFR 3.32 would codify current practice and extend the requirement found in 8 CFR 242.14(d) that the testimony of witnesses in deportation proceedings be under oath or affirmation) to all proceedings before Immigration Judges.

Proposed 8 CFR 3.33 would establish a uniform procedure for the taking of depositions in all Immigation Judge proceedings. As drafted, the rule would significantly simplify (without fundamentally altering) the more detailed procedure prescribed in 8 CFR 242.14(e) for the taking of depositions in deportation cases. To conform to the new rule, current § 242.14(e) would be deleted and replaced with a condensed regulation authorizing the taking of depositions in accordance with new 8 CFR 3.33. It is anticipated that the new rule would provide adequate guidance to the parties and preserve fundamental fairness in the hearing process without the complexity of its predecessor.

Proposed 8 CFR 3.34 deals with the essential function of creation and maintenance of Immigration Judge hearing records. As drafted, this new rule would require that the Office of the Immigration Judge create and then control the Record of Proceeding. This rule is a corollary to existing 8 CFR 3.11 which designates specific EOIR Immigration Judge field offices as administrative control offices.

Proposed 8 CFR 3.35 would codify current practice regarding decisions rendered in all Immigration Judge proceedings. The rule would permit the Immigration Judge to give either a written or oral decision, unless specified otherwise elsewhere in this chapter. If the decision were written, the rule would require the Immigration Judge to serve it on the parties either by personal service or by first class mail to the most current address in the Record of Proceeding. If the decision were oral, the Immigration Judge would be required to state it in the presence of the parties at the conclusion of the hearing. The proposed rule is fully consistent with existing regulations permitting written or oral decisions in exclusion (8 CFR 236.5), deportation (8 CFR 242.18(b); 242.19), rescission (8 CFR 246.6), and bond (8 CFR 242.2(b), as amended by proposed Rule 3.19) cases. As drafted, this proposed rule can also be read consistently with 8 CFR 242.22 (dealing with decisions on motions for reopening and reconsideration). However, for the sake of brevity, clarity and in order to eliminate the inconsistent requirement of service on the alien of the Immigration Judge's written decision by the District Director, it is proposes to amend 8 CFR 236.5 by deleting paragraphs (a), (b), (c) and inserting in their place a new conforming paragraph (a) that would reference back to the proposed rule. Existing paragraphs (d) and (e) of § 236.5 would be redesignated as paragraphs (b) and (c).

Proposed 8 CFR 3.36 is a new rule which would establish a uniform procedure for filing administrative appeals relating to Immigration Judge proceedings. The rule would provide for appeals from the decisions of Immigration Judges to the Board of Immigration Appeals pursuant to 8 CFR 3.1(b), and authorize both parties to file briefs pursuant to 8 CFR 3.3(c). The new rule would also require the notice of appeal to be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding within ten (10) calendar days (13 if mailed) after service of the decision. In accordance with the Board of Immigration Appeals' interpretation of

the term "day" under 8 CFR 1.1(h) in *Matter of Escobar*, 18 I&N Dec. 412 (BIA 1983), the proposed rule would extend the appeal time to the next business day if the final date for filing falls on a Saturday, Sunday, or legal holiday. It is anticipated that the proposed rule would eliminate possible confusion in the appellate process and thereby improve overall efficiency.

It is also proposed to amend 8 CFR 3.3(a) (notice of appeal). As this paragraph currently reads, a party taking an appeal is required to file the notice of appeal with the Service Office having administrative jurisdiction over the case. To bring this provision into conformity with the new Rules of Procedure, it is proposed to amend 8 CFR 3.3(a) to read "An appeal shall be taken by filing Notice of Appeal . . . with the Office of the Immigration Judge or the Service office having administrative jurisdiction over the case . . ." It is also proposed, for the sake of clarity and consistency, to amend the first sentence of 8 CFR 3.4 (withdrawal of appeal) by changing "officer" to "office" and to amend the fourth sentence of 8 CFR 3.7 (notice of certification) by changing "officer of the Service" to "Office of the Immigration Judge or Service office," in order to parallel the proposed language of 8 CFR 3.3(a) above. Lastly, for the sake of uniformity, it is also proposed to amend 8 CFR 236.7 (dealing with appeals in exclusion cases) to conform to the proposed rule.

Proposed 8 CFR 3.37 is a new rule that would establish when a decision is final. The proposed rule is consistent with the provisions of 8 CFR 243.1 dealing with final orders of deportation. As drafted, the rule would clarify and tighten the existing finality of decision provisions for exclusion and deportation cases found in 8 CFR 236.6 and 242.20, and would provide a uniform rule for all Immigration Judge proceedings. Moreover, the proposed rule would provide that a decision by an Immigration Judge that has not been certified to the Board becomes final upon waiver of appeal or upon the expiration of the time to appeal if no appeal is taken. In order to bring this proposed rule into conformity with this chapter, it is proposed to amend 8 CFR 236.6 and 242.20 accordingly.

Proposed 8 CFR 3.38 would authorize the promulgation of local operating procedures for Immigration Judge Officer. This is a new rule which would authorize individual Immigration Judge offices to establish, by majority written concurrence of the local judges, and subject to the written approval of the Chief Immigration Judge, local operating procedures not inconsistent with existing regulations and these Rules of Procedure. It is anticipated that this rule would significantly enhance the ability of individual Immigration Judge offices to deal with problems unique to their locality, and consequently enable them to improve their overall efficiency.

Together, these regulatory changes would both improve and expedite the hearing process before Immigration Judges. At the same time, the new rule—as a whole, and in each of its proposed individual section—retains all necessary due process considerations and remains within the spirit of the Immigration and Nationality Act, as amended. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of paragraph 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 1

Definitions

8 CFR Part 3

Administrative practice and procedure, Aliens.

8 CFR Part 103

Administrative practice and procedure, Aliens.

8 CFR Part 236

Administrative practice and procedure, Aliens.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 292

Administrative practice and procedure, Aliens.

Accordingly, it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

PART 1—DEFINITIONS

1. The authority citation for Part 1 is revised to read as follows. All other authority citations are removed.

Authority: 8 U.S.C. 1101; 28 U.S.C. 509, 510; 5 U.S.C. 301.

2. In § 1.1, paragraph (h) is revised to read as follows:

§ 1.1 Definitions

* * * * *

(h) The term "day" when computing the period of time for taking any action provided in this chapter including the taking of an appeal, shall include Saturdays, Sundays, and legal holidays, except that when the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday.

* * * * *

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

3. The authority citation for Part 3 is revised to read as follows. All other authority citations are removed.

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

4. In § 3.3, the first two sentences of paragraph (a) and paragraph (b) are revised as follows:

§ 3.3 Notice of appeal.

(a) A party affected by a decision who is entitled under this chapter to appeal to the Board shall be given notice of his or her right to appeal. An appeal shall be taken by filing Notice of Appeal Form I-290A in triplicate with the Service office or Office of the Immigration Judge having administrative jurisdiction over the case, within the time specified in the governing sections of this chapter. * * *

(b) *Fees.* Except as otherwise provided in this section, a notice of appeal or a motion filed under this part by any person other than an officer of the Service shall be accompanied by the appropriate fee specified by, and remitted in accordance with, the provisions of § 103.7 of this chapter. In any case in which an alien or other party affected is unable to pay the fee fixed for an appeal or a motion, he or she shall file with the notice of appeal or the motion, his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, stating the nature of the motion or appeal and his or her belief that he or she is entitled to redress. Such document shall also establish his or her inability to pay the required fee, and shall request permission to prosecute the appeal or motion without prepayment of such fee. When such a document is filed with the officer of the Service or the Immigration Judge from whose decision the appeal is taken or with respect to whose decision the motion is addressed, such Service officer or Immigration Judge shall, if he or she believes that the appeal or motion is not taken or made in good faith, certify in writing his reasons for such belief for consideration by the Board.

* * * * *

5. In § 3.4 the first sentence is revised as follows:

§ 3.4 Withdrawal of appeal.

In any case in which an appeal has been taken, the party taking appeal may file a written withdrawal thereof with the office with whom the notice of appeal was filed. * * *

6. Section 3.7 is revised to read as follows:

§ 3.7 Notice of certification.

Whenever in accordance with the provisions of § 3.1(c), a case is requried to be certified to the Board, the alien or other party affected shall be given notice of certification. A case shall be certified only after an initial decision has been made and before an appeal has been taken. If it is known at the time the initial decision is made that the case will be certified, the notice of certification shall be included in such decision and no further notice of certification shall be required. If it is not known until after the initial decision is made that the case will be certified, the Service office of Office of the Immigration Judge having administrative control over the record of proceeding shall cause a Notice of Certification (Form I-290C) to be served upon the party affected. In either case, the notice shall inform the party affected that the case is required to be certified to the Board and that he or she has the right to make representation before the Board, including the making of a request for oral argument and the submission of a brief. If the party affected desires to submit a brief, it shall be submitted to the Service office or Office of the Immigration Judge having administrative control over the record of proceeding for transmittal to the Board within ten (10) days from the date of receipt of the notice of certification, unless for good cause shown such Service office or Office of the Immigration Judge or the Board extends the time within which the brief may be submitted. The case shall be certified and forwarded to the Board by the Service office or Office of the Immigration Judge having administrative jurisdiction over the case upon receipt of the brief, or upon the expiration of the time within which the brief may be submitted, or upon receipt of a written waiver of the right to submit a brief.

7. Part 3 is amended by adding a new Subpart C to read as follows:

Subpart C—Rules of Procedure for Immigration Judge Proceedings

Sec.
3.12 Scope of rules.
3.13 Definitions.
3.14 Jurisdiction & commencement of proceedings.
3.15 Representation.
3.16 Appearances.
3.17 Scheduling of cases.
3.18 Custody/bond.
3.19 Change of venue.
3.20 Pre-hearing conferences.
3.21 Interpreters.
3.22 Motions.
3.23 Waivers of fees in immigration judge proceedings.
3.24 Waiver of presence of respondent/applicant.
3.25 Public access to hearings.
3.26 Recording equipment.
3.27 Continuances.
3.28 Additional charges in deportation hearings.
3.29 Filing documents and applications.
3.30 Service and size of documents.
3.31 Translation of documents.
3.32 Testimony.
3.33 Depositions.
3.34 Record of proceeding.
3.35 Decisions.
3.36 Appeals.
3.37 Finality of decision.
3.38 Local Operating procedures.

Subpart C—Rules of Procedure for Immigration Judge Proceedings.

§ 3.12 Scope of rules.

These rules are promulgated for the purpose of assisting in the expeditious, fair and proper resolution of matters coming before Immigration Judges. Except where specifically stated, these rules apply to all matters before Immigration Judges, including deportation, exclusion, bond, and rescission proceedings. Specifically excluded from applicability under these rules are administrative proceedings involving the withdrawal of school approval under 8 CFR 214 and departure-control hearings under 8 CFR 215.

§ 3.13 Definitions.

As used in this subpart:

Administrative Control—The term "administrative control" means custodial responsibility for the Record of Proceeding as specified in 8 CFR 3.11.

Charging Document—The term "charging document" means the written instrument which initiates a proceeding before an Immigration Judge including an Order to Show Cause, a Notice to Applicant for Admission Detained for Hearing before Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien.

Filing—The term "filing" means the actual receipt of a document by the appropriate Office of the Immigration Judge.

Service—The term "service" means physically presenting or mailing a document to the appropriate party or parties.

§ 3.14 Jurisdiction & commencement of proceedings.

(a) Jurisdiction vests and proceedings before an Immigration Judge commence when a charging document is filed with the Office of the Immigration Judge.

(b) When the Immigration Judge has jurisdiction over the underlying proceeding, sole jurisdiction over applications for asylum shall lie with the Immigration Judge.

§ 3.15 Representation.

(a) The government may be represented in proceedings before an Immigration Judge.

(b) The respondent/applicant may be represented in proceedings before an Immigration Judge by an attorney or other representative of his or her choice in accordance with 8 CFR 292, at no expense to the government.

§ 3.16 Appearances.

(a) In any proceeding before an Immigration Judge wherein the respondent/applicant is represented, the attorney or representative shall file a Notice of Appearance on the appropriate form with the Office of the Immigration Judge.

(b) Withdrawal or substitution of an attorney or representative may be permitted by an Immigration Judge during proceedings only upon oral or written motion submitted without fee.

§ 3.17 Scheduling of cases.

All cases shall be scheduled by the Office of the Immigration Judge. The Office of the Immigration Judge shall be responsible for providing notice of the time, place, and date of the hearing to the government and respondent/applicant.

§ 3.18 Custody/bond.

(a) Custody and bond redeterminations made by the INS pursuant to 8 CFR 242 may be reviewed by an Immigration Judge pursuant to 8 CFR 242.

(b) Application for bond redetermination by a respondent, his or her attorney or representative, may be made orally, in writing, in person, or, if approved by the Immigration Judge, by telephone.

(c) Application for the exercise of such authority must be made in the following order: (1) If the alien is detained, the Immigration Judge office at or nearest the place of detention; (2) the Immigration Judge Office having administrative control over the case; (3) any other Immigration Judge office.

(d) Consideration under this paragraph by the Immigration Judge of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding, and shall form no part of such hearing or proceeding.

(e) The determination of an Immigration Judge in respect to custody status or bond redetermination shall be entered on the appropriate EOIR form at the time such decision is made, and the parties shall for informed, orally or in writing, as to the reasons for the decision.

§ 3.19 Change of venue.

(a) The Immigration Judge, for good cause, may change venue on motion by one of the parties, or upon his or her own authority after the charging document has been filed with the Office of the Immigration Judge.

(b) No change of venue shall be granted without identification of a fixed street address where the respondent/applicant may be reached for further hearing notification.

§ 3.20 Pre-hearing conferences.

Pre-hearing conferences may be scheduled at the discretion of an Immigration Judge. The conference may be held to narrow issues, attain stipulations between the parties, voluntarily exchange information, and otherwise simplify and organize the proceeding.

§ 3.21 Interpreters.

Any person acting as an interpreter in a hearing shall swear or affirm to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath or affirmation shall be required.

§ 3.22 Motions.

(a) *Pre-Decision Motions.* Unless otherwise permitted by the Immigration Judge, motions submitted prior to the final order of an Immigration Judge shall be in writing and shall state, with particularity the grounds therefor, the relief sought, and the jurisdiction. The Immigration Judge may set and extend time limits for the making of motions and replies thereto. A motion shall be deemed unopposed unless timely response is made.

(b) *Reopening/Reconsideration.* (1) Motions to reopen or reconsider a decision of the Immigration Judge must be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding. Such motions shall comply with applicable provisions of 8 CFR 208.11 and 242.22. Any motion to reopen for the purpose of acting on an application for relief must be accompanied by the appropriate application for relief and all supporting documents. The Immigration Judge may set and extend time limits for replies to motions to reopen or reconsider. A motion shall be deemed unopposed unless timely response is made.

(2) When requested in conjunction with a motion to reopen/reconsider, the Immigration Judge may stay the execution of a final order of deportation or exclusion.

§ 3.23 Waivers of fees in immigration judge proceedings.

Any fees pertaining to a matter within the Immigration Judge's jurisdiction may be waived by the Immigration Judge upon a showing that the respondent/applicant is incapable of paying the fees because of indigency. A properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C. Section 1746 by the respondent/applicant must accompany the request for waiver of fees and shall substantiate the indigency of the respondent/applicant.

§ 3.24 Waiver of presence of respondent/applicant.

The Immigration Judge may, for good cause, waive the presence of a respondent/applicant at the hearing where the alien is represented or where the alien is a minor child whose parent(s) is present. In addition, *in absentia* hearings may be held pursuant to section 242(b) of the Act with or without representation.

§ 3.25 Public access to hearings.

All hearings, other than exclusion hearings, shall be open to the public except that: (a) Depending upon physical facilities, the Immigration Judge may place reasonable limitations upon the number in attendance at any one time with priority being given to the press over the general public; (b) for the purpose of protecting witnesses, parties, or the public interest, the Immigration Judge may limit attendance or hold a closed hearing.

§ 3.26 Recording equipment.

The only recording equipment permitted in the proceeding will be the equipment used by the Immigration Judge to create the official record. No other photographic, video, electronic, or similar recording device will be permitted to record any part of the proceeding.

§ 3.27 Continuances.

The Immigration Judge may grant a motion for continuance for good cause shown.

§ 3.28 Additional charges in deportation hearings.

At any time during the proceeding, additional or substituted charges of deportability and/or factual allegations may be lodged by the Service in writing. The respondent shall be served with a copy of these additional charges and allegations and may be given a reasonable continuance to respond thereto.

§ 3.29 Filing documents and applications.

All documents and applications to be considered in a proceeding before an Immigration Judge must be filed with the Office to the Immigration Judge having administrative control over the Record of Proceeding. Filing will be considered effective only after the payment of applicable fees or the waiver of fees pursuant to 8 CFR 3.23. The Immigration Judge may set and extend time limits for the filing of applications and related documents and the responses thereto, if any. If an application or related document is not filed within the time set by the Immigration Judge, the opportunity to file that application shall be deemed waived.

§ 3.30 Service and size of documents.

(a) A copy of all documents (including proposed exhibits or applications) filed with or presented to the Immigration Judge shall be simultaneously served by the presenting party on the opposing party or parties. Such service shall be in person or by first class mail to the most recent address contained in the Record of Proceeding. A certification showing service to the opposing party or parties on a date certain shall accompany any filing with the Immigration Judge unless service is made on the record during the hearing. Any documents or applications not containing such certification will not be considered by the Immigration Judge unless service is made on the record during a hearing.

(b) Unless otherwise permitted by the Immigration Judge, all written material presented to Immigration Judges including offers of evidence, correspondence, briefs, memoranda, or other documents must be submitted on 8½" × 11" size paper. The Immigration Judge may require that exhibits and other written material presented be indexed, paginated, and that a table of contents be provided.

§ 3.31 Transition of documents.

Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification that the translator is competent to translate and that the translation is accurate.

§ 3.32 Testimony.

Testimony of witnesses appearing at the hearing shall be under oath or affirmation.

§ 3.33 Depositions.

(a) If an Immigration Judge is satisfied that a witness is not reasonably available at the place of hearing and that said witness' testimony or other evidence is essential, the Immigration Judge may order the taking of a deposition either at his or her own instance or upon application of a party.

(b) Such order shall designate the officer by whom the deposition shall be taken, may prescribe and limit the content, scope, or manner of taking the deposition, and may direct the production of documentary evidence. The Immigration Judge may also issue a subpoena in the event of the refusal or willful failure of a witness within the United States to appear, given testimony, or produce documentary evidence after due notice.

(c) The witness and all parties shall be notified as to the time and place of the deposition by the officer designated to conduct the deposition.

(d) Testimony shall be given under oath or affirmation and shall be recorded verbatim.

(e) The officer presiding at the taking of the deposition shall note but not rule upon objections, and shall not comment on the admissibility of evidence or on the credibility and demeanor of the witness.

§ 3.34 Record of proceeding.

The Office of the Immigration Judge shall create and control the Record of Proceeding.

§ 3.35 Decisions.

A decision may be written or oral. If the decision is written, it shall be served on the parties by first class mail to the most recent address contained in the Record of Proceeding or by personal service. If a decision is oral, it shall be stated by the Immigration Judge in the presence of the parties at the conclusion of the hearing.

§ 3.36 Appeals.

(a) Decisions of Immigration Judges may be appealed to the Board of Immigration Appeals as authorized by 8 CFR 3.1(b).

(b) The notice of appeal of the decision shall be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding within ten (10) calendar days after service of the decision. Time will be 13 days if mailed. If the final date for filing falls on a Saturday, Sunday, or legal holiday, this appeal time shall be extended to the next business day.

(c) Briefs may be filed by both parties pursuant to 8 CFR 3.3(c).

§ 3.37 Finality of decision.

Except when certified to the Board, the decision of the Immigration Judge becomes final upon waiver of appeal or upon expiration of the time to appeal if no appeal is taken.

§ 3.38 Local operating procedures.

An Office of the Immigration Judge having administrative control over Records of Proceedings may establish local operating procedures, provided that:

(a) Such operating procedure(s) shall not be inconsistent with any provision of this chapter;

(b) A majority of the judges of the local Office of the Immigration Judge shall concur in writing therein; and

(c) The Chief Immigration Judge has approved the proposed operating procedure(s) in writing.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

8. The authority citation for Part 103 is revised to read as follows. All other authority citations are removed.

Authority: 5 U.S.C. 552(a); 8 U.S. 1101, 1103, 1201, 1301–1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; E.O. 12356.

9. Section 103.7(c)(1) is revised to read as follows:

§ 103.7 Fees.

* * * * *

(c) Waiver of Fees. (1) Except as otherwise provided in this paragraph and in paragraph 3.3(b) of this chapter, any of the fees prescribed in paragraph (b) of this section relating to applications, petitions, appeals, motions, or requests may be waived by the Immigration Judge in any case under his/her jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, asking for permission to prosecute without payment of fee of the applicant, petition, appeal, motion, or request, and stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay.

* * * * *

PART 236—EXCLUSION OF ALIENS

10. The authority citation for Part 236 is revised to read as follows. All other authority citations are removed.

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1252, 1255, 1362.

11. In § 236.5, paragraphs (a), (b), and (c) are removed; paragraphs (d) and (e) are redesignated as paragraphs (b) and (c); and a new paragraph (a) is added to read as follows:

§ 236.5 Decision of the Immigration Judge; Notice to the Applicant.

(a) *Decision.* The Immigration Judge shall inform the applicant of his or her decision in accordance with 8 CFR 3.35.

* * * * *

12. Section 236.6 is revised to read as follows:

§ 236.6 Finality of order.

The decision of the Immigration Judge shall become final in accordance with 8 CFR 3.37.

13. Section 236.7 is revised to read as follows:

§ 236.7 Appeals.

Except as limited by section 236(d) of the Act, an appeal from a decision of an Immigration Judge under this Part may be taken by either party pursuant to 8 CFR 3.36.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

14. The authority for Part 242 is revised to read as follows: All other authority citations are removed.

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1252, 1254, 1255, 1357, 1362; E.O. 12356. Title I of Pub. L. 95–145 enacted Oct. 28, 1977.

15. In § 242.1, paragraphs (a) and (b) are revised to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the filing of an Order to Show Cause with the Office of the Immigration Judge. In the proceeding the alien shall be known as the respondent. Orders to

Show Cause may be issued by District Directors, Acting District Directors, Deputy District Directors, Assistant District Directors, for Investigations, and Officers in Charge at Agana, GU; Albany, NY; Charlotte Amalie, VI; Cincinnati, OH; Hammond, IN; Memphis, TN; Milwaukee, WI; Norfolk, VA; Oklahoma City, OK; Pittsburgh, PA; Providence, RI; Salt Lake City, UT; St. Louis, MO; and Spokane, WA.

(b) Statement of Nature of Proceedings. The Order to Show Cause shall contain a statement of the nature of the proceeding, the legal authority under which the proceeding is conducted, a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of the law, and a designation of the charge against the respondent and of the statutory provisions alleged to have been violated. The Order shall require the respondent to show cause why he should not be deported. The Order shall call upon the respondent to appear before an Immigration Judge for a hearing at a time and place which shall be specified by the Office of the Immigration Judge.

* * * * *

16. In § 242.2, the first sentence of paragraph (a) and paragraph (b) are revised to read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the time of issuance of the warrant of arrest, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. * * *

(b) *Authority of Immigration Judge; Appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he or she may be released, an Immigration Judge may exercise the authority contained in section 242 of the Act to continue to detain a respondent in, or release from custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority must be made in the following order: first, if the alien is detained, the Immigration Judge office at or nearest the place of detention; second, the Immigration Judge office having administrative control over the case; third, any other Immigration Judge office. However, if the respondent has been released from custody, such application must be made within seven (7) days after the date of such release. Thereafter, application by a released respondent for modification of the terms of release may be made only to the District Director. In connection with such application the Immigration Judge shall advise the respondent of his right to representation by counsel of his or her choice at no expense to the Government. He or she shall also be advised of the availability of free legal services programs qualified under Part 292(a) of this chapter and organizations recognized pursuant to section 292.2 of this chapter, located in the district where his or her application is to be heard. The Immigration Judge shall ascertain that the respondent has received a list of such programs, and the receipt by the respondent of a copy of Form I–618, Written Notice of Appeal Rights. Upon rendering a decision on an application under this section, the Immigration Judge (or District Director if he renders the decision) shall advise the alien of his or her appeal rights under this section. The determination of the Immigration Judge in respect to custody status or bond redetermination shall be entered on the appropriate EOIR form at the time such decision is made, and the parties shall be promptly informed orally or in writing as the reasons for the Judge's decision. Consideration under this paragraph by the Immigration Judge of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding. The determination of the Immigration Judge as to custody status or bond may be based upon any information which is available to the Immigration Judge or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. After a deporation order becomes administratively final, or if recourse to the Immigration Judge is no longer available because of the expiration of the seven-day period aforementioned, the respondent may appeal directly to the Board from a determination by the District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer in Charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by an Immigration Judge pursuant to § 3.36 of this chapter. An appeal to the Board taken from an appealable determination by a District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer in Charge of an office enumerated in § 242.1(a), shall be perfected by filing a notice of appeal with the District Director within 10 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal from a District Director's determination, the District Director shall immediately transmit to the Board all records and information pertaining to that determination. The filing of an appeal from a determination of an Immigration Judge or a District Director shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceedings or deportation.

17. In § 242.5, paragraph (b) is revised to read as follows:

§ 242.5 Voluntary departure prior to commencement of hearing.

* * * * *

(b) *Application.* Any alien who believes himself or herself to be eligible for voluntary departure under section 242(b) of the Act may apply therefor at any office of the Service any time prior to the commencement of deportation proceedings against him or her. The officers designated in paragraph (a) of this section may deny or grant the application and determine the conditions under which the alien's departure shall be effected.

* * * * *

18. In § 242.7, paragraphs (a) and (b) are revised to read as follows:

§ 242.7 Cancellation proceedings.

(a) *Cancellation of Order to Show Cause.* Any District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer-in-Charge of an office enumerated in § 242.1(a) of this part may cancel an Order to Show Cause prior to jurisdiction vesting with the Immigration Judge pursuant to section 3.14 of this chapter provided the officer is satisfied that:

(1) The respondent is a national of the United States;

(2) The respondent is not deportable under immigration laws;

(3) The respondent is deceased;

(4) The respondent is not in the United States or,

(5) The Order To Show Cause was improvidently issued.

(b) *Motion to dismiss.* After commencement of proceedings pursuant to section 3.14 of this chapter, any officer enumerated in paragraph (a) of this section may move for dismissal of the matter on the grounds set out under paragraph (a) of this section. Dismissal of the matter shall be without prejudice to the alien or the Service.

* * * * *

19. Section 242.12 is revised to read as follows:

§ 242.12 Interpreter.

Any person acting as interpreter in a hearing before an Immigration Judge under this part shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath shall be required.

20. Section 242.13 is revised to read as follows:

§ 242.13 Postponement and adjournment of hearing.

After the commencement of the hearing, the Immigration Judge may grant a reasonable adjournment either at his or her own instance or, for good cause shown, upon application by the respondent or the Service.

21. In § 242.14, paragraph (e) is revised to read as follows:

§ 242.14 Evidence.

* * * * *

(e) *Depositions.* The Immigration Judge may order the taking of depositions pursuant to § 3.33 of this chapter.

22. In § 242.16, the first three sentences of paragraph (d) are revised to read as follows:

§ 242.16 Hearing.

* * * * *

(d) *Additional charges.* The Service may at any time during a hearing lodge additional charges of deportability, including factual allegations, against the respondent. Copies of the additional factual allegations and charges shall be submitted in writing for service on the respondent and entry as an exhibit in the record. The Immigration Judge shall read the additional factual allegations and charges to the respondent and explain them to him or her.* * *

23. Section 242.20 is revised to read as follows:

§ 242.20 Finality of order.

The decision of the Immigration Judge shall become final in accordance with 8 CFR 3.37.

PART 292—REPRESENTATION AND APPEARANCES

24. The authority citation for Part 292 is revised to read as follows. All other authority citations are removed

Authority: 8 U.S.C. 1103, 1362.

25. In § 292.4, paragraph (a) is revised to read as follows:

§ 292.4 Appearances.

(a) form G–28. An appearance shall be filed on Form G–28 by the attorney or representative appearing in each case. During proceedings, withdrawal and/or substitution of counsel is permitted only in accordance with section 3.16 of this chapter. When an appearance is made by a person acting in a representative capacity, his or her personal appearance or signature shall constitute a representation that under the provisions of this chapter he or she is authorized and qualified to represent.

* * * * *

Dated: October 31, 1985.

Edwin Meese III,

Attorney General.

[FR Doc. 85–29807 Filed 12–18–85; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

[Docket No. PRM–60–2A]

States of Nevada and Minnesota; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Amended Petition for Rulemaking from the States of Nevada and Minnesota.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment this notice of receipt of a petition for rulemaking that amends an earlier petition for rulemaking (PRM–60–2) filed with the Commission on January 21, 1985. This amended petition, filed by the States of Nevada and Minnesota, and dated September 30, 1985, was docketed by the Commission on October 3, 1985, and assigned Docket No. PRM–60–2A. The petitioner requests the Commission to amend its repository licensing regulations to incorporate the equivalent substance of the assurance requirements as issued in the final Environmental Protection Agency (EPA) Standards.

DATE: Comment period expires February 18, 1986. Comments received after this date will be considered if it practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Single copies of the petition may be obtained free by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The petition, copies of comments, and accompanying documents to the petition may be inspected and copies for a fee at the NRC Public Document Room, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7086 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

I. Statement of Grounds and Interest

The State of Nevada filed this amended rulemaking petition as a State notified pursuant to the Nuclear Waste Policy Act (NWPA), that a potentially acceptable site for a repository has been identified within the state. The State of Nevada avers that it may become affected for purposes of participation in site characterization, pursuant to § 113 of the NWPA.

The State of Minnesota joins this amended petition as a state informed that it is being considered for site characterization for a second repository. The State of Minnesota avers that it may be directly affected by the substance of standards for the development of repositories.

The States of Nevada and Minnesota ground this petition on their respective interest in, and the prevailing responsibility for, the protection of the future health and safety of their citizens.

II. Issues Raised in PRM–60–2 and 60–2A

PRM–60–2

The petitioner filed the original petition (PRM–60–2) with the Commission on January 21, 1985. The petitioner requested the Commission to adopt a regulation governing the implementation of certain environmental standards which had

been proposed by the Environmental Protection Agency. The NRC published a notice of the petition for rulemaking in the **Federal Register** on April 30, 1985 (50 FR 18267) and requested comments. The comment period closed on July 1, 1985. Six comments were received in response to the notice.

PRM–60–2A

The petitioner states that this amendment to PRM–60–2 is based on the intervening action of the Environmental Protection Agency (EPA) on September 19, 1985 (50 FR 38066), in which the EPA issued final standards for protection of the general environment from offsite releases from radioactive material in repositories. The petitioner hopes to accomplish two objectives in this amendment: (1) To place before the Commission the substance of the assurance requirements, in terms of amendments to 10 CFR Part 60, which the EPA's recently published standards failed to make applicable to NRC licensees, i.e. Department of Energy (DOE) high-level waste repositories; (2) to propose to the Commission requirements and considerations for the process of adopting the DOE Environmental Impact Statement.

III. Proposed Commission Findings

The petitioner states that during the pendency of the EPA rulemaking, significant interaction occurred between Commission and EPA staff regarding which was the proper agency to adopt rules in the nature of "assurance requirements" that would apply to Commission licensees, to insure against the inherent uncertainties in selecting, designing and licensing waste disposal systems that must be very effective for more than 10,000 years. The Petitioner indicates that the two agencies agreed informally, and the EPA standard as finally issued provides, that assurance requirements are an appropriate mechanism to better guarantee that numerical standards will be realized; that the NRC was the more appropriate agency to adopt such standards as they apply to NRC licensees; and that the NRC approach would be to integrate the essence of EPA's earlier proposed rules into the repository licensing provisions of 10 CFR Part 60. Further, the Petitioner states that since evidence used by DOE to apply the siting guidelines includes analysis of expected repository performance to assess the likelihood of demonstrating compliance with the EPA standard, the rule proposed herein must be in place in order that DOE may design its site characterization plan in a manner consistent with the siting guidelines. The Petitioner proposes that the Commission make findings accordingly.

IV. The Petitioner Proposes the Following Amendments to 10 CFR Part 60:

1. Add definitions to § 60.2:

( ) "Active institutional control" means any measure other than a passive institutional control performed to: (1) Control access to a site, (2) perform maintenance operations or remedial actions at a site, (3) control or clean up releases from a site; or (4) monitor parameters related to geologic repository performance and compliance with standards limiting releases of radioactivity to the accessible environment.

( ) "Passive institutional control" means: (1) permanent markers placed at a site, (2) public records and archives, (3) government ownership and regulations regarding land or resource use, and (4) other methods of preserving knowledge about the location, design, and the contents of a geologic repository.

2. Add § 60.21(c) "Content of [license] application" and renumber remaining sections:

(9) A general description of the program for post-permanent closure monitoring of the geologic repository.

3. Add a new § 60.24(c), (d) and reletter the remaining subsection as (e).

(c) The Commission shall evaluate the environmental impact statement required by 42 U.S.C. 10134(f) and 10 CFR 60.21(a) to determine whether its adoption by the Commission would not compromise the independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011, *et. seq.*). In making such a determination, the Commission shall consider:

(1) Whether the Department of Energy has complied with the procedures and requirements of the Nuclear Waste Policy Act (42 U.S.C. 10101 *et. seq.*).

(2) Whether the alternative sites proposed in the environmental impact statement are bona fide alternative sites; that site characterization under 42 U.S.C. 10133 has been completed at such sites; and that the Secretary, after site characterization is complete, or substantially complete, at such sites, has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated pursuant to 42 U.S.C. 10132.

(3) Whether the consideration of the alternative sites considered in the environmental impact statement included consideration of the natural properties that are expected to provide better isolation of the wastes from the accessible environment for 100,000 years after disposal; and whether the analyses used by the Department of Energy to compare the capabilities of different sites to isolate wastes were based upon the following:

(i) Only the undisturbed performance of the disposal system has been considered;

(ii) The performance of the waste packages and waste forms planned for the disposal system was assumed to be the same from site to site and assumed to be at least an order of magnitude less effective than the performance required by 10 CFR 60.113; and

(iii) No credit was taken for other engineering controls intended to correct preexisting natural flaws in the geologic media (e.g., grouting of fissures shall not be assumed, but effective sealing of the shafts needed to construct the repository shall be assuemd).

(4) Whether the disposal systems considered, selected or designed will keep releases to the accessible environment as low as reasonably achievable, taking into account technical, social and economic considerations.

(d) If the Commission determines that adoption of the environmental impact statement would compromise the independent responsibilities of the Commission, then the Commission shall consider fully the environmental impact of the selection of the proposed site as required by 42 U.S.C. 4321, *et. seq.*

4. Revise § 60.51(a)(1) "License amendment for permanent closure" as follows:

(1) A detailed description of the program for post-permanent closure monitoring of the geologic repository in accordance with § 60.144. As a minimum, this description shall:

(A) Identify those parameters that will be monitored;

(B) Indicate how each parameter will be used to evaluate the expected performance of the repository;

(C) Describe those monitoring devices which will indicate the likelihood that standards limiting releases of radioactivity to the accessible environment may not be met.

(D) Discuss the length of time over which each parameter should be monitored to adequately confirm the expected performance of the repository;

(E) Indicate how the results of post-permanent closure monitoring will be shared with affected State, Indian tribal and local governments.

5. Add a new subsection to § 60.52(c) "Termination of license" and renumber current § 60.52(c)(3) as 60.52(c)(4).

(3) That the results available from the post-permanent closure monitoring program confirm the expectation that the repository will comply with the performance objectives set out at Sections 60.112 and 60.113.

6. Modify § 60.113 by adding:

(d) In any event, however, and notwithstanding the provisions of (b) above, the geologic repository shall incorporate a system of multiple barriers, both engineered and natural, each designed or selected so that it complements the others and can significantly compensate for uncertainties about the performance of one or more of the other barriers. 'Barrier' means any material or structure that prevents or substantially delays movement of water or radionuclides.

7. Add a new § 60.114 "Institutional Controls":

Neither active nor passive institutional controls shall be deemed to assure compliance with the overall performance objective set out at § 60.112 for more than 100 years after disposal. However, the effects of passive institutional controls may be considered in assessing the likelihood and consequences of processes and events affecting the geologic setting.

8. Add a new § 60.122(c)(18) and renumber later sections:

(18) The presence of significant concentrations of any naturally-occurring material that is not widely available from other sources.

9. Add a new § 60.144 "Post-Permanent Closure Monitoring":

A program of post-permanent closure monitoring shall be conducted and shall provide for monitoring of all repository characteristics which can reasonably be expected to provide substantive confirmatory information regarding long-term repository performance, provided that the means for conducting such monitoring will not degrade repository performance. This program shall be continued until termination of a license which shall not occur until the Commission is convinced that there is no significant concern which could be addressed by further monitoring.

V. Statement in Support

The Petitioner states that the rules proposed here are substantively equivalent to the EPA assurance requirements (which, by their terms, do not apply to NRC licensees), with one very notable exception: proposed 10 CFR 60.24(c). The Petitioner points out that this proposed new section relates to NRC review and adoption of DOE's environmental impact statement (EIS), a document developed in DOE's *selection* of a repository site. EPA's proposed 40 CFR 191.14(e) dealt with site selection, as NRC staff recognized in comments published by EPA in "Background Paper: Potential Changes in 10 CFR 60 to Replace Assurance Requirements in 40 CFR 191, March 21, 1985". NRC staff, however, found that DOE's site selection guidelines, 10 CFR 960.3–1–5, adequately address this issue. Nevada and Minnesota are concerned, and the Petitioner believes that the Commission should also be, that DOE's site selection process may not produce bona fide alternatives for consideration in DOE's EIS because of DOE's current interpretation of section 114(f), 42 U.S.C. 10134(f). Petitioner asserts if it does not, NRC's "independent responsibilities . . . to protect the public health and safety under the Atomic Energy Act of 1954" (section 114(f), 42 U.S.C. 10134(f)) will be implicated. The National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*, together with the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011, *et seq.*, require the *Commission* to consider bona fide alternatives, even if section 112 of the Nuclear Waste Policy Act, 42 U.S.C. 10132, does not require DOE to do so. Petitioner believes the rule proposed here would guarantee that bona fide alternatives were evaluated by the NRC, if not also DOE. The "low as reasonably achievable" releases concept has also been reintroduced in this context. The bases for DOE's consideration of natural properties expected to provide better isolation have also been introduced.

The Petitioner states that in adopting the language of section 114(f) of the NWPA, Congress did not change the requirement for consideration of bona fide alternatives in an EIS. It merely narrowed the universe of all alternatives which DOE must consider in the final EIS, from all sites reasonably available to only those three sites which has been characterized, and for which the Secretary had made a preliminary determination as to site suitability. The Petitioner believes that a site which the Secretary has determined to be unsuitable for development as a repository, or, conversely, at which the Secretary was unable to make a preliminary determination of suitability, is simply not an alternative. The Petitioner believes the Secretary's responsibilities, under either the NWPA or NEPA, to consider alternative sites, is simply not met by the consideration of three sites, one or two of which were determined at any time to be unsuitable for development as repositories. The Petitioner states further that neither would the Commission's responsibilities be carried out in such a case, and thus such a result would severely jeopardize the Commission's ability, under section 114(f), to adopt the Secretary's final EIS in order to meet the Commission's legal obligations under NEPA.

VI. Notice Regarding Related Actions

The Commission presently has underway rulemaking actions which, when finalized, will address the concerns expressed by the petitioner. The Commission is now preparing to publish proposed amendments to 10 CFR Part 60 to eliminate inconsistencies between the EPA standard and the rule (see *Unified Agenda of Federal Regulations*, Current and Projected Rulemaking—Elimination of Inconsistences between NRC Regulations and EPA standards—OMB Regulation Identifier Number 3150–AC03, 50 FR 44992, October 29, 1985). The Commission anticipates that the proposed rule would incorporate the EPA "assurance requirements" in Part 60, to the extent appropriate, satisfying that aspect of the petitioner's request. The remaining aspect of the petitioner's request, adding a provision to Part 60 relating to NRC review and adoption of DOE's environmental impact statement, falls within the scope of a separate, ongoing rulemaking which would amend Part 51 to conform to provisions of the Nuclear Waste Policy Act concerning environmental review in HLW geologic repository licensing procedures (see *Unified Agenda of Federal Regulations*, Current and Projected Rulemaking—Part 51 Conforming Amendments—OMB Regulation Identifier Number 3150–AC04, 50 FR 44992, October 29, 1985). Accordingly, commenters are advised that further consideration of the issues raised by the petitioner will be deferred for consideration in the rulemaking actions referred to above. The present schedule calls for the publication of these two proposed rules within nine months. Any comments received in response to this notice would, in that event, be incorporated in the administrative record for those proceedings.

Dated at Bethesda, Maryland, this 16th day of December, 1985.

For the Nuclear Regulatory Commission.

Samual J. Chilk,

Secretary of the Commission.

[FR Doc. 85–30089 Filed 12–18–85; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-18; Notice No. SC-85-3-NM]

Special Conditions; British Aerospace 748 ATP Airplane

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the British Aerospace (BAe) 748 ATP series airplane which is to be assembled in the United Kingdom and imported into the United States. This airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before February 3, 1986.

ADDRESS: Comments on this proposal may me mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-18, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-18. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Walker, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-18." The postcard will be dated, time stamped, and returned to the commenter.

Background

On March 26, 1982, British Aerospace, Chester Road, Woodford, Bramhall, Stockport, Chesire SK7 1QR, England, applied for a United States Import Type Certificate for its BAe 748 ATP series airplane.

The BAe 748 ATP is a low wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 49,500 pounds. The airplane is equipped with two Pratt and Whitney PW-124 turbopropeller engines, each producing 2,400 shaft horsepower. The airplane has a maximum seating capacity for 75 persons, including the crew, and a maximum permissible altitude of 27,000 feet.

The type design of the BAe 748 ATP series airplane with the ATPCS installed contains a novel or unusual design feature for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that intended by the established certification basis and to support a finding by the Administrator that no feature of characteristic of the airplane with the automatic system installed makes it unsafe for the category in which certification is requested. The proposed special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff power approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

The novel or unusual design feature for the airplane is the installation of an ATPCS. With the ATPCS "armed," takeoffs are normally made with engine power set at less than the maximum takeoff power approved for the airplane under the existing ambient environmental conditions. In the event of an engine failure during the takeoff, the ATPCS when "armed" or "on" automatically increases the fuel flow and the exhaust gas temperature (EGT) as maintained by the Single Red Line Limit (SRL). In the event of an ATPCS failure with an engine failure during the takeoff, the crew would be required to deactivate the system to achieve the maximum takeoff power. Because of this design feature where the pilot must move his hand from the power lever to activate the maximum power condition, the Agency has determined that special conditions for airplanes with automatic limiters should be modified under "Powerplant Controls" (paragraph E.2.b.) to provide that such activation is permitted, provided the means to increase power is located on or forward of the power levers, is easily operated by either pilot, and meets the requirements of § 25.777.

The ATPCS proposed for the BAe 748 ATP turbopropeller airplane performs the same function as the automatic takeoff thrust control system (ATTCS) does for the turbojet and turbofan powered transport airplanes. For setting power on the turbopropeller driven airplanes, horsepower (or torque) is used with the propeller converting the horsepower developed by the engine into forward thrust. For setting power on the turbojet or turbofan driven transport airplanes, fan speed (N_1) or engine pressure ratio (EPR) is generally used. The N_1 or EPR is proportional to the thrust that is developed by the turbojet or turbofan engines. Therefore, to make a distinction between turbopropeller airplane systems and the turbofan type, the different labeling of the two systems was made.

The FAA developed special conditions for an ATTCS for current turbine-powered transport category airplanes and sent the proposal to U.S. user groups and various foreign civil aviation authorities for review and comment in November 1977. Comments were received and reviewed, and the special conditions were revised and sent to the same groups in May 1978. This procedure was repeated again in November 1978. Cooperating with the

FAA in this development were the Aerospace Industries Association of America (AIA), Air Transport Association of America (ATA), Air Line Pilots Association (ALPA), Allied Pilots Association (APA), Rolls Royce (RR), Hawker Siddeley Aviation Limited (HS), British Civil Aviation Authority (CAA), the civil aviation authorities of Australia and Japan, the French Technical Commission Navigation (FTCN) and the French civil aviation authorities, Lockheed, Boeing, McDonnell Douglas, and Rockwell International.

Based on the comments received and on further review by the FAA, a number of changes were made to the proposed special conditions. These provide for consideration of the following specific matters:

1. For the fail-operational system proposed (able to perform its intended function after a single failure or combination of failures not shown to be extremely improbable within the ATTCS system), a reduction of the ATTCS failure probability from extremely improbable to improbable for the ATTCS alone, the addition of an extremely improbable failure probability for the combined ATTCS and engine failure, and deletion of the all-engine performance criteria.

2. For the nonfail-operational system proposed, a reduction in the failure probability from improbable to 10^{-3} for the ATTCS alone, introduction of a climb gradient for the combined ATTCS and engine failure case, and deletion of an engine failure warning means if the inherent characteristics of the engine failure are clearly made known to the pilot.

3. Clarifying changes, including a graphical presentation to clarify the definition of the term, "Critical Time Interval."

The special conditions proposed herein differ in one major respect from similar special conditions which have previously been issued for other airplane models. The certification basis for the BAe 748 ATP includes Amendment 25-23 to Part 25 of the Federal Aviation Regulations (FAR), which includes the requirements of § 25.1309(b)(2). Previous model airplanes to which special conditions for an ATTCS were applied do not have to meet the current requirements of § 25.1309(b)(2). The current requirements of § 25.1309(b)(2) are more stringent than the previous special condition requirements; therefore, the option to provide an ATPCS with reduced reliability if a specific level of minimum performance is available with both the ATPCS and an engine failed has been deleted from these special conditions.

Type Certification Basis

The type certification basis for the BAe 748 ATP series airplane with the ATPCS installed, to be incorporated in the type certificate, is Part 25 of the FAR, including Amendments 25-1 through 25-54; Part 36 of the FAR, including Amendments 36-1 through the Amendment in effect at the time the BAe 748 ATP is type certificated; Special Federal Aviation Regulation (SFAR) 27, including the Amendments 27-1 through the Amendment in effect at the time the BAe 748 ATP is type certificated; § 21.29 of the FAR; and the proposed special conditions for an ATPCS contained in this notice.

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. Special conditions may be issued and amended, as necessary, as a part of the type certfication basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are currently issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions for the British Aerospace 748 ATP series airplane equipped with an automatic takeoff power control system (ATPCS).

PART 21—[AMENDED]

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

A. *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

B. *Definitions.*

1. *ATPCS.* An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increse, and furnish cockpit information on system operation.

2. *Critical Time Interval.* When conducting an ATPCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required actual flight path at not less than 400 feet from the takeoff surface. This definition is shown in the following graph.

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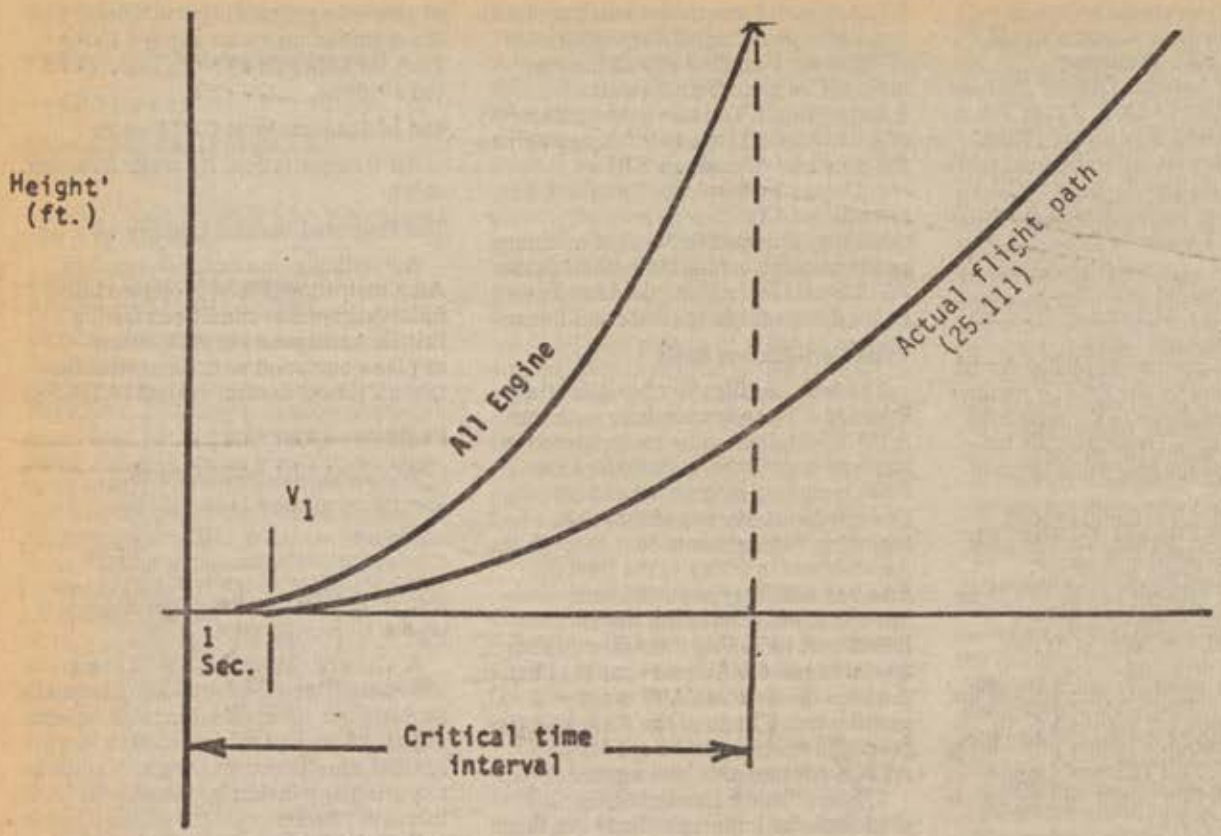

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3. *Takeoff Power.* Notwithstanding the definition of "takeoff power" in Part 1 of the FAR, "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant must comply with the following performance and reliability requirements.

1. An ATPCS system failure during the critical time interval must be shown to be improbable.

2. The concurrent existence of an ATPCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

3. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

D. *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety percent (90%) of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety related systems and equipment dependent upon engine power or level position; or

3. That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

E. *Powerplant Controls.*

1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATPCS must be designed to:

a. Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

b. Permit manual decerase or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power level, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure. In this case, the means must be located on or forward of the power levers, must be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 25.777, paragraphs (a), (b), and (c);

c. Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. *Powerplant Instruments.* In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Seattle, Washington, on December 6, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-29969 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-107-AD]

Airworthiness Directives: Israel Aircraft Industries (IAI) Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections and replacement, as necessary, of the horizontal stabilizer aft spar splice fitting to detect cracks on all IAI Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. Cracks have been reported in the splice fitting lugs on several airplanes. This condition, if not corrected, could lead to failure of the fitting, which would compromise the structural integrity of the horizontal stabilizer assembly.

DATE: Comments must be received on or before Feb. 10, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-107-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Israel Aircraft Industries, Delaware Office, P.O. Box 10086, Wilmington, Delaware 19850. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-107-Ad, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Israel Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on IAI Model 1121, 1121A, 1121B, 1123, 1124, and 1224A airplanes. Cracks have been reported in the horizontal stabilizer aft spar splice fitting on several airplanes. These cracks, if allowed to grow undetected, could lead to failure of the fitting, which would compromise the structural integrity of the horizontal

stabilizer assembly. To prevent this from occurring, the CAA issued Airworthiness Directive 85-001 dated April 10, 1985, which requires periodic inspections and replacement, as necessary, of the fitting in accordance with IAI service bulletins. Fittings found cracked must be replaced prior to further flight.

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

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require periodic inspections of the fittings and replacement of any fittings found cracked, in accordance with applicable IAI service bulletins.

It is estimated that 350 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required inspections, and that the average labor cost would be § 40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $28,000 per inspection cycle.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($80 per airplane). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Israel Aircraft Industries (IAI): Applies to all Model 1121, 1121A, 1121B, 1123, 1124, and 1124A, airplanes certificated in any category. Compliance is required as indicated below. To detect cracks in the hinge lugs of the horizontal stabilizer aft spar splice fitting (hinge assembly), accomplish the following, unless previously accomplished:

A. Within the next 75 flight hours time in service, unless previously inspected within the last 525 flight hours time in service, inspect the horizontal stabilizer aft spar splice fitting (hinge assembly), part number 453005-501, in accordance with the following IAI service bulletins:

Model	Service Bulletin
1121, 1121A 1121B	1121-55-003 dated April 2, 1985.
1123	1123-55-006 dated April 2, 1985.
1124, 1124A	1124-55-020 dated April 2, 1985.

B. If no cracks are found, repeat the inspection required by paragraph A., above, at intervals not to exceed 600 hours time-in-service.

C. If cracks are found, replace the splice fitting prior to further flight, in accordance with the following IAI service bulletins:

Model	Service Bulletin
1121, 1121A 1121B	1121-55-004 dated August 5, 1985.
1123	1123-55-007 dated August 5, 1985.
1124, 1124A	1124-55-021 dated August 5, 1985.

If the installation improvement modifications described in paragraph D(2) of each service bulletin is performed, repeat the inspection of paragraph A. of this AD at intervals not to exceed 2,400 hours time in service for subsequent inspections. If the installation improvement modification is not accomplished, the inspections must be repeated in accordance with paragraph B. of this AD.

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

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

All persons affected by this proposed directive who have not already received these documents from the manufacturer may obtain copies upon request to Israel Aircraft Industries, Delaware Office, P.O. Box 10086, Wilmington, Delaware 19850. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-29972 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 110

[CGD8-85-20

Anchorage Ground; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is considering amending the anchorage regulations on the Lower Mississippi River by enlarging the permanent anchorage called Lower Baton Rouge Anchorage. This action is necessary to provide needed additional anchorage space for deep draft vessels.

DATE: Comments must be received on or before February 3, 1986.

ADDRESSES: Comments, should be mailed to Commander, Eighth Coast Guard District (mps), Hale Boggs Federal Building, 500 Camp St., New Orleans, LA 70130-3396. The comments and other materials referenced in this notice will be available for inspection or copying in Rm. 1341 at the above address. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG K. D. Christopher, project officer, Command (mps), Eighth Coast Guard District, 500 Camp St., New Orleans, LA 70130-3396, Tel. (504) 589-6901.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD8-85-20) and the specific section of the proposal to which their comments apply, and give the reasons for comment. Receipt of comments will be acknowledge if a stamped self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is

planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information: The drafters of this notice are LTJG K. D. Christopher, project officer, Eighth Coast Guard District Marine Safety Divisions and LCDR J. Vallone, project attorney, Eight Coast Guard District Legal Office.

Discussion of Proposed Rule: The Coast Guard received a request from the Greater Baton Rouge Port Commission to extend the Lower Baton Rouge Anchorage. The request indicated their concern that the present deep draft anchorage in the Lower Baton Rouge Anchorage will not be adequate to handle future growth and traffic. The Port Commission also stated that the stevedoring company that is the principal user of this anchorage has increased its tonnage guarantee by 25 percent. Recent anchorage use statistics indicate that the Lower Baton Rouge Anchorage is operating at 57 percent capacity. The increased tonnage guarantee will raise the occupancy level to 71 percent of capacity. While this increased tonnage guarantee does not, on the average, bring this anchorage to its capacity, there have been many occasions when it has been full. The greater the occupancy of the anchorage, the closer together the vessels must anchor. Because of limited maneuverability of most merchant vessels, the risk of accident increases as vessels anchor closer to each other. Also, the Lower Baton Rouge Anchorage is the only deep draft anchorage in the vicinity of Baton Rouge, Louisiana.

The Coast Guard believes that extending the Lower Baton Rouge Anchorage is in the best interest of navigational safety.

Economic Assessment and Certification

These proposed regulations are considered to the non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only extend the Lower Baton Rouge Anchorage by 0.2 miles. The added length is not expected to have any significant effect on navigation and therefore it is determined that the impact will be minimal. It is believed, however, that any economic impacts provided by this regulation are expected to be positive as the lengthening of this anchorage should facilitate midstream cargo operations.

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

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—[AMENDED]

Proposed Regulations

In consideration of the foregoing the Coast Guard proposed to amend Part 110 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. In § 110.195, paragraph (a)(27) is revised to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA including South and Southwest Passes.

(a) * * *

(27) Lower Baton Rouge Anchorage. An area 0.7 miles in length near mid-channel between mile 228.3 to mile 229.0 above Head of Passes with the west limit 1100 feet off the right descending bank and having the width of 700 feet at both upper and lower limits.

* * * * *

Dated December 16, 1985.

Clyde T. Losk Jr,

Read Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85–30056 Filed 12–18–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 161

[CGD 74–029]

Houston-Galveston Vessel Traffic Service; Withdrawal of Proposed Rule

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: On September 18, 1980, the Coast Guard published a notice of proposed rulemaking concerning the establishment of a mandatory vessel traffic service (VTS) in the Houston-Galveston area to replace the voluntary service presently in operation. Based on the high rate of participation in the voluntary system, the Coast Guard believes a mandatory VTS would not add materially to navigation safety in the area at this time. In light of this, the Coast Guard is withdrawing the notice of proposed rulemaking for Houston-Galveston Vessel Traffic Service.

DATE: This withdrawal is effective on December 19, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue Jr., (202) 426–4958, between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard established a voluntary Houston-Galveston Vessel Traffic Service (VTS) because this area has an unusually large number of facilities and vessels handling hazardous cargoes. The VTS came on the air in February 1975 following installation of 4 closed-circuit television systems (CCTV), 1 radar, and Very High Frequency (VHF) communications equipment.

Because of the configuration of the waterway in this area and the nature of the vessel traffic, virtually full participation was considered necessary to obtain the safety benefits of a VTS. To ensure participation in the VTS, the Coast Guard intended to make the system mandatory after all equipment was installed and operational. Therefore, the Coast Guard published a notice of proposed rulemaking (NPRM) on September 18, 1980 concerning the establishment a mandatory VTS (45 FR 62158).

Since publication of the NPRM and installation of additional CCTV equipment, participation has increased to 99% +. This is due, in part, to the efforts of the Houston/Galveston Navigation Safety Advisory Committee, which was established in large measure to advise the Commandant on matters relating to the VTS. The input obtained from users in the development of the VTS appears to have made users more aware of its value as a navigational tool, thus improving the participation rate.

By making users more aware of the procedures involved and the benefits to be derived, voluntary participation has increased to its present high level, making mandatory compliance unnecessary. Therefore, the Coast Guard is withdrawing the NPRM. However, in the event voluntary participation declines, the Coast Guard will again consider regulatory measures in order to maintain the desired level of safety in the waterway.

Drafting Information

The principal persons involved in the drafting of this section are Mr. Edward J. LaRue Jr., Project Manager, Office of Marine Environment and Systems, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel.

For the reasons stated above, the notice of proposed rulemaking, Coast Guard Docket number 74–029, published

in the **Federal Register** on September 18, 1980 (45 FR 62158), is withdrawn.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

(33 U.S.C. 1231; 49 CFR 1.46(n)(4))

Dated: December 16, 1985.

Peter J. Rots,

Chief, Office of Marine Environment and System.

[FR Doc. 85-30055 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls; Proposed Revision

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority is proposing to the Corporation that the commodity tolls and vessels charges be increased by approximately 15% for the 1986 navigation season at the Welland Canal section of the St. Lawrence Seaway. Under this proposal, the level of commodity tolls and vessel charges for the Montreal-Lake Ontario section will not change and the Corporation will continue to receive 27% of the revenues generated on this section.

DATES: Public Comments and Hearing:

The Corporation invites comments on the proposed revision to the Tariff of Tolls from any interested person(s) or organization(s). Any party wishing to present views or data on the proposed revision may file comments with the Corporation on or before February 21, 1986.

The Corporation will hold a public hearing on the proposed increase of toll rates on February 5, 1986, beginning at 10:00 a.m. The hearing will run until concluded subject to adjournment from day to day or otherwise at the discretion of the Administrator. Oral presentations will be limited to fifteen (15) minutes. Persons or organizations desiring to present testimony at the hearing shall submit to the Corporation on or before January 27, 1986, a written notice of their intention to appear. If the public hearing is continued to date later than February 11, 1986, the date by which written comments are to be filed will be extended to ten (10) days following the actual close of the hearing.

It is requested that data provided in written comments or at the hearing include total transportation costs for the movements of cargo via the St. Lawrence Seaway and should detail individually all pertinent components thereof including all inland freight cost (rail, truck or water), terminal or elevator charges and handling costs, ocean freight costs and other significant transportation costs. It would be very helpful if each analysis also detailed similar transportation costs by alternative routes in order to adequately evaluate the potential for diversion.

ADDRESS: Notices of appearances, views, data, comments and supplementary statements are to be submitted to the Saint Lawrence Seaway Development Corporation, 400 7th Street, SW., Washington, D.C. 20590. (Attention: Tolls Revision Docket) The public hearing will be held in Room 4234 at the above address.

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

SUPPLEMENTARY INFORMATION: As the result of lengthy discussions, the Corporation and the Authority have agreed, for the purpose of eliciting public comment, to propose a revision of certain charges set forth in Tolls Schedule of the joint St. Lawrence Seaway Tariff of Tolls. This proposal is concerned with only those charges assessed on transiting the Welland Canal and will be subject to subsequent joint review by the Corporation and the Authority.

The Proposal

It is proposed that the Tolls Schedule for the Welland Canal Section (presently codified as 33 CFR 402.8) of the St. Lawrence Seaway be revised as follows (for comparison purposes the rate presently in effect are included):

SCHEDULE OF TOLLS—WELLAND CANAL SECTION

	Present	1986
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per gross registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States	0.07	0.08
(2) A charge in dollars per metric ton of cargo as certified on ship's manifest or other document, as follows:		
Bulk cargo	0.31	0.36
General cargo	0.50	0.58
Containerized cargo	0.58	0.36
Government aid cargo	0.31	0.36
Food grains	0.31	0.36
Feed grains	0.31	0.36
(3) A charge in dollars per passenger per lock	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, which may be shared by vessels in tandem:		
(i) loaded: Per Lock	250.00	290.00
(ii) in ballast: Per Lock	187.50	215.00
(b) For partial transit of the Seaway:		
(1) Between Montreal and Lake Ontario, in either direction 15 percent per lock of the applicable toll		
Between Lake Ontario and Lake Erie, in either direction, (Welland Canal), 13 percent per lock of the applicable toll		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
Pleasure craft	5.00	6.00
Other vessels	10.00	11.00

Although the charges and tolls applicable to the Montreal-Lake Ontario section are not changed by the proposal set forth about § 402.8 is proposed to be revised by removing from the schedule the column headed "1982" and changing the "1983" heading to "1986", both of which are presently contained under the heading "Montreal to or from Lake Ontario."

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact

statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend Part 402—Tariff of Tolls (33a CFR Part 402) as follows:

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

Authority: 68 Stat. 93–96, 33 U.S.C. 981–990, as amended.

2. Section 402.8 is revised to read as follows:

§ 402.8 Schedule of tolls.

Tolls

Montreal to or from Lake Ontario	Lake Ontario to or from Lake Erie (Welland Canal)	
	1986	1987
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per gross registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States)	0.08	0.08
(2) A charge in dollars per metric ton of cargo as certified on ship's manifest or other document, as follows:		
Bulk cargo	0.85	0.36
General cargo	2.06	0.58
Containerized cargo	0.85	0.36
Government aid cargo	0.52	0.36
Food grains	0.52	0.36
Feed grains	0.52	0.36
(3) A charge in dollars per passenger per lock	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, whicy may be shared by vessels in tandem:		
(i) loaded: Per Lock	NA	290.00
(ii) in ballast: Per Lock	NA	215.00
(b) For partial transit of the Seaway:		
(1) Between Montreal and Lake Ontario, in either direction 15 percent per lock of the applicable toll		
(2) Between Lake Ontario and Lake Erie, in either direction, (Welland Canal), 13 percent per lock of the applicable toll		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
Pleasure craft	5.00	6.00
Other vessels	10.00	11.00

Issued at Washington, D.C., on December 12, 1985.

Saint Lawrence Seaway Development Corporation.

James L. Emery,

Administrator.

[FR Doc. 85-30000 Filed 12-18-85; 8:45 a.m.]

BILLING CODE 4910-61-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule.

SUMMARY: This Office proposes to remove a regulation providing for the collection of probate fees from the estates of deceased Indians for whom the United States held land in Indian trust status. This action is proposed because Congress repealed the legislation providing for the collection of such fees. The action will delete the Department's obsolete regulation. The Office also proposes to amend a second regulation referring to the collection of probate fees.

DATE: Comments on the proposed rule must be received by January 21, 1986.

ADDRESS: Comments may be mailed to John H. Kelly, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: John H. Kelly, Deputy Director, Office of Hearings and Appeals, (703) 235-3810.

SUPPLEMENTARY INFORMATION: On September 26, 1980, Pub. L. 96-363 went into effect. Among other things, this legislation repealed 25 U.S.C. 375b and 377, the legislation requiring the Department of the Interior to collect fees for probating the estates of deceased Indians for whom the United States held land in Indian trust status. The Department's regulations in 43 CFR 4.280 provide for the collection and amount of such fees. Because this regulation was made obsolete by Pub. L. 96-363, it is proposed that the regulation be removed. No fees have been collected since the repeal of §§ 375b and 377.

Conforming amendments would also be made to 43 CFR 4.251, which refers to the collection of probate fees.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendment provides for the removal of an obsolete regulation that has not been enforced since 1980.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department of the Interior has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321–4347).

This rule was written by Kathryn Lynn, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Indians.

Dated: November 5, 1985.

Paul T. Baird,

Director.

PART 4—[AMENDED]

43 CFR Part 4, Subpart D, is proposed to be amended as follows:

1. The authority citation for Part 4, Subpart D, continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

§ 4.280 [Removed]

2. Section 4.280 is proposed to be removed.

3. In § 4.251, the introductory text and paragraph (b) are proposed to be revised to read as follows:

§ 4.251 Priority of claims.

After allowance of the costs of administration, claims shall be allowed:

* * * * *

(b) The preference of claims may be deferred, in the discretion of the administrative law judge, in making adjustments or compromises beneficial to the estate.

* * * * *

[FR Doc. 85-29988 Filed 12-18-85; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-387; RM-4929]

FM Broadcast Station in Chatom, AL.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Channel 291A for Channel 276A at Chatom, Alabama, and modification of the permit of Station WCCJ(FM), in response to a joint petition filed by Radio Hattiesbury, Inc. and June G. Fuss. The proposed substitution would enable Station WHER (FM), Hattiesburg, Mississippi, to move its transmitter site and maintain its Class C status.

DATES: Comments must be filed on or before February 3, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530:

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended: 47 U.S.C 154, 303, Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended. 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rulemaking and Order To Show Cause

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Chatom, Alabama); MM Docket No. 85-387 RM-4929.

Adopted: December 2, 1985.

Released: December 13, 1985.

By the Commission.

1. Before the Commission for consideration is a joint petition for rule making filed by Radio Hattiesburg, Inc. ("RHI"), licensee of Station WHER (FM) (Channel 279), Hattiesburg, Mississippi, and June G. Fuss ("Fuss"), permittee of Station WDAL(FM) (Channel 276A), Chatom, Alabama.[1] Petitioners proposed to substitute Channel 254A for Channel 276A at Chatom to permit Station WHER to move its transmitter and maintain its Class C status at Hattiesburg.[2]

2. RHI indicates that the presence of Channel 276A at Chatom hinders its ability to move its transmitter to a site where it could operate at full Class C values. If Channel 291A is substituted for Channel 276A at Chatom, it would permit Station WHER to provide expanded coverage to its service area in Hattiesburg, while retaining the only local service at Chatom. Therefore, petitioners request the substitution of channels and modification of Station WCCJ's permit accordingly at Chatom.

3. We believe the proposal warrants consideration. Channel 291A can be substituted for Channel 276A at Chatom consistent with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules.

4. Although Benchmark submitted a statement in which it supported the original request to substitute Channel 254A for 276A at Chatom, we are issuing a show cause order to it to determine its willingness to modify its permit for Station WCCJ(FM) to Channel 291A instead.

5. With respect to the proposed modification of Station WCCJ(FM), the Commission's established policy provides for reimbursement of reasonable costs incurred in changing a station's frequency from the party benefitting from a new channel allotment. The parties have not mentioned whether an agreement has been reached with regard to reimbursement. RHI should indicate its willingness to reimburse or whether another agreement has been reached in this regard should the Chatom proposal be implemented.

6. Accordingly, we consider it appropriate to seek comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Chatom, Alabama	276A	291A

7. It is ordered That, pursuant to section 316(a) of the Communication Act of 1934, as amended, Benchmark Communications Corporation, the permittee of Station WCCJ(FM), Chatom, Alabama, shall show cause why its permit should not be modified to specify operation on Channel 291A in lieu of Channel 276A.

8. Pursuant to § 1.87 of the Commission's Rules, Benchmark Communications Corporation may, not later than February 3, 1986, request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Benchmark Communications Corporation may, not later than February 18, 1986, file written statement showing with particularity why its permit should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Benchmark Communications Corporation to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the premit as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above; Benchmark Communications Corporation will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission if the above-mentioned channel modification is ultimately found to be in the public interest.

9. It is further ordered, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this *Order* to the permittee of Station WCCJ(FM), Chatom, Alabama, as follows: Benchmark Communications Corporation, 4700 S.W. 75th Avenue, Miami, Florida, 33155.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

11. Interested parties may file comments on or before February 3, 1986, and reply comments on or before February 18, 1986, and are advised in read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

---

[1] Although Fuss held the construction permit for Station WDAL(FM) at the time this petition was filed, the permit was subsequently assigned to Benchmark Communications Corporation and the call letters changed to WCCJ(FM).

[2] The allotment of Channel 254A to Chatom conflicts with a separate request to substitute Channel 254C1 for Channel 252A at Chickasaw, Alabama, and to modify the license of Station WDLT(FM) [RM-5108]. Therefore, in order to accommodate petitioners' proposal, staff engineering study has determined that Channel 291A is available at Chatom. Accordingly, we have substituted that channel for consideration herein.

Donald Furr, P.O. Box 707, Columbus, Mississippi 29702–0707 (Petitioner—Radio Hattiesburg, Inc.)

and

John Wells King, Esq., Haley, Bader and Potts, 2000 M Street, NW.—Suite 600, Washington, DC 20036–4574 (Counsel for Benchmark Communications Corporation)

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For futher infomation concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time of a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85–30010 Filed 12–18–85; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 85–382; RM–5049]

FM Broadcast Station in Rocky Ford, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of FM Channel 238Cl for Channel 240A and modification of the license of Station KAVI–FM, Rocky Ford, Colorado, in response to a petition filed by Two A, Inc. The proposal could provide Rocky Ford with its first wide-area coverage FM channel.

DATES: Comments must be filed on or before February 3, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Rocky Ford, Colorado; MM Docket No. 85–382 RM–5049.

Adopted: November 25, 1985.

Released: December 13, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed by Two A, Inc. ("petitioner"), licensee of Station KAVI–FM (Channel 240A), Rocky Ford, Colorado, which seeks the substitution of Channel 238C1

for Channel 240A and modification of its license accordingly. Petitioner's proposal is premised on its desire to provide expanded coverage to area residents, as well as those in nearby Crowley and Otero Counties.

2. We believe the proposal warrants consideration. A staff engineering study reveals that Channel 283Cl can be alotted to Rocky Ford in conformity with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules.

3. In view of the above, we shall propose to modify the license of Station KAVI-FM, as requested by petitioner, in the event Channel 238Cl is substituted for Channel 240A at Rocky Ford, Colorado. However, consistent with Commission precedent, should another interest in the allotment be shown, the modification could not be made at this time unless at least one additional equivalent channel is available in the community to accommodate any other expressions of interest. See, *Modification of FM and TV Station Licenses*, 98 F.C.C. 2d 916 (1984).[1]

4. Accordingly, we consider it appropriate to sek comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Rocky Ford, Colorado	240A	238Cl

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before February 3, 1986, and reply comments on or before February 18, 1986, and are advised to read the Appendix for the proper procedures. Additonally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: J. Dominic Monahan, Esq. Dow, Lohnes and Albertson, 1255 23rd Street, NW., Washington, DC 20037 (Counsel for Petitioner).

[1] Interested parties should consider the pendency of the *Notice of Proposed Rule Making* (MM Docket No. 85-313) 50 FR 45439, published October 31, 1985, which proposes to permit FM stations to upgrade on adjacent channels without demonstrating the availability of another equivalent class of channel.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Commissions Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel then was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the date set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular hours in the Commission's Public Reference Room at

its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-30011 Filed 12-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-383; RM-5016]

FM Broadcast Station in Holmes Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 254A to Holmes Beach, Florida, as its first FM channel in response to a petiton filed by Robert V. Barnes.

DATE: Comments must be filed on or before February 3, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Holmes Beach, Florida); MM Docket No. 85-383 RM-5016.

Adopted: November 25, 1985.

Released: December 13, 1985.

1. Before the Commission is a petition for rule making filed by Robert V. Barnes ("petitioner") which seeks the allotment of Channel 254A to Holmes Beach, Florida, as its first FM service. Petitioner stated his intention to apply for the channel.

2. Channel 254A can be allotted to Holmes Beach in compliance with the minimum distance separation requirements.[1] In view of the fact that the proposal could provide a first FM service to Holmes Beach, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Holmes Beach, Florida		254A

3. The Commission's authority to institute rule make proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before February 3, 1986, and reply comments on or before February 18, 1986, and are advised to read the Appendix for the proper procedures. Additionally, copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Frederick H. Walton, Jr., Dempsey and Kaplovitz, 1401 New York Avenue, Washington, DC 20005.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments event if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initital comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or

[1] The separations are met, based on a construction permit issued to Station WRYO, Crystal River, Florida.

before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the persons(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or the documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-30012 Filed 12-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR part 73

[MM Docket No. 85-384; RM-4985]

FM Broadcast Station in Willow Springs, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C2 Channel 262 for Channel 261A at Willow Springs, Missouri, and modification of the construction permit in response to a petition filed by Woodridge Enterprises, Inc. The assignment could provide Willow Springs with a first Class C2 assignment.

DATES: Comments must be filed on or before February 3, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle; Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Willow Springs, Missouri); MM Docket No. 85-384 RM-4985.

Adopted: November 25, 1985.

Released: December 13, 1985.

By the Chief, Policy and Rules Divisions.

1. The Commission has before it a petition for rule making filed by Woodridge Enterprises, Inc.[1] ("petitioner"), requesting the substitution of FM Channel 262C2 for 261A at Willow Springs, Missouri, and modification of its construction permit to specify the new channel.

2. We believe the petitioner's proposal warrants consideration. The channel can be assigned in compliance with the minimum distance separation requirements of the Commission's Rules. We shall also propose to modify petitioner's construction permit for Channel 261A to specify operation on Channel 262C2. However, in conformity with Commission precedent, should another party indicate an interest in the Class C2 allotment, the modification could not be implemented unless an additional equivalent channel is also alloted. See, *Modification of FM and TV Stations Licenses,* 98 F.C.C. 2d 916 (1984).[2]

3. In order to provide a wide coverage area station for the Willow Springs area, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Willow Springs, Missouri	261A	262C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel with be allotted.

5. Interested parties may file comments on or before February 3, 1986, and reply comments on or before February 18, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Todd D. Gray, Dow, Lohnes and Albertson, 1255 Twenty-Third Street, NW., Suite 500, Washington, DC 20037 (Counsel for petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as

[1] Petitioner is the permittee for Channel 261A, Willow Springs, Missouri (BPH831216BP).

[2] Interested parties should consider the pending proposal (*Notice of Proposed Rule Making* in MM Docket 85-313, 50 Fed. 45439, published October 31, 1985), which proposes to permit FM stations to upgrade on adjacent channels without demonstrating the availability of another equivalent class of channel.

set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, it authorized, to build a station promptly. Failure to file may lead to denial ot the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-30013 Filed 12-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-381; RM-5120]

FM Broadcast Station in Lake View, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 277A to Lake View, South Carolina, as that community's first local FM service, at the request of Andrews-Intermart Broadcasting Company and Williard Payne.

DATES: Comments must be filed on or before February 3, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations, (Lake View, South Carolina); MM Docket No. 85-381 RM-5120.

Adopted: November 25, 1985.

Released: December 13, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the request of Andrews-Intermart Broadcasting Company, on behalf of Willard Payne ("petitioner"), to allocate Channel 277A to Lake View, South Carolina, as its first local service.[1] Petitioner states that he will apply for the frequency, if allocated.

2. Channel 277A can be utilized at Lake View in compliance with the Commission's mileage separation requirements if the transmitter is sited at least 9.8 kilometers (6.1 miles) northwest to avoid short-spacings to Stations WGNI, Wilmington, North Carolina, and WEZI, Charleston, South Carolina. This site restriction does not negate the short-spacing to Station WZYC at Newport, North Carolina, at its current site and with its present facilities. However, Station WZYC has an application pending to move its transmitter location and downgrade its operation to that of a Class C1 (850628ID). Therefore, the finalization of this request is contingent upon the grant of Station WZYC's pending application.

3. Section 307(b) of the Communications Act of 1934, as amended, mandates that the Commission allocate broadcast channels to "communities." A community for allocation purposes has been defined as an identifiable population grouping. Generally, if a community is incorporated or is listed in the U.S. Census, that is sufficient to satisfy its status. However, absent such recognizable community factors, the petitioner must present the Commission with sufficient information to demonstrate that such a place has social, economic or cultural indicia to qualify it as a "community" for allocation purposes. See, *e.g., Ansley Alabama,* 46 FR 58688, published December 3, 1981, and *Cascade Village, Colorado,* 48 FR 19917, published May 3, 1983. Here, Lake View is listed in the 1984 Edition of the Rand McNally Road Atlas and attributed with a population of 939 persons. However, it is not listed in the 1980 U.S. Census nor can we determine that the place is incorporated. Therefore, petitioner is requested to submit additional information regarding

[1] The request for the Lake View allocation was filed as part of a counterproposal in MM Docket 84-231 by Andrews-Intermart seeking the substitution of Channel 283C2 for Channel 265A at Andrews, South Carolina, and the modification of its construction permit for Station WQSC (FM) to specify operation on the higher powered channel. The Lake View proposal wa not accepted at that time as the request did not conflict with any of the proposals under consideration in the omnibus rule making. The Andrews proposal was also deemed to be unacceptable for consideration as part of the omnibus proceeding. Andrew-Intermart has also filed a petition for reconsideration of thse actions in conjunction with other pending reconsideration requests in Docket 84-231. The Lake View reconsideration is dismissed as moot based on the *Notice of Proposed Rule Making* herein.

Lake View to demonstrate whether it has any business, social organizations, or governmental units that identify themselves therewith.

5. In view of the foregoing, we believe the public interest would be served by seeking comments on the proposed allocation. However, absent sufficient demographic data substantiating petitioner's claim as to the status of Lake View, this allocation will not be finalized. Accordingly, the Commission seeks comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to Lake View, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Lake View, South Carolina		277A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be alloted.

7. Interested parties may file comments on or before February 3, 1986, and reply comments on or before February 18, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Gary S. Smithwick, Esq., Keith & Smithwick, 1320 Westgate Drive, Winston-Salem, North Carolina 27103 (Counsel for the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 47 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau

Appendix

1. Pursuant to authority found in section 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 30014 Filed 12-18-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Astragalus robbinsii var. jesupi (Jesup's Milk-Vetch) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Astragalus robbinsii* var. *jesupi* (Jesup's milk-vetch) to be an endangered species, and thereby to provide the species needed protection under the authority contained in the

Endangered Species Act of 1973, as amended. This species is known from one site in Vermont and two sites in New Hampshire. The total known range of the species is along approximately 16 miles (25 kilometers) of the Connecticut River, where the plants are associated with calcareous bedrock outcrops. Hydropower development and increased recreational activity along the river could threaten the species' continued existence. Critical habitat is not being proposed. Comments are solicited.

DATES: Comments from all interested parties must be received by February 18, 1986. Public hearing requests must be received by February 3, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to: Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard W. Dyer at the above address (617/965–5100 or FTS 829–9316).

SUPPLEMENTARY INFORMATION:

Background

Jesup's milk-vetch is a plant of the pea family (Fabaceae) that is only known to occur at three sites on the banks of the Connecticut River in New Hampshire and Vermont. The total range of the species is restricted to approximately 16 miles (25 kilometers) along the river, where it occurs on calcareous schist outcrops. The perennial herbs grow from rhizomes in the silt-filled crevices of outcrops or at the high water mark, where they are shaded by associated trees and shrubs. The one to several stems are 8–24 inches (2–6 decimeters) tall and are either smooth or sparsely covered by short appressed hairs. The leaves are pinnately compound. The 9–17 leaflets are ⅛–¾ inches (1–2 centimeters) long, oblong to elliptic in shape, and may also have a few short hairs. The violet to bluish-purple flowers appear in late May or early June. The fruit is a flattened tapered pod; the form of the pod is important in differentiating among the three New England varieties of *Astragalus robbinsii*. Of these three known varieties, *A. robbinsii* var. *robbinsii* is now extinct, *A. robbinsii* var. *minor* is very rare, and the third, *A. robbinsii* var. *jesupi*, is the subject of this proposal (Barneby, 1964).

Astragalus robbinsii (Oakes) Gray var. *jesupi* Eggleston and Sheldon has persisted at the Hartland, Vermont, location since it was first discovered on May 19, 1881, by Jesup and Perkins. Many early collections were made at this site. This population now consists of fewer than 75 plants. Although collecting for scientific purposes is not now considered a threat to the species' continued existence, any additional loss or taking of plants for any purpose would be extremely detrimental.

Two other populations of Jesup's milk-vetch are known to exist. One small population of six plants occurs at Sumner's Falls near Plainfield, New Hampshire, and the most vigorous colony, of several hundred plants, occurs approximately sixteen miles downstream in Claremont, New Hampshire. This unique stretch of river not only provides the essential habitat requirements for the milk-vetch but is also habitat for a variety of rare plants and animals. Two other candidates for Federal listing, the dwarf wedge mussel *(Alasmidonta heterodon)* and the cobblestone tiger beetle (*Cicindela marginipennis*), are known to exist in the same area. Fifteen plant species considered by the New Hampshire Natural Heritage Inventory as being rare, threatened, or endangered in the State also occur along this stretch of river. Due to the diverse assemblage of plants and animals of State and Federal significance, the New Hampshire Natural Heritage Inventory, in a letter dated November 15, 1984, to the Federal Energy Regulatory Commission, has identified a portion of this habitat as "the most significant natural area in this state of New Hampshire in need of conservation."

Astragalus robbinsii var. *jesupi* was first recommended for Federal listing as an endangered plant species by the Smithsonian Institution in its december 15, 1974, report to Congress, *Report on Endangered and Threatened Plant Species of the United States* (House Document No. 94–51). On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823), indicating its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) of the Endangered Species Act of 1973 (Act) (petition acceptance is now covered by section 4(b)(3) of the Act, as amended). Jesup's milk-vetch was one of approximately 1,700 plant species proposed for Federal listing on June 16, 1976 (41 FR 24523). On December 10, 1979 (44 FR 70796), the Service published notice of the withdrawal of that portion of the 1976 proposal that had not been made final because of the provisions mandated in the Endangered Species Act Amendments of 1978 (Pub. L. 95–632). The withdrawal notice was required because of a deadline for making rules final and was not related to the conservation status of the proposed taxa.

The Service published a comprehensive **Federal Register** notice on December 15, 1980 (45 FR 82480), that was intended to reflect the Service's judgment of the probable status of all plant taxa that had been included in previous notices or proposals. Jesup's milk-vetch was recognized as a category-2 candidate in that notice. Category-2 candidates are taxa for which existing information indicates the possible appropriateness of proposing to list as endangered or threatened, but for which sufficient information is not presently available to biologically support a proposed rule.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned and the deadline for a finding of those species, including *Astragalus robbinsii* var. *jesupi*, was October 13, 1983. On October 13, 1983, October 12, 1984, and again on October 11, 1985, the petition finding was made that listing *Astragalus robbinsii* var. *jesupi* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Notification of the 1983 finding was published in the January 20, 1984, **Federal Register** (49 FR 2485); notification of the 1984 finding was published on May 10, 1985 (50 FR 19761). Such a finding requires a recycling of the petition, pursuant to Section 4(b)(3)(c)(i) of the Act. Therefore, a new finding must be made on or before October 13, 1986; this proposed rule constitutes the finding that the petitioned action is warranted, and proposes to implement the action in accordance with Section 4(b)(3)(B)(ii) of the Act.

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 FR 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 *Astragalus robbinsii* (Oakes) Gray var. *jesupi* Eggleston and sheldon are as follows:

A. *The present or threatened destruction, modification, or curtailment*

of its habitat or range. The most significant threat to Jesup's milk-vetch is the direct inundation or alteration of its habitat by future hydropower projects. The Federal Energy Regulatory Commission (FERC) has issued a preliminary permit to a private developer for a 20 megawatt dam that would destroy two of the three populations and may have an adverse impact on the third. A preliminary permit does not authorize the construction of a project but rather grants the permittee exclusive rights to conduct studies on the feasibility of the project at the specified site.

The Service officially notified FERC on November 4, 1984, that the proposed Hart Island project would have "substantial environmental impacts that will be difficult or impossible to mitigate * * *" The Service also stated it would "oppose issuances of a license * * *" and would likely "recommend intervention during the licensing process * * *" The Service's comments were primarily based on concerns regarding the project's adverse impacts on the Connecticut Salmon Restoration Program, the loss of important fish and wildlife habitats, and the effects on rare, threatened and endangered species. Although it is uncertain if the developer will proceed with the project, other private developers would be free to examine the suitability for a hydropower facility at Hart Island if the original applicant does withdraw.

The riverbank ecosystem provides the essential requirements for the species' growth and reproduction. Spring flows annually scour the calcareous outcrops and deposit nutrient-rich sediments in the rock crevices and depressions, creating niches for the plants' existence. Shade provided by the mature hardwood trees at the top of the riverbank is also an important factor in the plants' survival. The cutting of trees at the top of the bank or the development of any water-resources project that would significantly alter the river's flow regime in the area where *Astragalus robbinsii* var. *jesupi* exists would be a serious threat to the species' continued existence.

Sumner's Falls is a scenic area and is heavily utilized for recreational purposes, including canoeing, fishing, sightseeing, picnicking, etc. The increased demand for recreational opportunities will attract more people to the area, and inadvertent trampling of the few remaining plants is a major concern.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Many historical scientific collections of this plant were recorded from the Sumner's Falls, population. Only a few plants remain at this easily accessible site, and additional taking or collecting for any purpose could be extremely detrimental.

C. *Disease or Predation.* Not applicable to this species.

D. *The inadequacy of existing regulatory mechanisms.* Both New Hampshire and Vermont recognize *Astragalus robbinsii* var. *jesupi* as an endangered species in unofficial State reports prepared as part of a cooperative project between the New England Botanical Club and the Service (Crow, 1982; Countryman, 1978; Storks and Crow, 1978). Neither State, however, offers the species any official protection at this time. The State of Vermont provides a limited degree of protection for the species under a comprehensive law called Act 250 (10 V.S.A. 6001–91). Under Act 250 a permit for a proposed development would be denied if the project would cause an adverse impact on "* * * a rare and irreplaceable natural area * * *" or "* * * destroy or significantly imperil necessary wildlife habitat or any endangered species * * *" The species has also been proposed for official listing under a recently passed Vermont State endangered species law. Final action is still pending, however.

E. *Other natural or manmade factors affecting its continued existence.* Two of the three remaining populations are small, and easily accessible, and occur in areas where there is heavy recreational use. The small number of plants and limited reproductive potential combined with the vulnerability of the sites are causes for concern, as human-related or natural chance events could have a serious impact on these populations. The species' biology and population dynamics are not well understood, and it is difficult to assess the significance of a chance event like reproductive failure due to severe weather, change in micro-climatic conditions, etc.

In addition, the protection of the specific areas where the plants ocur may not provide sufficient protection if development projects or other actions in the upstream portions of the watershed significantly affect the local flow regime. An understanding of the species' biology and relationship to river flow therefore becomes an important consideration in the species' protection and recovery strategy.

The Service has carefully assessed the best scientific 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 list *Astragalus robbinsii* var. *jesupi* as endangered. Due to the small number of populations and the threats to its riverine habitat, the plant is in need of protection if it is to survive.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of benefit to the species involved (50 CFR 424.12). In the present case, the Service believes that designation of critical habitat would not be prudent because no benefit to the taxon can be identified that would outweigh the potential threat of vandalism or collection, which might be caused by the publication of a detailed critical habitat description and map.

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 and State agencies, private conservation organizations, and individuals. Because of the diverse assemblage of rare plants and invertebrates of State and Federal significance associated with the habitat in which the milk-vetch occurs, The Nature Conservancy is actively working to protect the sites of known populations. Other conservation measures, including required protection efforts by Federal agencies and prohibitions against taking, 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 threatened, 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. When a species is listed, 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 agency must enter into formal consultation with the Service. The only known current Federal action that would affect *Astragalus robbinsii* var. *jesupi* involves the Federal Energy Regulatory Commission and its authority for issuing permits and operating licenses to private developers for hydropower projects. The Department of the Interior responded to FERC's Public Notice of September 17, 1984, concerning an application for a preliminary permit for the Hart Island hydropower project and notified FERC of the existence of three Federal candidate species in the project area. The November 14, 1984, letter signed by the Regional Environmental Officer (Office of the Secretary) also notified FERC that substantial information was on hand to support the biological appropriateness of listing the milk-vetch and that the Service intended to initiate the formal listing process within a few months.

The State of New Hampshire has initiated a program to promote the recreation opportunities and enhance the tourist economy of the Connecticut River Valley. In addition to attracting visitors to the river, one of the program's objectives is to protect the significant natural resources of the area. Protecting endangered and threatened species and their habitats will need to be a major consideration in the program due to the potentially severe adverse impacts that can occur if expanded recreational opportunities are not carefully planned. The Service will work closely with the State of New Hampshire and private conservation organizations to ensure that the protection of the milk-vetch is carefully considered in the development of alternative recreational plans.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Astragalus robbinsii* var. *jesupi* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. With certain exceptions, these prohibitions would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. There is no known commercial trade in *Astragalus robbinsii* var. *jesupi* and the Service therefore anticipates few, if any, requests for such permits.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species in areas under Federal jurisdiction. This prohibition would apply to *A. robbinsii* var. *jesupi*. Permits for exceptions to this prohibition are available under regulations published September 30, 1985 (50 FR 39681). *Astragalus robbinsii* var. *jesupi*, however, does not occur on Federal lands.

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 this proposed rule are hereby solicited. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Astragalus robbinsii* var. *jesupi*;

(2) The location of any additional populations of this species 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; and

(4) Current or planned activities that may impact existing populations.

Final promulgation of a regulation on *Astragalus robbinsii* var. *jesupi* will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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 the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the 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).

Literature Cited

Barneby, R.C. 1964. Atlas of the North American *Astragalus*. Memoirs of the New York Botanical Garden 13:1–594, 594–1288.

Countryman, W.D. 1978. Rare and Endangered Vascular Plant Species in Vermont. U.S. Fish and Wildlife Service, Region 5, Newton Corner, Massachusetts.

Crow, G.E. 1982. New England's Rare, Threatened and Endangered Plants. U.S. Government Printing Office, Washington, DC.

Storks, I.M. and G.E. Crow. 1978. Rare and Endangered Vascular Plant Species in New Hampshire. U.S. Fish and Wildlife Service, Region 5, Newton Corner, Massachusetts.

Author

The author of this proposed rule is Richard W. Dyer, Endangered Species Staff, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100 or FTS 829–9316).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation 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 § 17.12(h) by adding the following, in alphabetical order under family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
Astragalus robbinsii var. *jesupi*	Jesup's milk-vetch	U.S.A. (NH, VT)	E		NA	NA

Dated: December 4, 1985.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-30004 Filed 12-18-85; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 244
Thursday, December 19, 1985

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

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest, Sitka, AK; Intent To Prepare a Supplement to the Draft Enviromental Impact Statement

The USDA Forest Service will issue a supplement to the Draft Environmental Impact Statement filed May 17, 1985 for the 1986–90 Operating Period for the Alaska Pulp Corporation (APC) Long-term Timber Sale Contract Area.

The supplement will address additional information and circumstances relevant to environmental concerns which bear on the proposed action and its impacts. As a result of APC's comments, the Forest Service has agreed to consider two additional areas for harvest during the operating period and address the environmental effects of harvest activities in them. These areas are Trap Bay on Chichagof Island and Security Bay on Kuiu Island. The Supplement will also disclose consequences of an alternative submitted jointly by the City of Hoonah, Huna Totem Corporation and Sealaska Corporation.

The supplement to the Draft Environmental Impact Statement is expected to be available for review in February 1986. The Final Environmental Impact Statement is scheduled to be completed in November 1986.

The responsible official in Michael A. Barton, Alaska Regional Forester. Questions about the proposed action and supplement to the Draft Environmental Impact Statement or on the activities covered in the supplement should be directed to K.W. Roberts, Forest Supervisor, Chatham Area, Tongass National Forest, 204 Siginaka Way, Sitka, Alaska 99835 phone 907–747–6671 or Robert E. Lynn, Forest Supervisor, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska, 99833 phone 907–772–3841.

Dated: December 6, 1985.
Michael A. Barton
Regional Forester.
[FR Doc. 85–30045 Filed 12–18–85; 8:45 am]
BILLING CODE 3410–11–M

Office of Inspector General

Privacy Act of 1974; Public Notice of Computer Matching Programs—Federal Personnel or Beneficiaries Participating in Department of Agriculture Programs and Cross-State Wage Match of Food Stamp Program Participants in Illinois and Indiana

AGENCY: Office of Inspector General, USDA.

ACTION: Notice of matching programs—Federal personnel or beneficiaries participating in U.S. Department of Agriculture programs and cross-State wage match of Food Stamp Program participants in Illinois and Indiana.

SUMMARY: The Office of Inspector General (OIG), U.S. Department of Agriculture (USDA), is providing notice that it intends to conduct continuing matching programs to detect and prevent fraud and abuse in USDA programs. The matches will compare Farmers Home Administration (FmHA) loan files against the personnel data files of the Office of Personnel Management (OPM) for the purpose of identifying Federal personnel who are delinquent on loan payments to FmHA. The matches will also compare personnel data files of the OPM and various Federal personnel or Veterans Administration (VA) pension records with certain Food Stamp Program records for the purposes of identifying Federal personnel who have received food stamp benefits to which they are not entitled. In addition, in Illinois and Indiana, OIG intends to match State unemployment compensation wage records with Food Stamp Program records to identify Food Stamp recipients who have underreported their income and have received excess benefits. The matches will be made under written agreements between USDA and each of the source agencies involved. Set forth below is the information required by paragraph 5f(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget. 47 FR 21656 (May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Lucius L. Free, Assistant Inspector General for Administration, U.S. Department of Agriculture, Office of Inspector General Washington, D.C., 20250, telephone (202) 447–6915.

Report of Matching Programs: Federal Personnel or Beneficiaries Participating in U.S. Department of Agriculture Programs and Cross-State Wage Match of Food Stamp Program Participants in Illinois and Indiana

a. *Authority:* Pub. L. 95–452, Inspector General Act of 1978, 5 U.S.C. App.

b. *Program Description and Purpose:* One of the responsibilities of OIG under the Inspector General Act of 1978 (Pub. L. 95–452) is to prevent and detect fraud and abuse in USDA programs. As part of the effort to meet this responsibility, OIG plans to match lists of food stamp participants in various States against personnel data files of the Office of Personnel Management (OPM), Department of Navy (Navy), and U.S. Postal Service (USPS) to detect underreporting of income in order to receive food stamp benefits without entitlement. These matches will be done on a continuous basis throughout the United States. In addition, OIG intends to conduct a one-time match of Hawaii food stamp participants against Department of Navy (Navy) payroll and Veterans Administration (VA) pension data files to detect underreporting of income in order to receive food stamps without entitlement. In Illinois and Indiana, OIG also intends to match lists of food stamp participants against State unemployment compensation data files.

In addition, OIG intends to conduct a continuing matching program of FmHA loan files against the personnel data files of OPM to identify Federal employees who are delinquent on FmHA loan payments.

All matches will be accomplished through the use of computer files and will identify common elements of USDA program files and respective Federal personnel, VA benefit, or State unemployment compensation data files by comparing social security numbers (SSN) or some combination of SSN with name and/or date of birth. OIG will

follow up on these matches of common elements or "hits" through review of USDA program records and matching source records, and interviews of the "matching" individuals as necessary. Instances where this followup work identifies abuse or fraud may be referred to the program agency for corrective action or to the proper authorities for prosecution, as appropriate.

c. *Files to be used in this matching program are:*

(1) U.S. Department of Agriculture:

a. FmHA Applicant/Borrower or Grantee File, (USDA/FmHA-1), 50 FR 25727, June 21, 1985;

b. State agency food stamp master files for selected States.

(2) Office of Personnel Management:

a. Central Personnel Data File (CPDF) within the General Personnel Records System (OPM/Govt-1), 48 FR 37124;

b. Civil Service Retirement and Insurance File within the Civil Service Retirement and Insurance Records Systems (OPM/Central-1), 48 FR 37122.

(3) U.S. Postal Service, USPS 050.020, Payroll System, 50 FR 28862.

(4) Department of Navy, Joint Uniform Military Pay System (JUMPS), 50 FR 2281.

(5) Veterans Administration, Pension files within the Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28), 46 FR 372.

(6) Illinois Bureau of Employment Security Wage Data File.

(7) State of Indiana Employment Security Wage Data File.

d. *Projected starting and ending dates:* This matching will be done on a continuous basis throughout the United States. The matching programs for Hawaii, Illinois, and Indiana food stamps are scheduled to begin in fiscal year 1985 and end in fiscal year 1986. The matching programs for Florida and Georgia food stamp and FmHA loans are scheduled to begin in fiscal year 1986 and end in either fiscal year 1986 or 1987. Other States may be selected for matches in fiscal year 1986.

e. *Security safeguards:* Computer files used in the matching program will be stored in secure libraries and access will be restricted to only those individuals who have a legitimate need to handle the material in order to accomplish the matches. The personal privacy of individuals identified on the files will be protected by strict compliance with the Privacy Act of 1974. Information concerning "non-matching" individuals will not be extracted for any purpose and source files will not be used for any matches without specific written agreement between USDA and the respective source agency.

f. *Disposition of source records and "hits":* All files received will be destroyed or returned to their source at the completion of the matches. Resulting "hit" information may be retained in audit workpapers.

Dated: December 13, 1985.

Robert W. Beuley,

Deputy Inspector General.

[FR Doc. 85-30018 Filed 12-18-85; 8:45 am]

BILLING CODE 3410-23-M

Office of International Cooperation and Development

Intent To Award Cooperative Agreements; Virginia State University et al.

Activity: The Office of International Cooperation and Development intends to amend two existing cooperative agreements, one with Virginia State University, Petersburg, Va. and one with Alabama A&M, Normal, Alabama, to extend the duration for one year and to provide additional funding. The cooperative agreements, which govern farming systems research, development, and extension, focus on the inter-relationships between the farm household and farm firm in order to develop realistic models of rural development programs appropriate for use with small, limited resource farms both domestically and internationally.

Authority: Section 1458 of the National Agricultural Research and Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291).

The Office of International Cooperation and Development announces the availability of funds for fiscal year 1986 to amend two cooperative agreements (with Virginia State University and with Alabama A&M) in the amount of $25,000 each. The extension will further development of Farming Systems Research and Development Projects in South Central Virginia and Northern Alabama testing methods and approaches adopted for use in developing countries.

This award will be made only to Virginia State University and to Alabama A&M in fulfillment of the Department's commitment to develop the capacity of historically Black colleges (1890 institutions). These institutions have been specifically selected because they are uniquely qualified to cooperate in this activity because of their broad interests and extensive experience in farming systems research and development.

In addition, the institutions have previously cooperated in (1) assessing total needs of the limited resource farm, both farm and household, in South Central Virginia and (2) assisting in the development of a new methodology for working with the limited resource farm and household through a farming systems approach. These accomplishments provide the groundwork for the proposed amendments to the cooperative agreements. Assistance will be provided only to Virginia State University and to Alabama A&M which have been collaborating with the Technical Assistance Division, Natural Resource and Farming Systems Program, since 1983. Based on the above, this is not a formal request for applications. It is estimated that approximately $25,000 will be available in Fiscal Year 1986 per amendment. It is anticipated that the cooperative agreements will be funded over a budget period of 12 months.

Information may be obtained from: Dr. Donald Ferguson, Natural Resource and Farming Systems Program, Technical Assistance Division, Office of International Cooperation and Development, U.S. Department of Agriculture.

Charle A. Rooney,

Acting Chief, Management Services Branch.

[FR Doc. 85-30005 Filed 12-18-85; 8:45 am]

BILLING CODE 3410-DP-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-405]

Antidumping Duty Order: Cellular Mobile Telephones and Subassemblies From Japan

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

ACTION: Notice.

SUMMARY: In separate investigations concerning cellular mobile telephones and subassemblies from Japan, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that cellular mobile telephones and subassemblies from Japan are being sold at less than fair value and that sales of cellular mobile telephones and subassemblies from Japan are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of cellular mobile telephones and subassemblies from Japan on or after June 11, 1985, the date on which the Department published its

"Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: December 19, 1985.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are cellular mobile telephones (CMTs), CMT transceivers, CMT control units, and certain subassemblies thereof, which meet the tests set forth below. CMTs are radio-telephone equipment designed to operate in a cellular radio-telephone system, i.e., a system that permits mobile telephones to communicate with traditional land-line telephones via a base station, and that permits multiple simultaneous use of particular radio frequencies through the division of the system into independent cells, each of which has its own transceiving base station. Each CMT generally consists of (1) a transceiver, i.e., a box of electronic subassemblies which receives and transmits calls; and (2) a control unit, i.e., a handset and cradle resembling a modern telephone, which permits a motor-vehicle driver or passenger to dial, speak, and hear a call. They are designed to use motor vehicle power sources. Cellular transportable telephones, which are designed to use either motor vehicle power sources or, alternatively, portable power sources, are included in this investigation.

Subassemblies are any completed or partially completed circuit modules, the value of which is equal to or greater than five dollars, and which are dedicated exclusively for use in CMT transceivers or control units. The term "dedicated exclusively for use" only encompasses those subassemblies that are specifically designed for use in CMTs, and could not be used, absent alteration, in a non-CMT device. The Department selected the five dollar value for defining the scope since this is a value that it has determined is equivalent to a "major" subassembly. The Department feels that a dollar cut-off point is a more workable standard than a subjective determination such as whether a circuit module is "substantially complete." Examples of subassemblies which may fall within this definition are circuit modules containing any of the following circuitry or combinations thereof: audio processing, signal processing (logic), RF, IF, synthesizer, duplexer, power supply, power amplification, transmitter, and exciter. The presumption is that CMT subassemblies are covered by the order unless an importer can prove otherwise. An importer will have to file a declaration with the Customs Service to the effect that a particular CMT subassembly is not dedicated exclusively for use in CMTs or that the dollar value is less than $5, if he wishes it to be excluded from the order.

The following merchandise has been excluded from this investigation: pocket-size self-contained portable cellular telephones, cellular base stations or base station apparatus, cellular switches, and mobile telephones designed from operation on other, non-cellular, mobile telephone systems.

As noted in our notice of the final determination, cellular mobile telephones and subassemblies are no longer classified under item numbers 685.23, 685.24 and 685.29 of the *Tariff Schedules of the United States (TSUS)*. They are currently classified under TSUS item numbers 685.28 and 685.32.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on June 11, 1985, the Department published its preliminary determination that there was reason to believe or suspect that CMTs from Japan were being sold at less than fair value (50 Fed. Reg. 24554). On October 31, 1985, the Department published its final determination that these imports were being sold at less than fair value (50 Fed. Reg. 45447).

On December 9, 1985, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such importations materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs Unites States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise subject to this order exceeds the United States price for all entries of such merchandise from Japan, with the exception of that produced by Toshiba Corporation who has been excluded from this investigation. These antidumpting duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after June 11, 1985, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (50 FR 45447).

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as noted below:

Manufacturers/sellers/exporters	Weighted-average margin percentage
OKI	9.72
Hitachi	2.99
Toshiba (excluded)	0.00
MELCO	87.83
NEC Corp.	85.57
Matsushita Communication Industrial	106.60
Industrial Co. Ltd	
All other manufacturers/producers exporters	57.81

This determination constitutes an antidumping duty order with respect to CMTs from Japan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-30030 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-410]

Hydrogenated Castor Oil From Brazil; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that hydrogenated castor oil from Brazil is being sold in the United States at less than fair value. The United States International Trade Commission (ITC)

will determine within 45 days of publication of this notice whether these imports are materially injuring, or threatening material injury to a United States industry.

EFFECTIVE DATE: December 19, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane or Charles E. Wilson, Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377–1766 or (202) 377–5288.

SUPPLEMENTARY INFORMATION: Based on our investigation and in accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), we have reached a final determination that hydrogenated castor oil from Brazil is being sold in the United States at less than fair value within the meaning of section 731 of the Act. The weighted-average margins are indicated in the "Suspension of Liquidation" section of this notice.

Case History

On December 28, 1984, we received a petition from Union Camp Corporation on behalf of the U.S. industry producing hydrogenated castor oil. In accordance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that hydrogenated castor oil from Brazil is being, or is likely to be, sold into the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping duty investigation. We notified the U.S. International Trade Commission (ITC) of our action and initiated such an investigation on January 17, 1985 (50 FR 3372). The ITC subsequently found, on February 11, 1985, that there is a reasonable indication that imports of hydrogenated castor oil from Brazil are materially injuring a U.S. industry.

On March 1, 1985, we presented antidumping duty questionnaires to Sanbra, S.A. (Sanbra) and Braswey, S.A. (Braswey). Responses to the questionnaires were received on April 15, 1985. Further supplemental responses were received on May 22, 1985 and June 5, 1985.

On March 13, 1985, the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition. On April 1, 1985, we granted the request (50 FR 13644).

On August 1, 1985, we published our preliminary determination of sales at less than fair value (50 FR 31214).

On August 6, 7, and 15, 1985, we verified the responses of Sanbra. On August 8 and 9, and September 18, 1985, we verified the responses of Braswey.

Pursuant to requests from both respondents, on August 29, 1985, we published a notice of postponement of our final determinaion.

On October 25, 1985, we held a public hearing.

Scope of Investigation

The product covered by this investigation is hydrogenated castor oil currently provided for under item number 178.2000 of the *Traiff Schedules of the United States, Annotated.* We investigated sales of this product by the Brazil producers, Sanbra and Braswey, to the United States during the period of investigation, July 1, 1984, through December 31, 1984. Sales by these firms accounted for approximately 75 percent of the product sold to the United States during the period of investigation.

Fair Value Comparison

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

United States Price

As provide for in section 772 of the Act, for Braswey we compared United States price based on purchase price, as the product was sold to unrelated purchasers prior to importation into the United States. For Sanbra, we compared United States price based on exporter's sales price, as the product was sold to unrelated purchasers in the United States after importation. For Braswey we calculated the purchase price based on the C.I.F., duty paid, packed price to unrelated purchasers in the United States. We made deductions for foreign brokerage, foreign inland freight, ocean freight and marine insurance, U.S. Customs duty, and U.S. brokerage. For Sanbra we calculated the exporter's sales price on the C.I.F., duty paid, packed or C.I.F., duty paid, packed, delivered price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage, handling and port charges, ocean freight and marine insurance, U.S. insurance, credit expenses and other selling expenses incurred in the United States.

Section 772(d)(1)(C) of the Act requires that indirect taxes imposed upon home market merchandise, but which have not been collected on exported merchandise by reason of its exportation to the United States, be added to the United States price to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation. Such a tax, the "ICM" (internal circulation tax), is imposed on home market sales, but the rate of this tax varies with the destination of the merchandise in the home market. Therefore, no single tax rate can be applied as an addition to United States price. For our preliminary determination we deducted this tax as well as the FINSOCIAL and IPI taxes from the home market prices in which they are included. We have continued this methodology for our final calculations.

Sanbra

We have deleted from the U.S. sales listing two sales which were found to have been renegotiated outside the period of investigation and one sale which was found to have been a sale of a product other than hydrogenated castor oil.

In the belief that U.S. inland insurance applied only to merchandise being transported to customer destination in the United States, no insurance charge was deducted from sales out of warehouse for our preliminary determination. However, at verification a review of that insurance policy showed all merchandise to be covered from time of its arrival in the United States until it reached the unrelated purchaser. Thus, an insurance charge was deducted from all sales of the merchandise. Also, a computational error in the calculation of ocean freight charges was corrected which increased that charge slightly.

Braswey

At verification a charge for foreign brokerage, not previously reported, was found to apply to U.S. sales. This has been included in our final calculations.

Calculations errors in U.S. brokerage, ocean freight and marine insurance were adjusted at verification to reflect correct amounts.

Sales commissions applied to two sales were found not to apply and were deleted.

The cost of U.S. packing was recalculated to correct an averaging error.

Foreign Market Value

Sales of such merchandise in the home market were used to represent foreign market value, as provided for in section 773(a) of the Act. Calculations of foreign market value for Sanbra were

based on the ex-factory or delivered, packed prices to unrelated purchasers in the home market. Deductions were made, where appropriate, for inland freight and selling commissions. We also made deductions for credit expenses. We deducted home market indirect selling expenses to offset U.S. indirect selling expenses. We also adjusted for differences in packing costs. The dates of sale for five shipments under a long-term supply contract were changed to reflect the fact that the prices were renegotiated after the original contract date.

Calculations of foreign market value for Braswey were based on ex-factory or delivered, packed prices to unrelated purchasers in the home market. We made deductions for inland freight. We also adjusted for differences in credit terms. For some home market sales used for comparison to U.S. purchase price, sales commissions were paid in one market and not the other. In these cases we made adjustments for the differences between commissions in the applicable market and indirect selling expenses in the other market used as an offset to the commissions, in accordance with § 353.15(c) of the regulations. We adjusted for differences in packing costs. On certain sales, transportation charges were found to reflect the pre-sale movement of merchandise from the factory to the company warehouse. These expenses, as well as interest on warehousing inventory, were added to indirect selling expenses and were allowed, where appropriate, up to the amount of the U.S. sales commissions, which were the lesser of the two.

Claims of technical services expenses could not be verified and were not allowed.

Comparisons were made between sales occurring thirty days on either side of the date of U.S. sale. We disregarded sales of quantities of two thousand kilograms or less because they were not comparable to the usual commercial quantities sold in the U.S. market.

In calculating foreign market value, we made currency conversions from Brazilian cruzeiros to United States dollars in accordance with § 353.56(a) of the regulations, using the certified daily exchange rates for comparisons involving purchase price. For comparisons involving exporter's sales price, we used the official exchange rate as certified by the Federal Reserve for the date of purchase since the use of that exchange rate is consistent with section 615 of the Tariff and Trade Act of 1984 (1984 Act). Therefore, for exporter's sales price sales we chose not to follow § 353.56(a) of the regulations which predates the 1984 Act.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the companies involved. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Petitioner's Comments

Comment 1

The petitioner claims that the Department has understated Sanbra's U.S. credit expenses by applying a short term interest rate lower than that reported in Santra's response.

DOC Position

The rate used by the Department in its final calculations was the average short term interest rate experienced by the company during the period of investigation, as verified from source documents.

Comment 2

Petitioner contends that use of the average warehousing period calculated by Sanbra results in an understatement of their U.S. warehousing expenses.

DOC Position

While individual containers of the product could not be traced into and out of the warehouse, quantities and periods of shipments from the warehouses reviewed at verification were consistent with the claimed average storage period. Therefore, we have used the reported average storage period in our calculation of this expense.

Comment 3

Petitioner claims that quantities shipped under long-term supply contracts, but listed as individuals sales, should be combined in the listing as one sale and that sale should be disregarded as not being in the ordinary course of trade by virtue of its high quantity volume.

DOC Position

The Department agrees that such individual shipments are in their totality one sale, but considers the volume of such a sale under a long term supply contract to be in the ordinary course of trade in this industry based on the sales practices of the companies investigated.

Comment 4

Petitioner contents that Braswey's claim for a circumstance of sale adjustment for technical services expenses is unfounded.

DOC Position

The Department agrees. At the time of verification neither the nature of these expenses nor their relationship to the sales under investigation could be established. This adjustment has not been allowed.

Comment 5

Petitioner claims that Braswey's U.S. credit expenses were improperly calculated in that an expense should be imputed for financial services provided free of charge by a middleman in the United States.

DOC Position

The Department disagrees. The middleman's function proves mutually beneficial to both parties with no financial costs accruing to Braswey. Nor would the absence of this service result in further credit expenses to Braswey regarding these sales.

Comment 6

Petitioner contends that a document submitted by Sanbra indicates a lower ICM tax rate than that claimed in its response, and should be investigated.

DOC Position

The Department verified the ICM tax rates claimed, and further reviewed the document cited by the petitioner without finding any indication of irregularities.

Comment 7

Petitioner contents that the Department should reject Sanbra's contentions that a sale in the home market which is destined for shipment to a third country should not be considered as a home market sale.

DOC Position

The Department agrees. While it was established at verification that the merchandise was shipped by Sanbra's customer to a third country, there was insufficient indication that Sanbra was aware of the ultimate destination of the merchandise at the time of sale.

Comment 8

Petitioner claims that revisions to Braswey's U.S. brokerage charges should be based on the weighed-average brokerage charge calculated at the time of verification.

DOC Position

The Department agrees, and has deducted that weighted-average brokerage charge calculated at verification.

Comment 9

Petitioner contends that Braswey's claims for corrections to "U.S. Customs charges" are not substantiated by the verification.

DOC Position

No corrections were made to U.S. Customs duty at verification. Changes made to Customs brokerage charges are discussed in petitioner's comment number 8.

Comment 10

Petitioner contends that foreign brokerage charges discovered at verification should be deducted from Braswey's U.S. prices.

DOC Position

The Department agrees, and has deducted this amount from Braswey's U.S. prices.

Comment 11

Petitioner contends that additional costs of Braswey's U.S. export packing do not include the costs of labor associated with that packing.

DOC Position

While not specifically addressed in the example cited in its report of verification, the Department did verify that the costs of both labor and materials were included in packing costs. The total average cost of export packing was found to be understated, and the corrected packing cost was used in the final calculations.

Comment 12

Petitioner contends that Braswey's U.S. credit expenses should be adjusted to reflect expenses engendered by the date of customer payment and the cost of purchasing foreign exchange contracts.

DOC Position

The total financing expenses per individual sale were calculated. Braswey stated that no additional charges accrued for foreign exchange contracts beyond the interest charge reflected in them, and a review of financial documentation revealed no such extra charges.

Comment 13

Petitioner contends that the Department must disregard an adjustment for the ICM tax because the amount of tax paid was not verified.

DOC Position

The Department disagrees. While proof of payments of this tax per individual sale could not be obtained because of the government's debit/credit accrual system of accounting, the amounts credited to the government on the sales were verified.

Comment 14

Petitioner contends that Braswey's IPI export credit premium should not be considered in the Department's calculation because receipt of the export credit premium was not verified, the export credit premium is not an uncollected or rebated tax, and the export credit premium is in part negated by an offsetting tax which the respondent did not report.

DOC Position

The Department agrees that the export credit premium is not a rebate of taxes which are added to or included in the price of the merchandise when sold in the home market. Therefore, it would not be appropriate to add the export credit premium to United States price.

Respondents' Comments

Comment 1

Braswey contends that adjustments made to U.S. Customs brokerage and marine insurance costs at the time of verfication should be incorporated in the Department's final calculations.

DOC Position

The Department agrees and has incorporated all verified costs in its final calculations, as outlined in the "U.S. Price" and "Foreign Market Value" sections of this notice.

Comment 2

Braswey contends that the Department should compare sales of comparable quantities or, alternatively, expand the period of investigation to capture more home market sales in large quantities.

DOC Position

The Department agrees and has compared only sales in the most comparable quantities by disregarding home market sales in quantities of two thousand kilograms or less.

Comment 3

Braswey contends that an adjustment should be made in the Department's final calculations to reflect the receipt of IPI export credit premiums.

DOC Position

The Department disagrees. See response to petitioner's comment 14.

Comment 4

Sanbra contends that the Department made computational errors in computing the net cruzeiro per pound price to two home market sales in its preliminary calculations.

DOC Position

The Department agrees and has corrected these errors for the final calculations.

Comment 5

Sanbra contends that corrections to their submitted data made by Department personnel at the time of verification should be incorporated in the Department's final calculations.

DOC Position

The Department agrees and has used this verified data in its final calculations, as outlined in the "U.S. Price" and "Foreign Market Value" sections of this notice.

Comment 6

Sanbra contends that a sale made to a customer for purposes of filling an order for export to a third country should not be considered as a home market sale because the ultimate destination of the merchandise was known at the time of the sale. Alternatively, they contend that the sale should be disregarded, as it is the only sale to a hydrogenator of castor oil who competes with Sanbra and, therefore, out of the ordinary course of trade.

DOC Position

The Department disagrees. Sanbra has failed to establish it knew the destination of the merchandise at the time of sale. (See petitioner's comment 7) The Department, further, considers the hydrogenator to be at the same level of trade as end-users in the home market and wholesalers in the U.S. market and not to be outside the ordinary course of trade.

Comment 7

Sanbra contends that shipments under a long-term supply contract whose prices were subject to renegotiation at the time of shipment should be considered as sales made at the time of shipment rather than the date of original contract.

DOC Position

The Department agrees and has considered the dates of these shipments as the dates of sale.

Comment 8

Sanbra contends that certain low volume sales should be excluded from the Department's calculations because they were not in the usual commercial quantities, nor at the nearest

commercial level of trade comparable to U.S. sales.

DOC Position

The Department has compared sales of comparable quantities in the two markets. See respondent's comment 2.

Comment 9

Sanbra contends that, because of the extent of inflation in the home market, the Department should convert home market prices to U.S. dollars as of the date of shipment of the home market merchandise rather than at the date of the U.S. sale.

DOC Position

The Department disagrees. In keeping with established practice and section 353.56 of its regulations the Department has converted home market prices to U.S. dollars as of the date of the U.S. sales to which they are being compared.

Suspension of Liquidation

We made fair value comparisons on all reported hydrogenated castor oil sold in the United States by the two Brazilian companies during the investigative period. With regard to Braswey we found its weighted-average margin to be 2.38 percent. The weighted-average margin for Sanbra is .75 percent.

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of hydrogenated castor oil from Brazil, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service will require the posting of a cash deposit, bond, or other security in amounts based on the following weighted-average margins.

Company	Weighted-Average Margin (Percent)
Braswey	2.38
Sanbra	0.75
All Others	1.51

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that is will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on hydrogenated castor oil from Brazil entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to the Act (19 U.S.C. 1673d(d)).

Theodore W. Wu,

Acting Assistant Secretary for Trade Administration.

December 13, 1985.

[FR Doc. 85-30069 Filed 12-18-75; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-409]

12-Hydroxystearic Acid From Brazil; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that 12-hydroxystearic acid from Brazil is not, nor is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: December 19, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane or Charles E. Wilson, Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1766 or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation and in accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), we have reached a final determination that 12-hydroxystearic acid from Brazil is not being sold in the United States at less than fair value within the meaning of section 731 of the Act. We made fair value comparisons on approximately 75 percent of all sales of 12-hydroxystearic acid from Brazil to the United States during the period of investigation. We have found that the margins for all companies investigated are zero.

Case History

On December 28, 1984, we received a petition from Union Camp Corporation on behalf of the U.S. industry producing 12-hydroxystearic acid. In accordance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that 12-hydroxystearic acid from Brazil is being, or is likely to be, sold into the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping duty investigation. We notified the U.S. International Trade Commission (ITC) of our action and initiated such an investigation on January 17, 1985 (50 FR 3372). The ITC subsequently found, on February 11, 1985, that there is a reasonable indication that imports of 12-hydroxystearic acid from Brazil are materially injuring a U.S. industry.

On March 1, 1985, we presented antidumping duty questionnaires to Sanbra, S.A. (Sanbra) and Braswey, S.A. (Braswey). Responses to the questionnaires were received on April 15, 1985. Further supplemental responses were received on May 22, 1985 and June 5, 1985.

On March 13, 1985, the petitioner requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition. On April 1, 1985, we granted the request (50 FR 13644).

On August 1, 1985, we published our preliminary determination of sales at less than fair value (50 FR 31214).

On August 6, 7, and 15, 1985, we verified the responses of Sanbra. On August 8 and 9, and September 18, 1985, we verified the responses of Braswey.

Pursuant to requests from both respondents, on August 29, 1985, we published a notice of postponement of our final determination.

On October 25, 1985, we held a public hearing.

Scope of Investigation

The product covered by this investigation is 12-hydroxystearic acid currently provided for under item numbers 490.2650 and 490.2670 of the *Tariff Schedules of the United States, Annotated*. We investigated sales of this product by the Brazilian producers, Sanbra and Braswey, to the United States during the period of investigation, July 1, 1984, through December 31, 1984.

Sales by these firms accounted for approximately 75 percent of the product sold to the United States during the period of investigation.

Fair Value Comparison

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

United States Price

As provided for in section 772 of the Act, for Braswey we compared United States price based on purchase price, as the product was sold to unrelated purchasers prior to importation into the United States. For Sanbra, we compared United States price based on exporter's sales price, as the product was sold to unrelated purchasers in the United States after importation. For Braswey we calculated the purchase price based on the C.I.F., duty paid, packed price to unrelated purchasers in the United States. We made deductions for foreign brokerage, foreign inland freight, ocean freight and marine insurance, U.S. Customs duty, and U.S. brokerage. For Sanbra we calculated the exporter's sales price on the C.I.F., duty paid, packed or C.I.F., duty paid, packed, delivered price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage, handling and port charges, ocean freight and marine insurance, U.S. customs duty, U.S. insurance, credit expenses and other selling expenses incurred in the United States.

Section 772(d)(1)(C) of the Act requires that indirect taxes imposed upon home market merchandise, but which have not been collected on exported merchandise by reason of its exportation to the United States, be added to the United States price to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation. Such a tax, the "ICM" (internal circulation tax), is imposed on home market sales, but the rate of this tax varies with the destination of the merchandise in the home market. Therefore, no single tax rate can be applied as an addition to United States price. For our preliminary determination we deducted this tax, as well as the FINSOCIAL and IPI taxes, from the home market prices in which they are included. We have continued this methodology for our final calculations.

Sanbra

We have deleted from the U.S. sales listing two sales which were found to have been renegotiated outside the period of investigation and one sale which was found to have been subsequently cancelled. One sale erroneously classified as hydrogenated castor oil was found to be a sale of 12-hydroxystearic acid and was added to the U.S. sales listing.

In the belief that U.S. inland insurance applied only to merchandise being transported to customer destination in the United States, no insurance charge was deducted from sales out of warehouse for our preliminary determination. However, at verification a review of that insurance policy showed all merchandise to be covered from the time of its arrival in the United States until it reached the unrelated purchaser. Thus, an insurance charge was deducted from all sales of the merchandise. Also, a computational error in the calculation of ocean freight charges was corrected which increased that charge slightly.

Braswey

At verification a charge for foreign brokerage, not previously reported, was found to apply to U.S. sales. This has been included in our final calculations.

Calculation errors in U.S. brokerage, ocean freight and marine insurance were adjusted at verification to reflect correct amounts.

The cost of U.S. packing was recalculated to correct an averaging error.

Foreign Market Value

Sales of such merchandise in the home market were used to represent foreign market value, as provided for in section 773(a) of the Act. Calculations of foreign market value for Sanbra were based on the ex-factory or delivered, packed prices to unrelated purchasers in the home market. Deductions were made, where appropriate, for inland freight and selling commissions. We also made deductions for credit expenses. We deducted home market indirect selling expenses to offset U.S. indirect selling expenses. We also adjusted for differences in packing costs. One inland freight expense was found to be in error and was corrected.

Calculations of foreign market value for Braswey were based on ex-factory or delivered, packed prices to unrelated purchasers in the home market. We made deductions for inland freight. We also adjusted for differences in credit terms. For some home market sales used for comparison to U.S. purchase price, sales commissions were paid in one market and not the other. In these cases we made adjustments for the differences between commissions in the applicable market and indirect selling expenses in the other market used as an offset to the commissions, in accordance with § 353.15(c) of the regulations. We adjusted for differences in packing costs. On certain sales, transportation charges were found to reflect the pre-sale movement of merchandise from the factory to the company warehouse. These expenses, as well as interest on warehousing inventory, were added to indirect selling expenses and were allowed, where appropriate, up to the amount of the U.S. sales commissions, which were the lesser of the two.

Claims of technical services expenses could not be verified and were not allowed.

Comparisons were made between sales occurring thirty days on either side of the date of U.S. sale. We disregarded sales of quantities of 2,000 kilograms or less because they were not comparable to the usual commercial quantities sold in the U.S. market.

In calculating foreign market value, we made currency conversions from Brazilian cruzeiros to United States dollars in accordance with § 353.56(a) of the regulations, using the certified daily exchange rates for comparisons involving purchase price. For comparisons involving exporter's sales price, we used the official exchange rate as certified by the Federal Reserve for the date of purchase since the use of that exchange rate is consistent with section 615 of the Tariff and Trade Act of 1984 (1984 Act). Therefore, for exporter's sales price sales we chose not to follow § 353.56(a) of the regulations which predates the 1984 Act.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the companies involved. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Petitioner's Comments

Comment 1: The petitioner claims that the Department has understated Sanbra's U.S. credit expenses by applying a short term interest rate lower than that reported in Sanbra's response.

DOC Position: The rate used by the Department in its final calculations was the average short term interest rate experienced by the company during the period of investigation, as verified from source documents.

Comment 2: Petitioner contends that use of the average warehousing period calculated by Sanbra results in an understatement of their U.S. warehousing expenses.

DOC Position: While individual containers of the product could not be traced into an out of the warehouse, quantities and periods of shipments from the warehouses reviewed at verification were consistent with the claimed average storage period. Therefore, we have used the reported average storage period in our calculation of this expense.

Comment 3: Petitioner claims that quantities shipped under long-term supply contracts, but listed as individual sales, should be combined in the listing as one sale and that sale should be disregarded as not being in the ordinary course of trade by virtue of its high quantity volume.

DOC Position: The Department agrees that such individual shipments are in their totality one sale, but considers the volume of such a sale under a long term supply contract to be in the ordinary course of trade in this industry based on the sale practices of the companies investigated.

Comment 4: Petitioner contends that Braswey's claim for a circumstance of sale adjustment for technical services expenses is unfounded.

DOC Position: The Department agrees. At the time of verification neither the nature of these expenses nor their relationship to the sales under investigation could be established. This adjustment has not been allowed.

Comment 5: Petitioner claims that Braswey's U.S. credit expenses were improperly calculated in that an expense should be imputed for financial services provided free of charge by a middleman in the United States.

DOC Position: The Department disagrees. The middleman's function proves mutually beneficial to both parties with no financial costs accruing to Braswey. Nor would the absence of this service result in further credit expenses to Braswey regarding these sales

Comment 6: Petitioner contends that a document submitted by Sanbra indicates a lower ICM tax rate than that claimed in its response, and should be investigated.

DOC Position: The Department verified the ICM tax rates claimed, and further reviewed the document cited by the petitioner without finding any indication of irregularities.

Comment 7: Petitioner claims that revisions to Braswey's U.S. brokerage charges should be based on the weighted-average brokerage charge calculated at the time of verification.

DOC Position: The Department agrees, and has deducted that weight-average brokerage charge calculated at verification.

Comment 8: Petitioner contends that Braswey's claims for corrections to "U.S. customs charges" are not substantiated by the verification.

DOC Position: No corrections were made to U.S. customs duty at verification. Changes made to customs brokerage charges are discussed in petitioner's comment number 8.

Comment 9: Petitioner contends that foreign brokerage charges discovered at verification should be deducted from Braswey's U.S. prices.

DOC Position: The Department agrees, and has deducted this amount from Braswey's U.S. prices.

Comment 10: Petitioner contends that additional costs of Braswey's U.S. export packing do not include the costs of labor associated with that packing.

DOC position: While not specifically addressed in the example cited in its report of verification, the Department did verify that the costs of both labor and materials were included in packing costs. The total average cost of export packing was found to be understated, and the corrected packing cost was used in the final calculations.

Comment 11: Petitioner contends that Braswey's U.S. credit expenses should be adjusted to reflect expenses engendered by the date of customer payment and the cost of purchasing foreign exchange contracts.

DOC Position: The total financing expenses per individual sale were calculated. Braswey stated that no additional charges accrued for foreign exchange contracts beyond the interest charge reflected in them, and a review of financial documentation revealed no such extra charges.

Comment 12: Petitioner contends that the Department must disregard an adjustment for the ICM tax because the amount of tax paid was not verified.

DOC Position: The Department disagrees. While proof of payments of this tax per individual sale could not be obtained because of the government's debit/credit accrual system of accounting, the amounts credited to the government on the sales were verified.

Comment 13: Petitioner contends that Braswey's IPI export credit premium should not be considered in the Department's calculation because receipt of the export credit premium is not an uncollected or rebated tax, and the export credit premium is in part negated by an offsetting tax which the respondent did not report.

DOC Position: The Department agrees that the export credit premium is not a rebate of taxes which are added to or included in the price of the merchandise when sold in the home market. Therefore, it would not be appropriate to add the export credit premium to United States price.

Respondent's Comments

Comment 1: Braswey contends that adjustments made to U.S. Customs brokerage and marine insurance costs at the time of verification should be incorporated in the Department's final calculations.

DOC Position: The Department agrees and has incorporated all verified costs in its final calculations, as outlined in the "U.S. Price" and "Foreign Market Value" sections of this notice.

Comment 2: Braswey contends that the Department should compare sales of comparable quantities or, alternatively, expand the period of investigation to capture more home market sales in large quantities.

DOC Position: The Department agrees and has compared only sales in the most comparable quantities by disregarding home market sales in quantities of two thousand kilograms or less.

Comment 3: Braswey contends that an adjustment should be made in the Department's final calculations to reflect the receipt of IPI export credit premiums.

DOC Position: The Department disagrees. See response to petitioner's comment 14.

Comment 4: Sanbra contends that the Department made computational errors in computing the next cruzeiro per pounds price of two home market sales in its preliminary calculations.

DOC Position: The Department agrees and has corrected these errors for the final calculations.

Comment 5: Sanbra contends that corrections to their submitted data made by Department personnel at the time of verification should be incorporated in the Department's final calculations.

DOC Position: The Department agrees and has used these verified data in its final calculations, as outlined in the "U.S. Price" and "Foreign Market Value" sections of this notice.

Comment 6: Sanbra contends that certain low volume sales should be excluded form the Department's calculations because they were not in the usual commercial quantities, nor at the nearest commercial level of trade comparable to U.S. sales.

DOC Position: The Department has compared sales of comparable

quantities in the two markets. See respondents' comment 2.

Comment 7: Sanbra contends that, because of the extent of inflation in the home market, the Department should convert home market prices to U.S. dollars as of the date of shipment of the home market merchandise rather than at the date of the U.S. sales.

DOC Position: The Department disagrees. In keeping with established practice and § 353.56 of its regulations the Department has converted home market prices to U.S. dollars as of the date of the U.S. sales to which they are being compared.

Cancellation of Suspension of Liquidation

We will advise the U.S. Customs Service to discontinue the suspension of liquidation of entries of 12-hydroxystearic acid ordered by our preliminary determination. All estimated duties collected shall be refunded, and any bonds or other securities posted will be released upon liquidation of those entries.

Final Results

The final results of our investigation are as follows:

Company	Weighted-average margin (percent)
Brasway	0.00
Sanbra	0.00

In accordance with section 735(d) of the Act, we will notify the ITC of our determination.

This determination is being published pursuant to the Act (19 U.S.C. 1673d(d)).

Theodore W. Wu,

Acting Assistant Secretary for Trade Administration.

December 13, 1985

[FR Doc. 85-30070 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DS-M

The MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held January 7, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises and assists the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations and provide for continuing review to update the Regulations as needed.

Agenda:

1. Introduction of members and attendees.
2. Presentation of papers or comments by the public.
3. Approval of the minutes of the meeting on November 21.
4. Status of § 379.4—foreign persons employed in the U.S.
5. New proposed changes to § 379.4 dealing with multilaterally controlled technical data.
6. Review of the 1986 work plan for the TAC.
7. Discussion of the report to Congress as required by section 5(d)(7) of the Export Administration Act.

Executive Session:

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. Telephone: (202) 377-4217. For further information or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: December 16, 1985.

Margaret A. Cornejo,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 85-30067 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DT-M

[C-201-013]

Portland Hydraulic Cement and Cement Clinker From Mexico; Final Results of Administrative Review of Countervailing Duty Order

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

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On July 3, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on portland hydraulic cement and cement clinker from Mexico. The review covers the period July 1, 1983 through December 31, 1983, and 19 programs.

We gave interested parties an opportunity to comment on the preliminary results. After review of all comments received, the Department has determined the bounty or grant during the period of review to be zero or *de minimis* for five firms and 3.50 percent *ad valorem* for all other firms.

EFFECTIVE DATE: December 19, 1985.

FOR FURTHER INFORMATION CONTACT: Alan Long or Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 27476) the preliminary results of its administrative review of the countervailing duty order on portland hydraulic cement and cement clinker from Mexico (48 FR 43063; September 21, 1983). In accordance with § 355.10(a) of the Commerce Regulations the exporters requested that we complete the administrative review of this order. The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican portland hydraulic cement and cement clinker other than white non-staining. Such merchandise is currently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1983, through December 31, 1983, and 19

programs: (1) FOMEX; (2) Article 94 of the Banking Law; (3) CEPROFI; (4) FONEI; (5) NDP preferential discounts; (6) accelerated and immediate depreciation allowances; (7) NAFINSA; (8) border zone value added taxes; (9) FONEP; (10) state tax incentives; (11) FOMIN; (12) FOGAIN; (13) import duty reductions and exemptions; (14) export services offered by IMCE; (15) FIDEIN; (16) preferential vessel and freight rates; (17) commercial risk insurance; (18) government-financed technology development under the NDP; and (19) CEDI.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the exporters and the petitioner.

We received one set of written comments from counsel representing five exporters: Cooperative Cementos Hidalgo, S.C.L., Cementos Guadalajara, S.A., Cementos Mexicanos, S.A., Cementos Portland Nacional, S.A. and Cementos Veracruz, S.A. Most of the comments focus on our failure to publish a company-specific rate for each firm. However, we published a rate of zero for three of the five firms. Similarly, counsel for the Anahuac Group filed comments on behalf of two cement companies of the Group, Cementos Anahuac and Cementos Anahuac del Golfo, also focusing on our failure to publish company-specific rates. We had in fact already published a zero rate in our preliminary results for the first of the two companies. Because those companies receiving zero or *de minimis* rates are unaffected (*i.e.*, are not harmed) by our decision to publish a country-wide affirmative rate for other companies, we are treating the comments originally submitted for the seven companies as comments on behalf of only those three companies affected by our prelimiary decision to use a country-wide average. The Mexican government has taken no position on our preliminary results including the issue of company-specific rates.

Comment 1: Nacional, Veracruz, and Anahuac del Golfo maintain that the Department must calculate company-specific countervailing duty rates in this case. Those exporters argue that company-specific rates are required here by the statute, existing Commerce Regulations, the Department's general practice, and its practice in this case. Another exporter, Cementos de Chihuahua, the company with the highest individual benefit, maintains that a country-wide rate is consistent with the international obligations of the United States, the statute, current and proposed regulations and past practice.

Anahuac del Golfo maintains that section 303 of the Tariff Act requires the Department in all instances to collect the *ad valorem* benefit actually received by individual producers or exporters. Where material or significant differences among subsidy rates exist, no average country-wide rate can "equal" the benefit actually received by an individual firm.

The first three firms maintain that section 607 of the Trade and Tariff Act of 1984 ("the 1984 Act") does not alter the Department's obligations. Section 607 merely codifies the Department's stated general practices of establishing country-wide rates but permitting company-specific rates where there are material differences, practices in existence at the time of 1983 final determination and throughout the review period. Nacional and Veracruz further argue that what constitutes a "significant differential" under the 1984 Act is a question not settled by the Department's June 10, 1985 proposed regulations (50 FR 24207) and which will not be settled until the Department publishes its final rule.

All three conclude that our decision in this review also is governed by our final determination in this case, in which we found the spread of rates to be materially different.

All three argue that the Department has frequently assigned different rates for individual producers or exporter. Anahuac del Golfo argues that the relevant differences are between individual company rates, not those between individual rates and a country-wide average. Furthermore, Nacional, Veracruz and Anahuac del Golfo argue that, because the Department defines rates below 0.5 percent to be significantly different than those above, above *de minimis* rates apart from each other by more than 0.5 percent are also significantly different.

The three companies maintain that none of the Department's concerns regarding the difficulty of administering a company-specific approach are sufficient to override the Department's legal obligation to use that approach. Anahuâc del Golfo stresses that Congress in 1984 only authorized the presumption in the event of administrative need and that the lack of administtrative need here obviates any reason for the presumption.

The three argue that most cement exporters relied upon the Department's 1983 final determination in this case (which was company-specific). The decline of individual subsidy rates in the review period from those in the initial investigation stems from the incentive to forego benefits which the companies expected to be the basis for their individual liability.

Finally, Chihuahua argues that section 303 refers only to the imposition of countervailing duties on "merchandise." Therefore, the rate must be same for all merchandise from a country, without regard to individual firms. Chihuahua finds its interpretation consistent with the Subsidies Code which speaks of imposition on duties on "a product."

Department's Position: The United States government historically has directed its administration of the countervailing duty law to encouraging governments to cease subsidizing. The vast majority of Treasury orders contained country-wide rates. For example, of the 70 orders transferred from Treasury to the Department in 1980, only four had company-specific rates and two of the four covered only one company.

A central purpose of the law is to encourage foreign governments not to provide competitive benefits to their exporting industries. The best way to accomplish that end is by continuing to treat the foreign government as the central actor, rather than by piecemeal policing of individual companies to encourage them not to use programs offered by those foreign governments.

Nothing in section 303 of the Tariff Act undermines such a view. In contrast to the antidumping law, which directs us not only to analyze the behavior of individual companies but also to examine individual entries of merchandise, section 303 is silent on the methods of calculating "a duty equal to the net amount of such bounty or grant." The Trade Agreements Act of 1979 replaced certain paragraphs of subsection (a) of section 303, but the amendments did nothing to change the pre-existing language cited by Anahuac del Golfo. Thus, neither Treasury nor the Department, as demonstrated by the vastly predominant practice of both agencies, has ever believed that the statutory language compels calculation on a company-specific basis. Indeed, the words in sections 303(a)(1), 303(a)(5), and 751 of the Tariff Act all can be read as collective nouns, directing us to offset the aggregate amount of bounty or grant for all companies through the use of one uniform duty rate on the merchandise.

The first statutory reference to company-specific rates was added in 1984. Section 607 of the 1984 Act, which provides that the contervailing duty order shall "presumptively apply to all merchandise of [the] class or kind

exported from the country investigated," does not establish any preconditions for using country-wide rates. Neither the statutory language nor the legislative history *requires* company-specific rates even if the rates were significantly different. Congress acted because it recognized that there is a general administrative burden associated with the use of company-specific rates. In the legislative history, Congress stated that the provision was intended to lessen that general administrative burden. Congress clearly did not require the Department to weigh the specific administrative burden before applying a country-wide rate in each case. In fact, it would be antithetical to the purpose of alleviating administrative burden to require evidence of administrative burden in each case, and the statutory presumption is clearly intended to avoid such a result.

Nacional, Veracruz and Anahuac del Golfo are wrong in believing that the Department is attempting to apply its draft regulations of June 1985 before final approval of those regulations. We are not. We are acting in accordance with section 607 of the 1984 Act.

Furthermore, neither the Department's 1980 regulations (the only reference for company-specific rates before 1984) nor its administrative practice under those regulations requires the use of company-specific rates in this case. On October 3, 1979, the Customs Service (44 FR 37044 *et seq.*) proposed the following: (1) Calculation of company-specific subsidies (§ 155.1–4); (2) preliminary and final determinations that would state differences in benefits for those enterprises for which such benefits were materially different (§§ 155.28(a) and 155.33(f)); and (3) exclusion for firms that did not receive benefits (§ 155.38). Proposed §§ 155.36 and 155.41, dealing with orders, assessment and administrative reviews made no mention of individual company rates. The Department's final regulations (45 FR 4932 *et seq.*; January 22, 1980) dropped § 355.1–4, altered § 355.38 and retained (without relevant comment) the other provisions. The deletion of the first provisions requiring calculation of company-specific subsidies significantly diminishes the strength of the argument for calculating company-specific rates (either for investigations or, more clearly for assessment) based on the language of the current regulations.

Contrary to Anahuac del Golfo's belief, the Department since publication of the 1980 regulations has published country-wide rates in most of its investigations (74 out of 97 final affirmative determinations). Eleven of the 23 investigations cited by the three exporters for individual rates occurred in 1982, as part of the large number of steel investigations that year. During those investigations, the Department published individual rates for *all* companies investigated, no matter how small the differential between the lowest and highest company or between companies. As an example, in *Certain Steel Products from Korea* (47 FR 57535; December 27, 1982), the Department published two individual rates even though those two were only 0.02 percent apart. Clearly, during that year the Department consciously veered away from a "materially different" standard. Yet even during 1982, the highest number of individual rates the Department published in any investigation was four and most of the final determinations contained only two rates. In 1983 investigations, the Department published company-specific rates in only two of 23 final determinations. In 1984, the number was seven out of 15.

After passage of the 1984 Act, the Department ceased publishing company-specific rates. The two exceptions were published shortly after the effective date of the 1984 Act. Thus by the end of 1984, in accordance with the congressional mandate, the investigations policy had shifted to a more restrictive approach, well before promulgation of the draft countervailing duty regulations.

Virtually all of the Department's administrative reviews have contained country-wide rates (only eight of 165 final results notices were company-specific). Indeed, the eight company-specific final results notices involve only four cases: two resulting from court remands, plus *Ceramic Tile from Mexico* and *Leather Wearing Apparel from Mexico*. With regard to the latter two cases, on May 10, 1982, in the final determination on Mexican ceramic tile (47 FR 20012), the Department agreed to publish in future administrative reviews zero rates for companies certified and verified not to have applied for or used *any* programs during a subsequent review period. In that same determination, the Department explicitly rejected company-specific affirmative rates. We simultaneously agreed to extend the policy of zero rates to Mexican leather wearing apparel. Nonetheless, the Department foresaw a significant administrative problem if zero rates were extended to other cases. We therefore decided not to extend the policy and denied requests in all later cases.

We cannot accept the firms' argument that we should use company-specific rates because we did in the final determination in this case. Any reliance by the companies on our final determination was misplaced because both the applicable law and the facts of this case have changed since the final determination. As we explained above, section 607 establishes a presumption for use of country-wide rates without requiring any case-specific justification for the use of such rates. In addition, the record of this review shows that the number of companies has risen from five to eight. (According to the companies' counsel, the number continues to rise (*see* Comment 6)). Further, the spread, either measured as the exporters wish (from lowest to highest) or as we believe correct (as a variance from the country-wide average (*see infra*)) is much smaller than before. The spread from the country-wide average is in fact so small that it is not significant.

The three exporters' analogy to the Department's treatment of *de minimis* rates is misplaced. It is false logic to assume that, because we treat rates within 0.5 percent of zero to be insignificant, all deviations, of greater than 0.5 percent from larger numbers must be significant. The *de minimis* rule deals with the unique question of when has subsidization ceased. (Nacional and Veracruz accuse us of inflexibility on company-specific rates, but the very rule they analogize to for suppprt—the *de minimis* rule—is itself inflexible.) We point out that section 607 of the 1984 Act places responsibility for determining what is a significant differential with the Department. While Anahuac del Golfo believes any analysis should focus on the gap between individual companies, we believe such a reading of the statute is inconsistent with the purpose of the new provision. The appropriate comparison is with the proposed country-wide average, for that is the amount a company will have to pay in duties if we do not publish a specific rate for that firm. Another firm's individual rate is irrelevant to any measure of the impact of a country-wide rate. The individual assessment rates for Nacional and Anahuac del Golfo are not significantly different from our country-wide average. (Regarding Veracruz, *see* Comment 2.) Similarly the deposit rate for Anahuac del Golfo is not significantly different than the country-wide rate.

Comment 2: Veracruz contends that the Department allocated the CEPROFI tax benefits Veracruz received during the six-month period of review over a sales figure that understated Veracruz's total sales. The Department used one particular line from Veracruz's year-end

financial statement. That line did not include miscellaneous revenue for the year. The Department properly did subtract from the year-end figure total revenue for the first six months, using the June accumulated balance sheet. However, since the Department used a lower than actual annual sales total, the net result was that the Department incorrectly calculated more than *de minimis* benefits for Veracruz.

Department's Position: We agree. We have reviewed the 1983 audited financial statements of Veracruz, which are part of the record, and using the total sales of Veracruz during the period of review, we have determined that Veracruz received *de minimis* CEPROFI benefits during the period. In addition, its aggregate benefits for the period were *de minimis*.

Comment 3: Nacional contends that the Department erred by setting Nacional's rate of cash deposit equal to that company's assessment rate. Nacional received PEMEX authorization during the period of review for a 10 percent discount on the price of heavy fuel oil. PEMEX subsequently issued to Nacional, during the review period, a series of "special credits" for Nacional's heavy fuel oil purchases dating back to November 1981. The fact that Nacional received credits for past fuel purchases as well as purchases during the period is a one-time event. Excluding those "special credits" from the calculation, Nacional's aggregate rate of cash deposit should be *de minimis*.

Department's Position: We agree. Information in the record corroborates Nacional's contention. We have determined that, if Nacional had not received those retroactive credits, its benefit during the period of review would have been *de minimis*. The receipt of those credits was a one-time event. Therefore, for cash deposit purposes, we determine the program and aggregate benefits of Nacional to be *de minimis*.

Comment 4: Nacional and Veracruz contend that the Department erred by including in the country-wide deposit rate the benefit from one of the FONEI loans to Chihuahua. That loan was fully amortized by December 31, 1983. Since no further benefits will result from that loan, the Department should disregard it when calculating the country-wide rate for cash deposit.

Department's Position: Our country-wide cash deposit rate in the preliminary results did not include the benefit from that FONEI loan.

Comment 5: Nacional and Veracruz contend that the Department should follow its long-standing policy of using the most recent available information in determining the rate of cash deposit resulting from the FOMEX pre-export and Article 94 loan programs. The Department in the preliminary results used as the commercial benchmark interest rate, for assessment and cash deposit purposes, the average of the *Indicadores Economicos* ("IE") nominal peso interest rates in effect during the period of review. The IE nominal rates were significantly higher during the review period than subsequently. On June 20, 1985, before publication of the preliminary results, the exporters submitted to the Department the IE nominal rates for calendar year 1984. The Department should now use the IE nominal rate for December 1984 to determine the cash deposit rate.

Department's Position: We agree. Furthermore, effective October 1, 1984, the interest rate charged for FOMEX pre-export loans increased from 19.30 percent to 25.47 percent. We have recalculated the rate of cash deposit using the December 1984 IE nominal rate and the October 1, 1984 change, and for that purpose we find a FOMEX pre-export benefit of 0.75 percent *ad valorem*, an Article 94 *benefit* of 0.12 percent *ad valorem*, and a FONEI benefit of 0.01 percent *ad valorem*.

Comment 6: Counsel for the group of five exporters contends that the Department should calculate a cash deposit rate for unnamed new exporters by taking a weighted-average of all the rates for cash deposit established during this review, including those for zero rate firms. The new exporters have not had the opportunity to demonstrate that they received no benefits in 1984. The Department's preliminary decision to use a weighted-average rate that includes only firms above *de minimis* is unfair. Furthermore, it represents a departure from the precedent set in the final determination in this case, in which the Department assigned to "all other firms" a rate equal to the weighted-average of zero rate and above *de minimis* exporters.

Department's Position: We disagree. To receive a cash deposit rate of zero during an administrative review, an exporter must demonstrate during the review that it did not receive more than *de minimis* benefits. Unless an exporter provides verifiable information that it received no benefit, it is not entitled to a zero rate. Because of the possibility of automatic assessment under the provisions of the 1984 Act and section 355.10 of the Commerce Regulations, it would be unreasonable to include, in the weighted-average cash deposit rate, rates which would not be included in the country-wide assessment rate. If any new exporter believes its cash deposit rate is too high for assessment, it can request an administrative review.

Comment 7: Anahuac de Golfo argues that we overstated the value of its benefit from FOMEX loans. First, we did not allocate the benefit from each loan over the entire term of the loan. We allocated the benefit over exports only during the six-month period of review, even though the term of many of the loans extended past the period of review.

Second, the company argues that we understated the preferential interest rate on its pre-export and export FOMEX loans. The firm's FOMEX loans are discounted at the beginning of the loan term. The company contends that it therefore never had access to the full amount borrowed. Thus, the effective preferential interest rates on FOMEX loans were higher than the nominal interest rates the Department used to calculate the interest differentials and the FOMEX benefit. The Department should adjust upward the FOMEX interest rates in determining the FOMEX benefit.

Department's Position: We disagree. The FOMEX loans in this case are short-term loans not exceeding one year. As a matter of general policy, we consider the benefit from preferential short-term loans to occur when a company realizes the interest saving or cash flow effect. *See Non-Rubber Footwear from Brazil* (50 FR 15597; April 19, 1985); *Unwrought Zinc from Spain* (49 FR 34236; August 14, 1984). Because Anahuac del Golfo's interest is prepaid, we allocated the entire benefit from the preferential loan to the period in which the firm received the loan.

Second, while we recognize that the interest is prepaid, to determine effective interest rates the Department would also need information concerning repayment dates, compensating balance requirements, collateral requirements, and fees and commissions. Since we do not possess reliable information in this case on those items (and therefore on effective FOMEX interest rates), we used nominal rates for both the preferential rates and commercial benchmarks. To use a FOMEX preferential rate partially converted into an effective interest rate (by accounting for the prepaid interest) and comparing it to a nominal benchmark (as suggested by Anahuac deo Golfo) would be improper. It would substantially understate the benefit. Similarly, to compare a partially converted FOMEX rate to an effective benchmark would overstate the benefit. *See also Certain Textile Mill Products from Mexico* (50 FR 10824; March 18, 1985).

Comment 8: Chihuahua contends that the Department should revoke the order. Section 303 of the Tariff Act prohibits the Department from assessing countervailing duties on dury-free products without an affirmative finding of injury if the United States has an international obligation to provide such an injury test. In the "Understanding Between the United States and Mexico regarding Subsidies and Countervailing Duties" ("the Understanding") signed on April 23, 1985, the United States granted Mexico most-favored-nation ("MFN") status. The MFN clause of the Understanding creates an international obligation on the United States to apply the same procedures in countervailing duty proceedings on Mexican products as for products from other countries. Since section 303 prohibits the Department from assessing countervailing duties on duty-free products from other countries, absent an injury test, Mexico is entitled to the same procedural treatment.

The products covered by this order are by U.S. statute duty-free. In three instances involving duty-free products covered by section 303 countervailing duty orders, the Department has refused or preliminarily refused to impose duties. In *Certain Fasteners from India* (47 FR 44129; October 6, 1982), the Department revoked the portion of the order covering duty-free fasteners. In *Certain Scissors and Shears from Brazil* (50 FR 11927; March 26, 1985), the Department preliminarily concluded that it could not assess duties on pinking shears eligible for duty-free treatment. Finally, in *Wire Rod from Trinidad and Tobago* (50 FR 19561; May 9, 1985), the Department tentatively determined to revoke the order because the products became duty-free. The circumstances of those cases are very similar to those of this case and Mexico must receive no less favorable treatment.

In anticipation of the Department's reliance upon paragraph 5 of the Understanding, Chihuahau argues that that provision merely requires an injury test in all then pending and subsequent investigations. It does not preclude injury tests for pre-existing countervailing duty orders.

Department's Position: We disagree. The Department has no international obligation within the meaning of section 303 of the Tariff Act to provide an injury test in this case. The Understanding specifically limits injury tests in countervailing duty proceedings to investigations in progress on April 23, 1985 and to proceedings begun on or after that date.

With regard to paragraph 5, we have confirmed with the U.S. negotiators that their intention was to exclude application of this Understanding to pre-existing orders. Inasmuch as the Mexican government has not commented on our preliminary results (in which we proposed to assess duties) nor exercised its rights under the disputes clause of the Understanding (paragraph 11), we have no reason to believe that the Mexican government has a different view.

Comment 9: Chihuahua contends that loans under 11 categories of Article 94 are available for such a wide range of products and endeavors that they are generally available. Therefore, the terms of loans under Category 12 of Article 94 should be compared to the terms of other Article 94 loans. Only the differential between generally available benefits and export related benefits is countervailable. *See Canned Tuna from the Philippines* (48 FR 50133; October 1, 1983).

Department's Position: We disagree. In the case of tuna from the Philippines we examined an exemption from exporters from 100 percent of certain import duties. There existed under another law a 50 percent exemption from those duties, an exemption that we determined not to have been provided to a specific industry, or group of industries. Because the exporters (along with all other firms) would have qualified for the 50 percent exemption, we countervailed only the additional 50 percent. In doing so, our final determination focused on the 50 percent exemption's "general availability." At the same time, we were under no obligation to seek the commercial alternative to the 100 percent exemption, since a government tax program has no commercial alternative. The alternative to a preferential tax program is what the tax would have been absent the availability of the program.

By contrast, Category 12 loans are short-term loans available only to exporters and are granted to finance export production and inventory of domestic goods intended for export. We have consistently held that the alternative to Category 12 loans is commercially available financing, here the same benchmark that we used for FOMEX financing. Even if that were not the case, we could not adopt Chihuahua's argument. While some categories of Article 94 loans may be not countervailable, we have no reason to believe that Chihuahua would qualify for loans under those categories since certain eligibility requirements must be met.

Comment 10: Chihuahua contends that the CEPROFI certificates the Department found countervailable in the preliminary results are in fact not countervailable because they are generally available to all industries located outside Mexico City. It defies logic to conclude that a tax credit available to an entire country (except for one city) constitutes a regional subsidy. In a recent investigation of a program of government-designated industrial estates scattered throughout Malaysia, the Department determined that, since the program was not designed to promote exports, and not limited to any specific region or industry, it did not constitute a bounty or grant. *See Certain Textiles and Textile Mill Products from Malaysia* (50 FR 9852; March 12, 1985).

If the Department continues to determine that those CEPROFI's are countervailable, the bounty or grant should be the difference between the CEPROFI amounts actually received and the CEPROFI amounts that would have been received for the purchase of Mexican-made capital goods. The Department found CEPROFI's granted for the purchase of Mexican-made capital goods to be not countervailable in the case on oil country tubular goods from Mexico (49 FR 47054, November 30, 1984).

Chihuahua similarly contends that FONEI loans do not constitute countervailable regional subsidies. Such loans are available in all regions except Mexico City.

Department's Position: We disagree. Only the five percent CEPROFI certificates for the purchase of Mexican-made capital equipment are available throughout Mexico. All other types of CEPROFI certificates are not available in Mexico City or in designated cities in two states near Mexico City. Therefore, the program is limited to specific regions of Mexico and is countervailable. The same position applies to FONEI.

In the Malaysian textiles case, the industrial estates were not confined to any region or state, and the services available within those estates were not limited to any specific industry, or group of industries. For a more detailed explanation of the Department's position on this issue, see *Carbon Steel Wire Rod from Saudi Arabia* (50 FR 47788; November 30, 1985).

Second, if a company earns a 20 percent CEPROFI certificate as a result of the purchase of Mexican-made capital goods, we would consider the benefit to be the difference between the value of that 20 percent certificate and the value of the 5 percent CEPROFI certificate generally available for the purchase of Mexican-made capital goods. If the certificate of concern is for

expenditures other than the purchase of Mexican-made capital goods, there is no alternative generally available certificate with which to compare the certificate of concern. Therefore the full value of the certificate is countervailable. The record in this case does not contain the information necessary to determine if purchases of Mexican-made capital goods were the source of the certificates of concern here. Therefore, we determined that the total value of the CEPROFI certificates received during the period of review is countervailable.

Comment 11: The petitioners contend that the Department greatly understated the amount of the plant and equipment CEPROFI benefit by considering only the CEPROFI amounts received during the review period and by allocating those benefits to the same period. There was a massive expansion of the production capacity of the Mexican cement exporters between 1979 and 1982. The Government of Mexico subsidized that expansion by providing CEPROFI certificates for those investments in plant and equipment.

Since the CEPROFI tax credits resulted from investment in plant construction or expansion, they should be considered capital grants and allocated over a period of years. There is no difference, other than in form, between a cash grant, for example, of 20 percent of the cost of a plant and a tax credit equal to 20 percent of that cost. It would be inequitable and contrary to law if the Department did not countervail those extensive capital grants received prior to the date of the order.

Department's Position: We disagree. CEPROFI certificates are received after a firm makes an approved investment in plant and equipment. The firm, not the government, must first furnish the capital for the total investment. Unlike grants, CEPROFI certificates can only be used to pay federal taxes. Furthermore, CEPROFI certificates do not represent one-time capital inflows of the full value of a certificate. Since we want to countervail the benefit when it affects the cash flow of a firm, we would assign the benefit to the period when the recipient used the certificate.

However, we cannot establish when CEPROFI certificates are used by reviewing government records because the records only show the date of issuance. Tracing the actual use of the certificates on a company-by-company basis is a practical impossibility. A best information surrogate for tracing actual use is to allocate the full amount of the CEPROFI certificate to the period in which it is most likely to be used. Because of the inflationary climate in Mexico and the presence of many federal taxes, including a value added tax, that is the period closely following issuance of the certificate.

Comment 12: The petitioners contend that the Department failed to recognize that the fuel oil and natural gas pricing policies of PEMEX constitute a subsidy that the Department should offset.

Department's Position: We disagree. We determined in the final determination in this case that the fuel oil and natural gas pricing policies of PEMEX do not confer countervailable subsidies. The petitioners have not presented new facts to justify a reconsideration of this finding.

Final Results of Review

After reviewing all of the comments received and adjusting for changes in methodology, we determine the total bounty or grant during the period of review to be zero for Cementos Guadalajara, Cementos Mexicanos, Cementos Anahuac, and 0.40 percent *ad valorem* for Cementos Hidalgo and 0.499 percent *ad valorem* for Cementos Veracruz. The Department considers any rate less than 0.50 percent to be *de minimis*. For all other firms, we determine the bounty or grant during the review period to be 3.50 percent *ad valorem*.

We will instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from the five firms with zero or *de minimis* rates of subsidy, and countervailing duties of 3.50 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after July 8, 1983, and exported on or before December 31, 1983.

The Department will instruct the Customs Service not to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments from the five firms with zero or *de minimis* assessment rates during the period of review or from Nacional and to collect cash deposits of estimated countervailing duties of 3.28 percent *ad valorem* for shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 13, 1985.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-30071 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DS-M

Transportation and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Test Equipment Technical Advisory Committee will be held January 9, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW., Washington, DC.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Report on Aerospace Industries Association (AIA) meeting December 6, 1985.
4. TAC 1985–86 plan.

Executive Session:

5. Discussion of matters properly classified under Executive Order 12356 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and

copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes contact Margaret A. Cornejo, 202-377-2583.

Dated: December 16, 1985.

Margaret A. Cornejo,

Acting Director, Technical Support Staff Office of Technology and Policy Analysis.

[FR Doc. 85-30068 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit: Cascadia Research Collective

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name Cascadia Research Collective (P342A).

b. Address 218½ W. Fourth Avenue, Water Street Bldg., Olympia, Washington 98501.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals:

Harbor seals (*Phoca vitulina*)—5000 a year
California sea lions (*Zalophus californianus*)—800 a year
Northern sea lions (*Eumetopias jubatus*)—200 a year
Harbor porpoise (*Phocoena phocoena*)—200 a year
Dall's porpoise (*Phocoenoides dailli*)—50 a year
Gray whales (*Eschrichtius robustus*)—50 a year
Minke whales (*Balaenoptera acutorostrata*)—10 a year
Killer whales (*Orcinus orca*)—75 a year

4. Location of Activity Type of Take: Animals will be taken by harassment throughout the waters of the State of Washington.

5. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Services, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BINC 15700, Seattle, Washington 98115.

Dated: December 11, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-29989 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals Permit Modification; Minnesota Zoological Garden Modification No. 4 to Permit No. 200

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Dispaly Permit No. 200, issued to the Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota, on August 3, 1977, is hereby modified by deleting Section B-6 and substituting therefor the following:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1987."

This modificaton is effective on the date of publication of this Notice in the **Federal Register**.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and
Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930

Dated: December 11, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-30053 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals Permit Modification; Zoologischer Garten der Stadt Wuppertal Modification No. 1 to Permit No. 485

Pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 485 (49 FR 40073) issued to the Zoologischer Garten der Stadt Wuppertal, Hubertusallee 30, 5600 Wuppertal 1, Federal Republic of Germany, on October 5, 1984, is modified as follows:

Section B-5 is deleted and replaced by:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1986."

This modification becomes effective on December 31, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC, and
Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 12, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-30054 Filed 12-16-85; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; University of Missouri

The National Technical Information Service (NTIS), U.S. Department of

Commerce, intends to grant to The University of Missouri, an exclusive right in the United States to manufacture, use, and sell products embodied in the inventions entitled "Carcass Cleaning Unit," U.S. Patent 4,279,059, and "Carcass Cleaning Unit and Containment Chamber," U.S. Patent 4,337,549. 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 C.F.R. 404.7. 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 license must be submitted to the attention of Douglas J. Campion, 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. 85-30044 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-01-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, January 15, 1986 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, December 13, 1985.

Charles H. Atherton,

Secretary.

[FR Doc. 85-30049 Filed 12-18-85; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products From the Hungarian People's Republic, Effective on January 1, 1986

December 16, 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 January 1, 1986. For further information contact Eve Anderson, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, betweeen the Governments of the United States and the Hungarian People's Republic establishes specific limits for wool textile products in Categories 433, 435, 443, 445/446 and 448, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Categories 433, 435, 443, 444, 445/446 and 448 in excess of the designated restraint limits.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

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.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in categories 433, 435, 443, 444, 445/446 and 448, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986, in excess of the following restraint limits:

Category	12-month restraint limit
433	7,573 dozen.
435	9,848 dozen.
443	7,204 dozen.
444	5,118 dozen.
445/446	40,400 dozen of which not more than 30,300 dozen shall be Category 445 and not more than 30,300 dozen shall be in Category 446.
448	19,382 dozen.

In carrying out this directive, entries of wool textile products in the foregoing categories, produced or manufactured in Hungary, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall; to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event those limits have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of February 17 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic, which provide, in part, that: (1) With the exception of Category 433, the levels of restraint may be exceeded by not more than five percent during an agreement year provided the increase is compensated for by an equal decrease in equivalent square yards in another specific limit, other than Category 433. (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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. 533.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30025 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Control Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

December 16, 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 December 20, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

On August 19 and September 5, 1985, notices were published in the **Federal Register** (50 FR 33393 and 36135), which announced that the Government of the United States had requested consultations with the Government of the Republic of Korea concerning cotton skirts in Category 342, cotton dressing gowns in Category 350, cotton underwear in Category 352 and man-made fiber hosiery in Category 632. These requests were made on the basis of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated December 1, 1982, as amended, between the Governments of the United States and the Repulic of Korea.

The purpose of this notice is to announce that agreement was reached in consultations to establish specific limits for Categories 342, 350, 352, and 632 among others, produced or manufactured in Korea and exported during 1985.

The United States Government has decided to control imports in these categories, not previously controlled in 1985, at the newly agreed levels.

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).

SUPPLEMENTARY INFORMATION: On December 27, 1984, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (49 FR 50237) which established import restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during the twelve month period which began on January 1, 1985 and extends through december 31, 1985. The letter which follows this notice further amends the directive of December 21, 1984 to establish new limits for Categories 342, 350, 352, and 632.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 concerning cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during 1985.

Effective on December 20, 1985 paragraph one of the directive of December 21, 1984 is hereby further amended to establish the following restraint limits for cotton and man-made fiber textile products in Categories 342, 350, 352, and 632:

Category	12-mo restraint limit[1]
342	71,000 dozen.
350	12,221 dozen.
352	130,669 dozen.
632	1,675,000 dozen pairs.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984. Imports in Category 342 have amounted to 43,220 dozen during the January-August 1985 period. Imports during the same period have amounted to 5,302 dozen in Category 350; 37,954 in Category 352; and 897,886 dozen pairs in Category 632.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Textile products in Categories 342, 350, 352, and 632 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

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. 85-30026 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of a New Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 13, 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 Customers to be effective on December 20, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Governments of the United States and Pakistan have exchanged letters further amending their Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, to establish a new specific limit of 400,000 dozen pairs for man-made fiber work gloves in Category 631pt. (only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550 and 704.9000), produced or manufactured in Pakinstan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. In the letter which follows this notice, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish the new limit.

Merchandise in Category 631 pt., exported during the twelve-month period which began on December 31, 1984 and extends through December 30, 1985, which exceeded the limit

established for that period, will be permitted entry for consumption, or withdrawal from warehouse for consumption during the five thirty-day periods beginnning on December 20, 1985 and extending through May 18, 1986 in amounts not to exceed 100,000 dozen pairs per thirty-day period.

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.

Committee for the Implementation of Textile Agreement

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of January 18, 1985 which concerned imports of man-made fiber textile products in Category 631pt.,[1] produced or manufactured in Pakistan and exported during the twelve-month period which began on December 31, 1984 and extends through December 30, 1985.

Effective on December 20, 1985, the directive of December 21, 1984 is hereby amended to include a restraint limit of 400,000 dozen pairs[2] for man-made fiber textile products in Category 631pt., produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Also effective on December 20, 1985, you are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption, of man-made fiber textile products in Category 631pt. (only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550 and 740.9000), produced or manufactured in Pakistan and exported during the twleve-month period which began on December 31, 1984 and extends through December 30, 1985, in amounts not to exceed 100,000 dozen pairs during each of the following thirty-day periods up to the new limit:

December 20, 1985–January 18, 1986.
January 19, 1986–February 17, 1986
February 18, 1986–March 19, 1986
March 20, 1986–April 18, 1986
April 19, 1986–May 18, 1986

The Committee for the Implementation of Textile Agreements has determined that this action falls 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. 85-30027 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550 and 704.9000.

[2] The restraint limit has not been adjusted to reflect any imports exported after December 31, 1984.

Request for Public Comment on Bilateral Textile Consultations With Portugal on Category 448

December 16, 1985.

On November 26, 1985, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested consultations with the Government of Portugal concerning exports to the United States of Category 448 (women's, girls', and infants' wool trousers, slacks, and shorts), produced or manufactured in Portugal.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Portugal, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of such products produced or manufactured in Portugal and exported to the United States during the twelve-month period which began on November 26, 1985 and extends through November 25, 1986 at a level of 9,916 dozen.

A summary market statement concerning this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 448 under the agreement with Portugal, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly.

Comments or information submitted in reponse to this notice will be available for public inspection in the Office of Textile and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Portugal—Market Statement

Category 448—Women's Girls' and Infants' Wool Trousers, Slacks and Shorts

November 1958.

Summary and Conclusions

U.S. imports of Category 448 from Portugal reached 16,489 dozens during the year ending September 1985, six times the number imported a year earlier. Portugal is a new supplier of Category 448, shipping 6,704 dozens to the U.S. in 1984. Portugal is now the seventh largest supplier of Category 448.

The substential increase of low-valued imports of Category 448 from Portugal is distrupting the U.S. market for women's, girls' and infants' wool trousers.

U.S. Production and Market

U.S. production of WGI wool trousers fell 7 percent in 1983 and 9 percent in 1984, declining from 885,000 dozens to 752,000 dozens. The U.S. market for Category 448 remained relatively stable between 1982 and 1984. However, the U.S. producers' share of the market declined from 87 percent in 1982 to 74 percent in 1984 as imports took a larger share.

U.S. Imports and Import Penetration

U.S. imports of Category 448 grew from 129,000 dozens in 1982 to 283,000 dozens in 1984, a 104 percent increase. Imports continued to grow in 1985, increasing 74 percent during the first nine months when compared to the same period in 1984. The ratio of imports to domestic production rose from 14.6 percent in 1982 to 35.0 percent in 1984.

[FR Doc. 85-30028 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With Portugal on Categories 310/318 and 604pt.

December 16, 1985.

On Octoberr 31, 1985, the United

States Government, under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of Portugal to enter into consultations concerning exports to the United States of gingham and other cotton yarn-dyed fabrics in Category 310/318 and spun plied acrylic yarn in Category 604pt. (only T.S.U.S.A. No. 310.5049), produced or manufactured in Portugal.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Portugal, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of such products, produced or manufactured in Portugal and exported to the United States during the twelve-month period which began on October 31, 1985 and extends through October 30, 1986 at levels of 6,733,536 square yards for Category 310/318, and 573,563 pounds for Category 604pt.

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories are invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly.

Comments or information submitted in reponse to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Portugal—Market Statement

Categories 310/318—Yarn-Dyed Fabric

October 1985.

Summary and Conclusions

United States imports of cotton yarn-dyed fabric—Categories 310/318—from Portugal were 7.2 million square yards during the year ending August 1985, up 52 percent from the 4.8 million square yards imported a year earlier. Portugal was the second largest supplier of this fabric, accounting for 14 percent of the total imports.

The sharp and substantial increase of low-priced imports of Category 310/318 from Portugal is distrupting the U.S. market.

Production and Market Share

U.S. production of cotton and cotton/polyester yarn-dyed fabrics fell sharply during the third quarter of 1984 and has continued at the depressed level. First half 1985 production was 68.6 million square yards, down 26 percent from the first half of 1984. Production in 1984, largerly due to the drop during the last half of the year, was 152.0 million square yards, down 17 percent from 1983.

The domestic producers share of the market for domestically produced and imported fabric declined drastically from 86 percent in 1983 to 70 percent in 1984. In addition, the domestic producers experienced a declining market for fabric since imports of yarn-dyed apparel rapidly increased in 1984.

Imports and Import Penetration

U.S. imports of Category 310/318 from all sources increased 68 percent in 1984 to a record level of 49.6 million square yards. Imports for the first eight months of 1985 were up 4 percent over the comparable period in 1984.

The ratio of imports to domestic production doubled from 16.1 percent in 1983 to 32.6 percent in 1984. The ratio continued to rise in 1985, reaching 37.3 percent in the first half compared with 28.7 percent in the first half of 1984.

Import Values

Portugal ships a wide variety of fabrics in both Category 310 and 318. Shipments from Portugal include 100 percent cotton and blended fabrics such as 55 percent cotton/45 polyester. Portugal's products also cover a wide range of yarn counts, from ten to the fifties. Most of the shipments from Portugal are of ten and twenty yarn counts. The duty-paid landed values are substantially below those of comparable U.S. produced fabrics.

During the period January–August 1985, 25 percent of Portugal's Category 310 imports entered under TSUSA 325.2928; another 25 percent entered under TSUSA 331.2935. Sixty-five percent of Portugal's Category 318 imports entered under TSUSA 325.1953.

PORTUGAL—MARKET STATEMENT

Category 604 Part— Spun Plied Acrylic Yarns

October 1985.

Summary and Conclusions

U.S. imports of category 604 part, spun plied acrylic yarns, from Portugal during the year ending August 1985 were 624,449 pounds, a sevenfold increase over the 86,535 pounds imported a year earlier. There were no imports of category 604 pt. from Portugal in 1983.

The sharp ans substantial increase of low-priced imports of category 604 pt. from Portugal is disrupting the U.S. market.

Imports and Import Penetration

During 1979–1984, imports of plied acrylic yarns increased by more than twofold to 20.4 million pounds in the latter years. Imports moderated in 1984, actually declining 6 percent compared with 1983, but still 33 percent above the 1982 level and 41 pecent higher than the 1979–1983 annual average of 14.5 million pounds. Imports in 1984 were second highest on record. During the first eight months of 1985, imports were up to 6 percent over the corresponding period of 1984.

the ratio of imports to domestic shipments of plied acrylic yarns increased threefold, rising from 21.1 percent in 1979 to 57.1 percent in 1984. The ratio continued to rise in 1985, reaching 58.0 percent for the first five months, compared with 50.2 percent in the first five months of 1984.

U.S. Shipments and Market Share

U.S. producers' shipments of plied acrylic yarns have been on a downward trend since 1981. Shipments rose from 42.4 million pounds in 1979 to 44.7 million in 1981 then dropped to 38.3 and 35.8 million in 1983 and 1984, respectively. The latter figure is 20 percent less than the 1981 level. For the first five months of 1985, shipments dropped 12 percent below the comparable period of 1984 level.

The U.S. producers' share of the plied acrylic yarn market declined from 83 percent in 1979 to 64 percent in 1983 and continued to drop in 1984. Import's share of the market more than doubled between 1979 and 1984, absorbing all of the growth in the market plus 15 percent of domestic production.

Import Values

Category 604 Pt. imports from Portugal are entered under TSUSA No. 310.5049, spun plied acrylic yarn. The duty-paid landed values of these imports from Portugal are below the U.S. producer prices for comparable yarn.

[FR Doc. 85-30029 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

Officials Authorized To Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

December 16, 1985.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka, the Government of Sri Lanka has notified the United States Government that Mr. E.C.A. de S. Ekanayake and Mr. M.N. Ameer have been named to sign export visas issued by the Greater Colombo Economic Commission. The purpose of this notice is to advise the public of this change.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30024 Filed 12-18-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Command and General Staff College Advisory Committee; 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: Command and General Staff College (CGSC) Advisory Committee

Date: 15-17 January 1986

Place: College Conference Room, Bell Hall, Ft. Leavenworth, KS 66027-6900

Time: 2000-2200, 15 January 1986; 0900-1630, 16 January 1986; 0900-1400, 17 January 1986.

Proposed Agenda:

2000-2200, 15 January 1986: Review of CGSC educational program.

0900-1630, 16 January 1986: Continuation of review.

0900-1000, 17 January 1986: Continuation of review.

1000-1130, 17 January 1986: Executive session.

1300-1430, 17 January 1986: Report to Commandant.

The purpose of the meeting is for the Advisory Committee to examine the entire range of College operations and, where appropriate, to provide advice and recommendations to the College Commandant and Faculty.

The meeting will be open to the public to the extent that space limitations of the meeting location permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committee's Executive Secretary.

Philip J. Brookes, Executive Secretary, CGSC Advisory Committee, Bell Hall, Ft. Leavenworth, KS 66027-6900, Phone: 913-684-2741.

Philip J. Brookes,

Executive Secretary, CGSC Advisory Committee.

[FR Doc. 85-29982 Filed 12-18-85; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Section 404 and Section 10 Permits To Dredge Drainage Canals and Lakes, and Install Fill for Multple Uses and Development in Orleans Parish, LA

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

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Proposed Action. This statement will analyze work proposed in a permit application submitted by South Point, Inc. A complex and efficient forced drainage system is planned. This work will consist of the construction of approximately 17.0 miles of new canals and the enlargement of 7.0 miles of existing canals and two lakes. The resulting 12,500,000 cubic yards of dredged material will be deposited in wetland areas. The proposed project area consists of approximately 13,000-acres of leveed land, the majority of which is considered wetlands.

2. Alternatives. In addition to the no action alternative, the DEIS will address several possible plans for the area including the proposed action. Possible development of alternate sites will also be addressed.

3. Scoping Process. A. The proposed project will be discussed in informal meetings attended by representatives of Department of the Interior—U.S. Fish and Wildlife Service, Department of Commerce—National Marine Fisheries Service, Department of Defense—U.S. Army Corps of Engineers, Louisiana Department of Wildlife and Fisheries, and elements of Louisiana Department of Natural Resources. Additional meetings are anticipated to be held with representatives of the New Orleans Mayor's Office and with representatives of local and national environmental groups. A public scoping meeting will be held.

b. Major issues to be addressed in the DEIS include: The current and ultimate environmental values of the 13,000-acre project site, the potential impacts to the existing drainage system, the impacts of expected population and economic growth in New Orleans, the stability of soils to support structutes at the site, and the extent of and possible mitigation of vehicular traffic expected to be generated by the proposed project. Additional issues are expected to be brought out during a public scoping meeting scheduled to be held 14 January 1986.

c. No formal assignments have as yet been planned for input into the DEIS by other Federal and state agencies. Nonetheless, informal meetings will be held and communication will be maintained throughout the EIS process.

d. Periodic reviews will be held with various Federal, state, and local agencies; they will be kept apprised of the progress.

4. Scoping Meeting. A public scoping meeting will be held at 1900 (7 p.m.) on Wednesday, 14 January 1986, at the Marion Abramson High School, 5552 Read Road, New Orleans, Louisiana. The meeting will consist of an introduction and a description of the proposed project, EIS process, and scoping process; after which the attendees will be divided into workshop groups, allowing individuals more freedom to imput their ideas and concerns. Comments made by individuals in the workshop groups will be written, compiled, and analyzed. A summary of the results will be available upon request.

5. Availability. The DEIS is scheduled to be available to the public in December 1986.

ADDRESS: Questions concerning the proposed action and DEIS can be directed to Mr. Robert J. Martinson at (504) 862-2258 at the U.S. Army Corps of Engineers, Regulatory Assessment Section (LMNOD-SA), P.O. Box 60267, New Orleans, Louisiana 70160.

Dated: December 12, 1985.

Eugene S. Witherspoon,

Colonel, CE Commanding.

[FR Doc. 85-30048 Filed 12-18-85; 8:45 am]

BILLING CODE 3710-84-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER86-200-000, et al.]

Arkansas Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

December 10, 1985.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER86-200-000]

Take notice that on December 4, 1985, Arkansas Power & Light Company (AP&L) tendered for filing an amendment to the December 14, 1983 Letter Agreement as amended May 21, 1984, between AP & L and Cajun Electric Power Cooperative, Inc. The Amendment decreases to 38 MW the contract capacity and accompanying energy for which AP&L will furnish transmission services.

AP&L requests that the Commission waive any requirements with which AP&L has not already complied.

Comment date: December 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Arkansas Power & Light Company

[Docket No. ER86-201-000]

Take notice that on December 4, 1985 Arkansas Power & Light Company (AP&L) tendered for filing an amendment dated November 8, 1985 to the Letter Agreement of December 9, 1983 (ER84-193-000) between AP&L and the Louisiana Energy & Power Authority. The amendment provides for an extension of the term of the Letter Agreement through December 31, 1986 and has no impact on rate, contract capacity or revenue.

AP&L requests that the Commission waive any requirements with which AP&L has not already complied.

Comment date: December 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Montaup Electric Company

[Docket No. KR86-202-000]

Take notice that on December 5, 1985 Montaup Electric Company ("Montaup" or "the Company") tendered for filing rate schedule revisions incorporating a new M-11 rate for all-requirements service to Montaup's affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to three non-affiliated customers: The Town of Middleborough in Massachusetts and Pascoag Fire District and Newport Electric Corporation in Rhode Island. The rate schedule revisions provide for a first-step increase of $24.7 million, or 11.0% and a second-step increase of $27.4 million, or an additional 1.2%. Montaup requests that the first-step rates be made effective on February 4, 1986 and suspended until the date when the Millstone No. 3 unit enters commercial service. Montaup requests that the second-step rates be made effective on February 5, 1986 and suspended until the day after the date when the unit enters commercial service.

The increase is requested to offset the increase in Montaup's costs over the 1985 level being recovered through the M-10 rates and to include Montaup's 4.009% ownership interest in Millstone No. 3 in rate base. The filing (1) increases the demand charge from $17.34467 per KW/month as provided in the M-10 rate as currently charged to Montaup's affiliates to $20.53823 per KW/month in the first step and $20.87976 in the second step, and (2) decreases the energy charge from 2.7674 cents per kwh as provided in the M-10 rate to 2.2649 cents per kwh. The filing also includes related changes in agreements under which Eastern Edison and Blackstone rent transmission facilities to Montaup and Montaup rents such facilities to Eastern Edison.

Montaup's filing was served on the affected customers the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: December 23, 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. 85-30074 Filed 12-18-85; 8:45 am]

BILLING CODE 6717-01

[Docket No. CI80-74-001 et al.]

ENSTAR Corp.; Application for Certificate of Public Convenience and Necessity

December 13, 1985.

Take notice that on December 6, 1985, ENSTAR Corporation (Applicant), of P.O. Box 2120, Houston, Texas 77252-2120, filed an application pursuant to the provisons of section 7(c) of the Natural Gas Act 15 U.S.C. 717(c), and § 157.23, *et seq.* of the Commission's Regulations under the Natural Gas Act for Convenience and Necessity, to Redesignate Rate Schedules, and to Redesignate Pending Proceedings before the Commission, authorizing the continued sale of Natural Gas in Interstate Commerce. ENSTAR Corporation is filing as Successor In Interest to C&K Petroleum,Inc., C&K Marine Producing Company, C&K Offshore Company and McAlester Fuel Company covering certain properties fully set forth in the application and in the attached Exhibit "C" which is on file with the Commission and open to public inspection.

Applicant further requests that the Commission authorize these sales as sales of Small Producer reserves pursuant to the Small Producer certificates issued to C&K Petroeum, Inc., in Docket No. CS71-1102, C&K Marine Produciton Company in Docket No. CS75-93, C&K Offshore Company in Docket No. CS71-914 and terminated effective April 1, 1980; and issued to McAlester Fuel Company, in Docket No. CS67-77 and terminated as of August 25, 1977.

Effective Janaury 1, 1983, McAlester Fuel Company and ENSTAR Petroleum, Inc. merged, the surviving Corporation being McAlester Fuel Company, whose name was changed on that same date to ENSTAR Petroleum, Inc. On December 20, 1983, C&K Petroleum, Inc. and ENSTAR Petroleum, Inc. were merged into ENSTAR Corporation.

Following these mergers, ENSTAR Corporation now holds all rights, titles, interests and obligations formerly held by McAlester Fuel Company, C&K Petroleum, Inc., C&K Offshore Company and C&K Marine Production Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the

Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordnace with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "C" TO ENSTAR CORP.'S APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Location—field, county, State	Predecessor	Applicant's suggested R.S. No.	Predecessor's R.S. No.	Docket No.	Contract dated	Purchaser
Florence Field, Vermilion Parish, LA	McAlester Fuel Co	1	1	CI80-74-001	Oct. 27, 1977	Columbia Gas Transmission Co.
North Fusion field, Lincoln Parish, LA	do	6	None	CI86-96-000	Oct. 1, 1975	Arkansas Louisiana Gas Co.
Village field, Columbia County, AR	do	7	None	CI86-93-000	Dec. 30, 1971	Do.
Tatum and Carthage fields, Panola County, TX	do	8	None	CI86-95-000	Dec. 1, 1977	Texas Eastern Transmission Co.
Bryans Mill field, Cass County, TX	do	9	None	CI86-94-000	Feb. 1, 1962	Natural GAs Fipline Co.
West Cameron blocks 40 and 41, Offshore, LA	C & K Offshore Company	10	None	CI86-97-000	Dec. 22, 1957	Transcontinental Gas Pipeline Corp
South Timbalier block 148, offshore, Louisiana	C & K Marine Production Company	11	None	CI86-98-000	Dec. 15, 1977	Do.
South Timbalier block 86, offshore, Louisiana	do	12	None	CI86-99-000	June 20, 1977	Trunkline Gas Co.
South Timbalier blocks 190 and 203, offshore, Louisiana	do	13	None	CI86-101-000	Dec. 1, 1967	Do.
Vermilion block 161, offshore, Louisiana	do	14	None	CI86-100-000	Apr. 11, 1961	Columbia Gas Transmission Co.
Toro field, Reeves County, TX	do	15	None	CI86-116-000	Jan. 5, 1967	El Paso Natural Gas Co.
South Andrews field, Andrews County, TX	do	16	None	CI86-117-000	Jan. 1, 1980	Do.
Pembrook unit, Upton County, TX	do	17	None	CI86-114-000	Nov. 3, 1952	Do.
Sawyer field, Sutton County, TX	do	18	None	CI86-112-000	Feb. 12, 1973	Do.
Sawyer field, Sutton County, TX	do	19	None	CI86-118-000	May 1, 1972	Do.
North Black-River field, Eddy County, NM	do	20	None	CI85-121-000	Aug. 12, 1976	Do.
White City field, Eddy County, NM	do	21	None	CI86-105-000	Feb. 6, 1975	Do.
South Briscoe field, Wheeler County, TX	do	22	None	CI86-120-000	Jan. 20, 1976	Michigan Wisconsin Pipe Line Co.
Ozona field, Crocket County, TX	do	23	None	CI86-119-000	Nov. 13, 1981	Northern Natural Gas Co.
N.E. Gomez field, Crocket County, TX	do	24	None	CI86-122-000	Nov. 12, 1976	Do.
N.E. Oates field, Crocket County, TX	do	25	None	CI86-102-000	Dec. 19, 1967	Do.
Vermilion block 171, offshore Louisiana	do	26	None	CI86-103-000	Mar. 1, 1976	Sea Robin Pipeline Company
East Cameron block 118, offshore Louisiana	do	27	None	CI86-123-000	Aug. 15, 1974	Texas Eastern Transmission Company
Ship Shoal block 72, offshore Louisiana	do	28	None	CI86-110-000	Sept. 18, 1957	Transcontinental Gas Pipeline Company
South Timbalier blocks 184 and 185, offshore Louisiana	do	29	None	CI86-115-000	Jan. 15, 1973	Do.
Vermilion block 103, offshore Louisiana	do	30	None	CI86-104-000	Apr. 20, 1972	Do.
Vermilion block 104, offshore Louisiana	do	31	None	CI86-113-000	Aug. 2, 1971	Do.
Ship Shoal block 246, offshore Louisiana	do	32	None	CI86-107-000	Mar. 20, 1974	Do.
Atoka field, Eddy County, NM	do	33	None	CI86-109-000	Jan. 15, 1975	Do.
Carlsbad field, Eddie County, NM	do	34	None	CI86-108-000	May 6, 1977	Do.
Hamon Ellenberger, Reeves County, TX	do	35	None	CI86-106-000	Nov. 10, 1966	Do.
Emperor field, Winkler County, TX	do	36	None	CI85-111-000	Apr. 5, 1962	West Texas Gathering Co.

[FR Doc. 85-30077 Filed 12-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-27-000]

Midwestern Gas Transmission Co.; Tariff Filing

December 16, 1985.

Take notice that on December 11, 1985, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective on January 1, 1986:

Second Revised Sheet No. 21

First Revised Sheet No. 21A

Midwestern states that the tariff sheets are being filed to revise the minimum bill provision in Midwestern's CD-1 Rate Schedule for its Southern System consistent with the decision of the U.S. Court of Appeals for the D.C. Circuit regarding the "downstream pipeline issue" in its opinion issued August 20, 1985 in *Wisconsin Gas Co.* v. *FERC*, 770 F.2d 1144.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 23, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30076 Filed 12-18-85 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-184-000 et al.]

National Fuel Gas Supply Corporation et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. National Fuel Gas Supply Corporation

[Docket No. CP86-184-000]

December 11, 1985.

Take notice that on November 1, 1985, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP86-184-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap facility to deliver up to a maximum of 75 Mcf of gas per day for potential residential customers in the Treasure Lake Subdivision in Pennsylvania, under the certificate issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

National contends that the sales tap would be connected to its affiliate National Fuel Gas Distribution Corporation in Sandy Township, Clearfield County, and that the delivery point connection would have a minimal impact on its existing deliveries. National has also indicated that it has sufficient capacity to accomplish the deliveries proposed herein without detriment or disadvantage to its other customers.

Comment date: January 27, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP86-60-000]

December 12, 1985.

Take notice that on October 21, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-60-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate one sales tap to be utilized as a small volume measurement station for accommodating natural gas deliveries to C.J. Farms Inc. (C.J.), in Fayette County, Iowa, under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that the distributor, Peoples Natural Gas Company (Peoples) would deliver gas to C.J. for grain drying. It is also stated that the tap would provide for an estimated total annual volume of 2,200 Mcf. Northern indicates that gas proposed to be delivered would be within Peoples currently authorized firm entitlement and would have no impact on Northern's present deliveries. The Rate Schedule applicable to the sales made through the proposed facility is CD-1, it is indicated.

Cost to install the small volume sale tap is estimated to be $3,286, of which, $63.00 would be contributed by Peoples.

Comment date: January 27, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP86-225-000]

December 12, 1985.

Take notice that on December 9, 1985, Texas Eastern Transmission Corporation (Texas Eastern), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP86-225-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce through and including October 31, 1987 for ten distribution companies, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern proposes to transport natural gas on an interruptible basis for the following local distribution companies up to the maximum daily quantities (MDQ) listed pursuant to separate gas transportation agreements with each shipper:

Shipper	MDQ Dt per day
Consolidated Edison Co. of New York, Inc.	560,000
Public Service Electric & Gas Co.	799,000
Philadelphia Electric Co.	233,000
Philadelphia Gas Works	197,000
New Jersey Natural Gas Co.	280,000
Elizabetntown Gas Co.	82,000
The Brooklyn Union Gas Co.	324,000
National Gas and Oil Corp.	21,000
Central Illinois Public Service Co.	20,000
Long Island Lighting Co.	150,000

It is stated that pursuant to the terms of gas transportation agreements with each shipper, Texas Eastern would receive on an interruptible basis for the account of each shipper at the point of receipt(s) up to a MDQ of natural gas, and such additional daily quantities of gas in excess of the MDQ as Texas Eastern in its sole judgement determines it is able to transport, and deliver such quantities to each shipper, or for their account, at certain points of delivery. It is further stated that transportation under the agreements would be subject to section 12.6 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume Number 1, and solely for the purpose of applying section 12.6 the Agreements are classified as a TS-1 service agreement.

Beginning with the month in which the transportation commences, Texas Eastern proposes that each shipper pay it each month a charge equal to the product of the posted TS-3 rate in effect during such month times the quantity of gas delivered by Texas Eastern during such month, and where applicable, Texas Eastern proposes to collect the currently effective Gas Research Institute (GRI) surcharge per dt for the gas transported. Texas Eastern further proposes to retain applicable shrinkage, which is currently 1 percent per dt of natural gas received by Texas Eastern per zone within which the natural gas is transported.

Comment date: December 27, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-142-000]

December 11, 1985.

Take notice that on November 1, 1985, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-142-000 an application pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing Transco to transport natural gas on behalf of Amarex, Inc. (Amarex), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that it is requesting authorization herein to transport on behalf of Amarex, on an interruptible basis, quantities of natural gas up to the dt equivalent of 500 Mcf of gas per day pursuant to a transportation agreement between Transco and Amarex, dated October 1, 1985, as amended October 8, 1985. It is explained that such quantities would be purchased by Florida Gas Transmission Company (Florida) from Amarex in the Cossinade Field, Vermilion Parish, Louisiana and would be received by Transco from North Central Oil Company (North Central) at the existing point of interconnection between facilities of Transco and North Central in Vermilion Parish, Louisiana. Transco would redeliver such quantities to existing points of interconnection between the facilities to Transco and Florida in Vermilion Parish, Louisiana.

Transco further states that it would charge 6.81 cents per dt equivalent of gas for all quantities transported to Florida for the account of Amarex. Transco states it would not retain, initially, any of the quantities transported to provide for compressor fuel or line loss make-up.

Transco states that the transportation agreement would remain in force for a primary term of five years from the date of intitial delivery, and year to year thereafter, subject to termination at the end of the primary term or any year thereafter.

Comment date: December 30, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP86-224-000]

December 12, 1985.

Take notice that on December 6, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP86-224-000 a request pursuant to § 157.205 of the Regulations (18 CFR 157.205) for authorization to install a 1-inch sales tap on United's 8-inch Fort Polk line in Vernon Parish, Louisiana, under the certificate issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United States that the proposed sales tap would enable United to sell and deliver to Entex, Inc., the local distributor, an estimated daily average of 7.5 Mcf for resale to the North Fort Trailer Park located in Entex's DeRidder, Louisiana service area, under United's Rate Schedule DG-S. The effective service agreement for such service is dated July 1, 1981. United advises that the proposed tap would be installed in compliance with the Subpart F of Part 157 of the Commission Regulations.

Comment date: January 27, 1986, in accordance with the Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30075 Filed 12-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-424-001 et al.]

Sun Gas Transmission Co., Inc., et al.; Extension Reports

December 13, 1985.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a

[1] Notice of these extension reports does not constitute a determination that service will continue in accordance with Order No. 436, Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372 (Oct. 18, 1985).

blanket certificate issued under § 284.222 of the Commission's Regulations: a "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before December 23, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Dated filed	Part 284 subpart	Effective date	Expiration date [2]
ST82-424-001 [1]	Sun Gas Transmission Co., Inc., P.O. 2880, Dallas, TX 75221	Tennessee Gas Pipeline Co	11-04-85	C	08-23-84	02-02-86
ST83-130-001 [1]	Sun Gas Transmission Co., Inc., P.O. 2880, Dallas TX 75221	Transcontinental Gas Pipeline Corp	11-04-85	C	12-20-84	02-02-86

[1] This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
Note.—Notice of transactions does not constitute a determination that the filing comply with Commission Regulations in accordance with Order No. 436 (Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372, 10/18/85).

[FR Doc. 85-30078 Filed 12-18-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2940-7]

Open Meetings of the Farmworker Protection Standards for Agricultural Pesticides Negotiated Rulemaking Advisory Committee

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of two open meetings of the Advisory Committee negotiating Farmworker Protection Standards for Agricultural Pesticides.

The first meeting will be held on Tuesday, January 7, 1986. The second will be held on Tuesday, February 4, 1986. Each meeting will be held in Conference Room #1112, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, Virginia. Each will start at 9:00 a.m., and will run until completion.

The purpose of each meeting is to continue work on the substantive issues which the Committee has identified for resolution. They include requirements for protective clothing, reentry intervals, notification, training, enforcement, greenhouses, nurseries, and medical monitoring.

If interested in attending, or in receiving more information, please contact Chris Kirtz at (202) 382-7565.

Dated: December 16, 1985.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 85-30051 Filed 12-18-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of information collection: Report of U.S. Government Securities (FFIEC 016 and 018); Report of U.S. Government Agency and Corporation Securities (FFIEC 017).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before January 3, 1986.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 389-4351.

SUMMARY: The FDIC, the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System have submitted for OMB approval a request to conduct a one-time survey of the holdings of securities of U.S. Government agencies and Corporations by insured commercial and savings banks as of December 31, 1985. The Federal banking agencies need the data to allow them to assess more accurately the concentrations of risk that may exist within individual banks. The survey will not be a part of the Reports of Condition and Income, but the data items represent a breakdown of information that is reported on the Call Report. The one-time reporting burden for FDIC-supervised banks is estimated to be one-half hour per bank.

Dated: December 12, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-30036 Filed 12-18-85; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 85-23]

The West Indian Company Limited v. The Virgin Islands Port Authority; Filing of Complaint and Assignment

Notice is given that a complaint filed by The West Indian Company Limited against The Virgin Islands Port Authority was served December 13, 1985. Complainant alleges that the respondent has violated sections 10(b)(11), 10(b)(12) and 10(d)(3) of the Shipping Act of 1984 with regard to rates being charged at its marine terminal facilities in St. Thomas Harbor, U.S. Virgin Islands.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by December 15, 1986, and the final decision of the Commission shall be issued by April 15, 1987.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-29973 Filed 12-18-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Larmex International Freight Forwarders, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight fowarders, 46 CFR Part 510.

License number: 2446
Name: Larmex International Freight Forwarders, Inc.
Address: 5453 N.W. 72nd Ave., Miami, FL 33166
Date revoked: November 28, 1985
Reason: Failed to maintain a valid surety bond
License number: 2440
Name: Rapid Air & Ocean, Inc.
Address: 6954 N.W. 12th Street, Miami, FL 33126
Date revoked: November 28, 1985
Reason: Failed to maintain a valid surety bond
License number: 1148
Name: World Trade Forwarding Company, Inc.
Address: 1919 Penn City Road, Houston, TX 77015
Date revoked: December 5, 1985
Reason: Requested revocation voluntarily
License number: 554
Name: Reliable Cargo Shipping Co., Inc.
Address: 184 Kent Avenue, Brooklyn, NY 11211
Date revoked: December 5, 1985
Reason: Surrendered license voluntarily
License number: 855
Name: S. G. Scott Company
Address: 3909 E. Lake Terrace, Miramar, FL 33023
Date revoked: December 9, 1985
Reason: Requested revocation voluntarily
License number: 2787
Name: Select Shipping, Inc.
Address: P.O. Box 276, Staten Island, NY 10306
Date revoked: December 15, 1985
Reason: Requested revocation voluntarily

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-30019 Filed 12-18-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0515]

Policy Regarding Risks on Large-Dollar Wire Transfer Systems Technical Amendment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement; technical amendment.

SUMMARY: This document clarifies the Board's purpose in adopting the term "U.S. capital equivalency" in its policy statement on risks on large-dollar payments systems. The original policy statement was published in the **Federal Register** on May 22, 1985 (50 FR 21120).

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director, Division of Research and Statistics (202/452-3368); Sydney J. Key, Economist, Division of International Finance (202/452-3522); Joseph R. Alexander, Attorney, Legal Division (202/452-2489); or Joy W. O'Connell, Telecommunication Device for the Deaf (202/452-3244).

SUPPLEMENTARY INFORMATION: The Board's policy on reducing risks on large-dollar wire transfer systems strongly urges each entity participating on private large-dollar networks or incurring daylight overdrafts on Fedwire to adopt a sender net debit cap (a ceiling on the aggregate cross-system net debit position that it can incur during a given interval). For most participants, the sender net debit caps are to be computed as multiples of capital. U.S. branches and agencies of foreign banks, however, are not separately incorporated and have no capital of their own. Accordingly, the Board decided that in determining cross-system sender net debit caps, branches and agencies should use the worldwide capital of the foreign bank establishing the branches and/or agencies, and that the adjusted primary capital of any U.S. bank and/or Edge subsidiaries should be subtracted from the foreign bank's adjusted primary capital to avoid double counting.

In assessing the Federal Reserve's own risk on Fedwire, however, the Board expressed concern about the lack of timely information on foreign banks and the Federal Reserve's inability to monitor their non-U.S. operations. The Board thus decided that, only for purposes of determining the volume of a foreign bank family's uncollateralized Fedwire daylight overdrafts, the cap multiples would be applied to another, narrower measure that the Board termed "U.S. capital equivalency."[1]

The Institute of Foreign Bankers, Inc., has objected to the characterization of this measure as "U.S. capital equivalency," stating that it is "both misleading and unnecessary, [and] could have unintended and unwarranted precedential effect adverse to foreign banks in other contexts."

In the context of the Board's risk reduction policy, the formula for "U.S. capital equivalency" was used because it was a pre-existing measure that resulted in reasonably equitable treatment for the branches and agencies for this purpose, and the term "capital equivalency" is used in regulations of the Comptroller of the Currency, 12 CFR 28.6. This decision, however, was not

[1] "Capital equivalency" was defined as the greater (1) the sum of the amount of capital (but not surplus) which would be required of a national bank being organized at each branch or agency location, or (2) the sum of 5 per cent of the total liabilities of each branch or agency, including acceptances, but excluding (A) accrued expenses and (B) amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank. This definition follows the deposit requirements applied to federal branches and agencies by section 4(g) of the International Banking Act of 1978, 12 U.S.C. 3102(g).

meant to suggest that this measure could nor should be used to measure "capital" for prudential or other purposes. Accordingly, the Board has determined to amend its policy statement to indicate that its use of this term in the policy statement was not meant to suggest that the Board presently intends that this measure necessarily should be used to measure a foreign bank's capital position in the U.S. for prudential on other purposes.[2] Specifically, the term "U.S. capital equivalency" where it refers to U.S. branches and agencies of foreign banks will be placed in quotation marks, and an explanatory sentence will be added to the first occurrence of this term.

The following changes are made in Docket No. R-0515 appearing on page 21120 in the issue of May 22, 1985, and in the Board's release of May 17, 1985:

1. On page 21125, in the first full paragraph of the third column (the bottom of page 26 of the Board's release), the phrase "U.S. capital equivalency" is placed in quotation marks.

2. On page 21125 in the text immediately after the indication for footnote 14, the following parenthetical is inserted: "(The term 'U.S. capital equivalency' has been chosen merely as the most convenient term of art. While 'U.S. capital equivalency' is to continue to be used in connection with 'sender net debit cap multiples,' developed from the foreign banks' self-evaluation, to determine foreign banks' maximum uncollateralized daylight overdrafts on Fedwire, the Board's use of the term in this manner is not meant to suggest that the Board presently intends that this measure necessarily should be used to measure a foreign bank's capital position in the United States for prudential or other purposes)."

By order of the Board of Governors of the Federal Reserve System, December 13, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-30087 Filed 12-18-85; 8:45 am]

BILLING CODE 6210-01-M

Fairlawn Plaza Investments, Inc.; Formation of; Acquistion by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than December 29, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fairlawn Plaza Investments, Inc.*, Topeka, Kansas; to become a bank holding company by acquiring 80.274 percent of the voting shares of Fairlawn Plaza State Bank, Topeka, Kansas.

Board of Governors of the Federal Reserve System, December 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30190 Filed 12-18-85; 11:02 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1944.

Interested parties may impact and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 231-007925-002.

Title: North Atlantic Terminal Lumber Conference.

Parties: John J. Orr & Son, Inc., Seaview Avenue Lumber Terminal, Inc., New Haven Terminal, Inc., Elizabeth Lumber Yard, Lumber Exchange Terminal, South Jersey Port Corporation, Wilmington Marine Terminal, Lumber Terminals, Inc.

Synopsis: This agreement amends the basic conference agreement which relates to the operation of the conference members in furnishing marine terminal facilities in connection with the receipt, delivery handling and/or storage of lumber and other forest products at North Atlantic ports. The amendment changes Paragraph 3(d) of the agreement to read, "The annual dues payable by members of the Conference shall be such amount as may be provided in the Conference by-laws".

Agreement No: 224-010861.

Title: Los Angeles Terminal Agreement.

Parties: The City Of Los Angeles (City), Japan Line, Ltd. (Assignee), Y. S. Line, Ltd. (Assignee).

Synopsis: This agreement provides for the granting by the City to the Assignees of nonexclusive preferential use of Berths 127-131, 56.2 acres of backland, and the use of one City owned twin lift gantry type crane, all located within the Port of Los Angeles. The agreement is terminable upon 30 days' written notice. The premises are to be used for berthing and mooring of vessels owned, operated, serviced or represented by Assignees along with the handling of cargo and the disembarking of passengers and their baggage. Agreement No. T-3071 will terminate on the effective date of Agreement No. 224-010861. The parties have requested a shortened review period for the agreement.

Agreement No.: 224-010862.

Title: Savannah Terminal Agreements.

Parties: Georgia Ports Authority (Authority), Scanbarber A/S (Scanbarber).

Synopsis: This agreement covers the lease by the Authority to Scanbarber of parking slots for operating a container yard within the confines of the Authority's Garden City Terminal in Savannah, Georgia. The container yard will be operated by employees of Scanbarber. The term of the lease shall be for three years, which term shall begin on the first day of the month following determination of its effective date by the Federal Maritime Commission. Scanbarber shall have the

[2] Parallel changes will be made in other documents referring to the Board's daylight overdraft policy and its implementation if and as they are revised for other reasons.

option to renew or extend the lease for two additional years. Scanbarber for tonnage generated by them during any 365 day guarantee period in excess of 50,000 short tons, will pay wharfage to the Authority based on a scale as provided for in the agreement. The parties have requested a shortened review period for the agreement.

Dated: December 16, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30061 Filed 12-18-85; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Assessment Agreement

The Federal Maritime Commission hereby gives notice, that on December 12, 1985, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective on that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-000082-009.

Title: West Gulf Marine Association Assessment Agreement.

Parties: West Gulf Marine Association (WGMA), International Longshoremen's Association AFL-CIO (ILA).

Synopsis: The amendment provides for the reduction of the cargo assessment provided for in the WGMA Resolution of September 27, 1985, effective October 1, 1985. The reduction is to become effective on January 1, 1986. The Resolution provides for an assessment calculated on the basis of tonnage handled in the ports of the West Gulf. The assessment will continue to be known as the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. It is the responsibility of the direct employees of labor under the applicable collective bargaining agreements between the WGMA and the ILA to remit such assessment to the WGMA based on the rates set out for specific types of cargo. The assessment is to be collected by the WGMA and the funds generated thereby are to be administered by the WGMA to meet its obligations under the various agreements existing between it and the ILA.

Dated: December 16, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30062 Filed 12-18-85; 8:45 am]

BILLING CODE 6730-01-M

Tariff Rules on Containers/Trailers Not Owned or Leased by the Carrier; Filing of Request for Order To Show Cause

Notice is given that Interpool, Ltd. has requested the Commission to direct the U.S. Atlantic-North Europe Conference to show cause why a tariff provision proposed by that Conference, stipulating that member lines will not pay any charges in connection with the use of containers not owned or leased by the member lines, should not be found to violate section 10(c) of the Shipping Act of 1984. The tariff provision was filed in the Conference's Intermodal Freight Tariff FMC No. 1 on November 29, 1985, and is scheduled to become effective January 1, 1986. Interested persons may inspect and obtain a copy of the request at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 1101.

The request is being served on the Conference this date, and the Conference and any interested persons may submit replies to the request to the Acting Secretary, Federal Maritime Commission, Washington, DC 20573, on or before December 31, 1985. An original and fifteen copies of such replies shall be submitted. A copy of such replies shall also be served on filing counsel: Robert J. Ables, Esq., 1919 Pennsylvania Avenue, NW., Washington, DC 20006.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30063 Filed 12-18-85; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-85-1574]

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.

ACTION: 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, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names of telephone numbers of an agency official familiar with the proposed and the OMB Desk Officer for the Department.

Copies of the proposal 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.

Th 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 Parts 215, 236, 813, 886, and 913.

Office: Housing.

Form Number: None.

Frequency of Submission: On Occasion.

Affected Public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.

Estimated Burden Hours: 350.

Status: New.

Contract: James J. Tahash, HUD, (202) 426–3944; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85–30085 Filed 12–18–85; 8:45 am]

BILLING CODE 4210–01–M

Office of Environment and Energy

[Docket No. I–85–137]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is under preparation by the City of Costa Mesa, California for the Downtown Area I Redevelopment Project under the HUD programs as described in the appendix of the Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interest should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register**, a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, DC, December 16, 1985.

Dorothy S. Williams,

Deputy Director, Office of Environment and Energy.

Appendix

EIS on the Costa Mesa Downtown Area I Redevelopment Project

The City of Costa Mesa, California, has under preparation an Environmental Impact Statement (EIS) for Downtown Area I Redevelopment Project and solicits comments and information for consideration in the EIS.

Description: The proposed project involves the redevelopment of approximately 19 acres with residential and commercial uses. This project is divided into three separate parcels, known as Sites 1, 2 and 3. These parcels are contained in an area bounded by 19th Street on the north, Newport Boulevard on the east, 18th Street on the south, and Anaheim Avenue on the west. The estimated acquisition costs for each of these developments are $9 million for the Site 1 project, $6 million for the Site 2 project and $5 million of the Site 3 project.

Federal funding for the project is expected to be from the U.S. Department of Housing and Urban Development's Community Development Block Grant Program.

Need: The decision to prepare an EIS has been based upon the large-scale nature of the project and compliance with the State of California's Environmental Quality Act.

Comments: The Draft EIS is expected to be published and distributed on or about December 17, 1985. Copy of the DEIS will be on file at the municipal office or can be obtained for a fee of approximately $20.00. Comments should be forwarded to Allan Roeder, City Manager, City of Costa Mesa, 77 Fair Drive, P.O. Box 1200, Costa Mesa, California 92626, (714) 754–5606.

[FR Doc. 85–30083 Filed 12–18–85; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Supplemental Environmental Impact Statement on the Use of Lead Shot for Hunting Migratory Birds in the United States

AGENCY: Fish and Wildlife Service Interior.

ACTION: Notice of availability.

SUMMARY: This Notice advises the public that the draft Supplemental Environmental Impact Statement on the use of lead shot for hunting migratory birds in the United States is available for public review. Comments and suggestions are requested.

This Draft Supplement of a 1976 FES on the use of steel shot for hunting waterfowl in the United States incorporates data from that document and summarizes information gathered since 1976 on lead poisoning of endangered and nonendangered migratory birds due to lead shot ingestion. Alternatives considered in 1976 have been reevaluated in the light of the expanded scope of concern for lead poisoning in a broader range of migratory birds, particularly the bald eagle. The proposed action is: To promulgate annual regulations for waterfowl hunting seasons that will eliminate lead poisoning resulting from ingestion of lead shotgun pellets as a significant mortality factor among migratory birds.

Six alternative methods for achieving this objective include three different sets of criteria for protecting bald eagles, no action (no hunting), no use of lead shot and an all lead shot alternative. This Draft Supplement concludes that an expansion of the original proposal (Alternative 1) not to allow lead shot for waterfowl hunting in designated problem zones continues to be the most appropriate method for dealing with this problem.

DATE: Written comments are requested by February 3, 1986.

ADDRESSES: Comments should be addressed to Director (FWS/MBMO), Room 536 Matomic, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Public hearings will be held at the following locations:

Pacific Flyway: January 14, 1986, from 1 pm to 5 pm at the Woodlake Inn, 500 Leisure Lane, Sacramento, California.

Central Flyway: January 14, 1986, from 9 am to 1 pm at the Stapleton Plaza Hotel and Athletic Center, 3333 Quebec Street, Denver, Colorado.

Mississippi Flyway: January 14, 1986, from 7 pm to 10 pm at the Airport Ramada Inn, St. Louis, Missouri.

Atlantic Flyway and national hearing: January 14, 1986, from 9 am to 5 pm at the Department of the Interior Auditorium, 18th and C Streets, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202–254–3207).

Individuals wishing copies of this EIS for review should immediately contact the above individual. Copies have been sent to all agencies and individuals that have expressed interest in receiving Fish and Wildlife Service documents on this subject.

SUPPLEMENTARY INFORMATION: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management is the primary author of this document.

In making the annual decisions whether, where and how migratory bird hunting will be allowed under the terms of the Migratory Bird Treaty Act, the Secretary of the Interior is required to determine the capability of waterfowl and other migratory bird resources to sustain a sport harvest throughout the various portions of their range. As lead poisoning is a significant annual mortality factor for certain species of waterfowl that indirectly results from their sport harvest, the annual decision process must take into account where it is necessary to curtail further deposition of lead shotgun pellets to control additional loss of these birds.

In addition, there are areas of the country where bald eagles, populations that are listed as endangered or threatened, prey on crippled or dead waterfowl that carry ingested or embedded lead shot. Ingesting such shot can lead to illness or death from lead poisoning. As the Endangered Species Act requires Federal agencies to conserve endangered species and avoid jeopardizing their continued existence, the Secretary must consider where it is necessary to require nontoxic shot in order to reduce exposure of bald eagles to lead in their waterfowl prey.

If a determination is made that the use of lead shot must be avoided in order for the migratory bird hunting program to remain in compliance with the requirements of one or more of these statutes, the Secretary must implement a program that meets those requirements.

Wildlife biologists have known throughout this century that spent lead pellets deposited during hunting can cause sickness and death in waterfowl. In earlier decades when waterfowl populations were greater this incidental hunting-related mortality did not seem critical enough to warrant seeking a less toxic alternative to lead shot.

Increasingly, continental waterfowl populations have come under stress from destruction and degradation of their habitat, periodic adverse weather cycles and disease on crowded migration and wintering habitats. By the 1960s and 1970s the need to find an alternative to lead's toxicity became obvious to wildlife managers. In 1976, the Department of the Interior published a Final Environmental Statement (FES–76), *Proposed Use of Steel Shot for Hunting Waterfowl in the United States.* The proposed action presented at that time sought to limit further deposition of lead shot pellets in areas used by aquatic birds in order to eliminate lead poisoning from ingested lead shotgun pellets as a significant mortality factor among these birds. This proposed action was and continues to be implemented 10 years after it was first presented.

Since 1976, nontoxic shot has been required for hunting waterfowl at numerous locations throughout the United States. These requirements are now reflected in both State and Federal hunting regulations. In 1985, about 30 percent of the average annual waterfowl harvest in the United States occurred in designated nontoxic shot zones in 33 states. Acceptance of this program has occurred among waterfowl hunters in some but not all states.

The majority of wildlife managers and many hunters understand the need for conversion to a nontoxic shot in order to maintain waterfowl populations. However, there are people who believe that steel shot is not the answer: that it will damage their guns and cripple more waterfowl than lead. These concerns are true in part. Shotguns with thin-walled barrels or barrels made of soft steel should not be used for firing steel loads. However modern shotguns available from the major American arms manufacturers are safe for use with steel shot. Numerous tests relating to crippling loss with steel have produced results as varied as their individual objectives. There does appear to be a greater crippling loss with steel. However, the extent to which hunter familiarity with the different shooting characteristics of steel may affect these losses has not been determined.

Criticism about the need to convert to nontoxic shot also centers on the lack of hunter-observed, lead-poisoning mortality. This results from the fact that most lead poisoning occurs after the hunting season when waterfowl can feed undisturbed on hunted areas where shot has been deposited recently and the fact that lead poisoning is a slow, debilitating disease that makes its victims susceptible to predation or other diseases. When encountered, these birds are often mistaken for cripples. Given the difficulty in finding lead-poisoned birds, no accurate estimates can be made of annual losses. What is known is that losses are occurring every year and across the nation. And they are controllable as a reasonable and nontoxic substitute for lead shot is available.

Since FES–76 was issued examinations of dead bald eagles have demonstrated that they are dying from lead poisoning also. The major source of this lead exposure is believed to be lead pellets embedded in or ingested by waterfowl and their other prey. To date 105 lead-poisoned bald eagles have been diagnosed by the Service's National Wildlife Health Laboratory.

The bald eagle is listed as endangered or threatened in different parts of the conterminous 48 States. A national emblem, the bald eagle is also an object of cultural significance, symbolizing not only the strength of the nation, but increasingly, quality in American life. As a result, the bald eagle is protected by many national laws that together place a mandate on the Secretary of the Interior to protect this species. This responsibility was highlighted in 1985 when, in a successful suit by the National Wildlife Federation, the Court admonished the Department of the Interior of the need to consider alternatives for protecting bald eagles from lead poisoning, a topic not covered by FES–76. This Supplement is in part a response to that need.

Since 1978, the annually appropriated funds for the Department of the Interior have been restricted in their use by the following provision: "No funds appropriated by the Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation." As a consequence, the regulations have not been applied consistently throughout the United States. The implementation has varied by State, and in some cases, public lands have been regulated by more rigid standards than private lands.

In 1985, the Fish and Wildlife Service, with input from the States, Flyway Councils and the public, developed guidelines for identifying zones where the use of lead shot should not be permitted for waterfowl hunting in order to reduce exposure of waterfowl to lead. Additionally, preliminary criteria were

developed to begin to reduce exposure of bald eagles to lead poisoning.

Many studies of lead poisoning in birds and the increased use of nontoxic shot for hunting waterfowl have occurred since 1976 as a result of private, State or Federal initiatives. Much of the new information relates to bald eagles. Other new information relates to lead poisoning of waterfowl and other migratory birds.

The Service has concluded that it is in the public interest to provide an update of this information; to expand consideration to include lead shot-poisoning effects on all hunted migratory birds; and to analyze alternatives for meeting federal obligations to protect and recover the bald eagle.

Additionally, in the mid-1980s waterfowl populations are under stress; their numbers are significantly depressed; and management options that offer opportunity to enhance their survival and health take on increased importance. Besides waterfowl and bald eagles, other migratory birds are dying of lead poisoning. Little is known about the incidence or significance of lead poisoning in these species. The need for developing a blueprint for reducing this controllable mortality factor will also be addressed. Through this SEIS process the Service requests the participation of the other Federal and State agencies and the public in developing this plan.

Alternatives Addressed

This supplemental environmental impact statement (SEIS) proposes an administrative action to promulgate regulations for annual waterfowl hunting seasons that will eliminate lead poisoning resulting from ingestion of lead shotgun pellets as a significant mortality factor among migratory birds. This SEIS examines six alternatives for achieving this objective and analyzes the effects of these alternatives on the biological resources and socioeconomic systems likely to be impacted.

Alternative I (Preferred Action): Promulgate regulations that prohibit the use of lead to hunt waterfowl in zones where a known or potential lead-poisoning problem has been identified using separate criteria for nonendangered (waterfowl) and endangered (bald eagles) species. (Eagle criteria: 15 eagles and 5000 or more waterfowl harvested in a county.) Use of nontoxic shot for other migratory bird hunting would be determined on a case-by-case basis.

Alternative II (National Wildlife Federation Action): Same waterfowl criteria as Alternative I; bald eagle criteria are based on presence of lethally or sublethally lead-poisoned bald eagles, lead-poisoned or exposed waterfowl (5 percent lead shot ingestion) and/or 15 or more bald eagles in a county during the NWF Midwinter Survey. Use of nontoxic shot for other migratory bird hunting is not considered.

Alternative III (Ecological Zone Action): Same waterfowl criteria as Alternative I; bald eagle criteria identify (1) major concentrations of eagles and waterfowl along rivers and other wetland complexes; (2) counties with 15 or more wintering bald eagles; and (3) resident eagle families. Use of nontoxic shot for other migratory bird hunting would be determined on a case-by-case basis.

Alternative IV (No Action): Do not open migratory bird hunting seasons.

Alternative V (Flyway Action): Open all migratory bird hunting seasons to nontoxic shot only. This requirement would be phased in by flyway, beginning with the Mississippi Flyway in the 1987–88 season and in the Pacific, Atlantic and Central Flyways in subsequent years.

Alternative VI (Lead Shot Action): Open all migratory bird hunting seasons to use of lead shot. Use of nontoxic shot would be at State discretion.

The environmental analyses in this SEIS focus on the effect of each alternative on: reducing exposure of endangered and nonendangered species to lead poisoning and other potential impacts on these resources; the hunting and nonhunting publics; manufacturers and retailers of shot used in hunting; program administration by Federal and State wildlife agencies; and the effect on U.S. commitments to and use of migratory bird resources in other nations.

All agencies and individuals are urged to provide comments and suggestions for improving this Supplemental EIS as soon as possible. All comments received by the date given above will be considered in preparation of the Final Supplement for this action.

The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Order E.O. 11821 as amended by E.O. 11949 and OMB Circular A–107.

Dated: December 13, 1985.

Ronald E. Lambertson,

Acting Deputy Director.

[FR Doc. 85–30073 Filed 12–18–85; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 112.1]

Director, Office of Project Development, Bureau for Asia and Near East, Mission Directors in Asia Region, AID Representative in Burma, South Pacific Regional Development Officer in Fiji and the Asean Regional Development Officer

Section 1. Issuance Authority

This redelegation is issued pursuant to the authority delegated to the Assistant Administrator by A.I.D. Delegation of Authority No. 5 with respect to Loan Agreements, No. 38 with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations, No. 40 with respect to Waivers of Source, Origin and Nationality for Procurement, No. 41 with respect to Excess Property, No. 99 with respect to Contracting and Related Functions, No. 100 with respect to Adequacy of Assurances of Host Country Participation, No. 112 with respect to Other Authorities and Functions, and No. 133 with respect to Authorization of Project and Nonproject Assistance, all as amended.

Section 2. Delegations of Authority

I hereby redelegate to A.I.D. Mission Directors in Bangladesh, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka and Thailand and to the A.I.D. Representative in Burma and to the South Pacific Regional Development Officer and to the Asean Regional Development Officer, each with respect to the country or countries for which he or she is responsible, and to the Director, Office of Project Development, Bureau for Asia and Near East with respect to countries in Asia region within my area of responsibility, authority to exercise any of the following functions, except that the A.I.D. Representative in Burma, the South Pacific Regional Development Officer, the Asean Regional Development Officer, and the Bureau of the Office of Project Development may not exercise the functions in paragraphs A, B and C of this Section 2.

A. *Authorizes Assistance.* The authority to authorize a project, if the project:

(1) Does not exceed $20 million over the approved life of project (except as provided in subparagraph (B) below);

(2) Does not present significant policy issues;

(3) Does not require issuance of waivers that may be approved only by

the Assistant Administrator or the Administrator, or if such waivers are required, they are approved by the Assistant Administrator or the Administrator, as appropriate, prior to such authorization; and

(4) Does not have a life of project in excess of ten years.

B. *Amend Authorizations.* The authority to amend project authorizations executed by any A.I.D. official, if the amendment:

(1) Does not result in a total life of project funding of more than $30 million;

(2) Does not present significant policy issues; and

(3) Does not require issuance of waivers that may be approved only by the Assistant Administrator or the Administrator, or if such waivers are required, they are approved by the Assistant Administrator or the Administrator, as appropriate.

C. *Host Country Contributions.* Authority to receive and to determine the adequacy of the assurances required by section 110(a) of the Foreign Assistance Act of 1961, as amended (the Act), with respect to any individual project or nonproject assistance authorized or amended under subparagraphs A. and B. of this Section 2.

D. *Negotiate and Execute Agreements and Amendments.* Authority to negotiate and execute loan and grant agreements, and amendments thereto, with respect to loans and grants authorized under the Act, in accordance with the terms of the authorization of such loan or grant. Such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments.

E. *Implementation.* Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the Corporate Development Loan Fund, including the following:

(1) *Implementation Letters.* Authority to prepare, negotiate, sign, and deliver letters of implementation;

(2) *Ancillary Agreements and Documents.* Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(3) *Satisfaction of Conditions Precedent.* Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precendent to financing under such loan or grant agreements;

(4) *Project Implementation Orders.* Authority to sign or approve Project Implementation Orders;

(5) *Waiver of Competition for Host Country Contracts.* Authority to waive competition in the selection of contractors for contracts with borrowers or grantees financed by funds made available under such loans or grants, provided that the amount of such waiver does not exceed $1,000,000 per transaction and that the field post's noncompetitive review board finds the waiver to be justified in accordance with Handbook 11;

(6) *Waiver of Publication for Host Country Contracts.* Authority to waive, in competitive procurements, the requirement to publish, in the Commerce Business Daily or elsewhere, a notice of the availability of an invitation for bid or request for proposals for procurement of goods or services by borrowers or grantees financed by funds made available under such loans or grants, provided that the aggregate amount of each such procurement does not exceed $500,000, that the sole basis for approving such waivers shall be to avoid serious delay in project implementation, and that in any event, efforts shall be made to secure proposals, bids or offers from a reasonable number of potential contractors or suppliers;

(7) *Approval of Host Country Contracts.* Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids or requests for proposals with respect to such contracts financed by funds made available under such loans or grants; and

(8) *Extension of Terminal Dates.* Authority to extend terminal dates for signing Project Agreements and for meeting initial conditions precedent for a comulative period of not to exceed one year for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates for a cumulative period of not to exceed two years for each, provided that such extensions not extend the life of the project to more than ten years.

F. *Source/Origin/Nationality.* Authority to wiave:

(1) United States source, origin and nationality requirements to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) or the Cooperating Country; and

(2) United States or Code 941 source, origin and nationality requirements for specific transactions to permit A.I.D. financing the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or Code 935 (Special Free World).

Provided, with respect to both (1) and (2), that,

(a) the cost of goods and services does not exeed $5,000,000 per transaction (exclusive of transportation costs);

(b) waivers for procurement of goods from countries in Code 899 or Code 935 shall contain a certification by the approving official that "Exclusion of the Procurement from Free World countries other than the Cooperating Country and countries included in Code 941 would seriously impede attainment of United States foreign policy objectives and objectives of the foreign assistance program";

(c) waivers for procurement of servies, other than ocean transportation services, from countries in Code 899 or Code 935 shall contain a certification by the approving official that "the interests of the United States are best served by permitting the procurement of services from Free World countries other than the cooperating country and countries in Code 941;"

(d) the authority to waive source and origin requirements for procurement of motor vehicles shall not exceed $50,000 per transaction (exclusive of transportation costs);

(e) the authority to waive source, origin and nationality shall be exercised in accordance with the criteria prescribed in Supplement B of Handbook 1.

G. *Excess Property.* The authority to execute transfer or transfer/trust agreements for excess property with friendly countries or with international organizations having a membership primarily of foreign governments, in accordance with Section 607 of the Act and with Handbook 16, but only after I have authorized such assistance.

Section 3. Delegation to Ambassadors

The authority delegated in paragraph D. of Section 2 of this Redelegation of Authority with respect to execution of loan and grant agreements also is hereby delegated, under the same terms and conditions set forth herein, to the United States Ambassador to each of the countries listed in Section 2 of this Redelegation and to the U.S. Ambassador to Fiji, with respect to the country to which he or she is assigned.

Section 4. Redelegations.

The authorities delegated by this Redelegation of Authority may be exercised by persons in an "acting" capacity for the persons listed above and may be redelegated by the persons listed above as appropriate, but may not be successively redelegated, except that the authorities delegated under paragraphs A. and B. of Section 2 of this Redelegation of Authority may be redelegated only to the principal deputy of a Mission Director and the authority redelegated under paragraph E(6) of Section 2 of this Redelegation of Authority may not be redelegated.

Section 5. Concurrent Authority

I hereby retain for myself concurrent authority to exercise any of the functions herein redelegated.

Section 6. Technical Review

The authorities delegated herein may be exercised only after consultation, as appropriate, with A.I.D. technical and legal staff, and technical review prior to the exercise of the authorities delegated in paragraphs A. and B. of Section 2 of this Redelegation of Authority shall be in accordance with procedures established by the Bureau for Asia and Near East.

Section 7. Definitions

With respect to authorities delegated in paragraphs A., B. and E.(8) of Section 2 of this Redelegation of Authority,

(A) "Project" includes project and non-project assistance;

(B) "Project Assistance Completion Date" (PACD) is the estimated date by which all A.I.D.-financed goods are to have been delivered or all services performed under the Project Agreement (in non-project assistance, the equivalent date is the terminal date for requests for disbursement authorizations);

(C) "Life of Project" is the planned length of the project as determined in project preparation (the life of project runs from the estimated date of signature of the Project Agreement or other obligating document to the PACD).

Section 8. Prior Redelegations.

(A) This Redelegation of Authority is effective immediately and supercedes and rescinds the following Redelegations of Authority.

1. Redelegation of Authority Nos. 5.5, 38.2, 99.3, and 112.1 (41 FR 22114), each dated May 5, 1976, as amended.

2. Redelegation of Authority Nos. 5.7, 38.5, 99.7, and 112.4 (41 FR 48172), each dated October 7, 1976 as amended.

3. Redelegation of Authority Nos. 5.9, 38.7, 99.9, and 112.5 (42 FR 5773), each dated December 23, 1976, as amended.

4. Redelegation of Authority Nos. 5.10, 38.8, 99.10, and 112.6 (42 FR 5773), each dated December 23, 1976, as amended.

5. Redelegation of Authority Nos. 5.11, 38.9, 99.11, and 112.7 (42 FR 5774), each dated December 23, 1976, as amended.

6. Redelegation of Authority Nos. 5.12, 38.10, 99.18, and 112.8 (44 FR 8947), each dated November 11, 1977, as amended.

7. Redelegation of Authority Nos. 5.13, 38.11, and 112.9 (42 FR 64166), each dated November 15, 1977, as amended.

8. Redelegation of Authority Nos. 5.14, 38.12, and 112.3 (43 FR 20289), each dated April 21, 1978, as amended.

9. Redelegation of Authority Nos. 5.20, 38.18, 99.14, and 112.10 (43 FR 51887 and 51888), each dated October 25, 1978, as amended.

10. Redelegation of Authority Nos. 5.23, 38.21, 99.17, and 112.11 (44 FR 8947 and 8948), each dated February 2, 1979, as amended.

11. Redelegation of Authority Nos. 5.24, 138.22, 99.19, and 112.12 (44 FR 45275), each dated July 18, 1979, as amended.

12. Redelegation of Authority Nos. 5.25 and 38.23 (44 FR 54576 and 54577), each dated September 6, 1979, as amended.

13. Redelegation of Authority No. 40.10 (43 FR 58128 and 58129), each dated April 15, 1982, as amended.

14. Redelegation of Authority No. 133.1 (44 FR 8050 and 8051), each dated April 15, 1982.

(B) This Redelegation ratifies all acts taken prior hereto which are consistent with the terms and scope of this Redelegation of Authority.

Dated: May 24, 1985.

Charles W. Greenleaf, Jr.,

Assistant Administrator, Bureau for Asia and Near East.

[FR Doc. 85-29981 Filed 12-18-85; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30722]

Chicago and North Western Transportation Co. and Wisconsin and Southern Railroad Co.; Pooling Agreement and Lease and Operation

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding.

SUMMARY: The Commission is instituting a proceeding to consider the application of the Chicago and North Western Transportation Company (CNW) and the Wisconsin and Southern Railroad Company (WSR) under 49 U.S.C. 11342 and 11343 for approval of pooling of service and revenues for traffic over, and lease and operation of, a line of railroad at Ripon, WI.

DATES: Verified statements and comments supporting or opposing the applications must be filed by January 21, 1986. Verified replies must be filed by February 10, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30722 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

(2) Applicants' representative: Mack H. Shumate, One North Western Center, Chicago, IL 60606

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

SUPPLEMENTARY INFORMATION: CNW operates a 19.8-mile line of railroad between Fond du Lac and Ripon, WI. In Docket No. AB-1 (Sub-No. 177), a directly-related proceeding, CNW has filed an application to abandon 18.4 miles of its line from Fond du Lac to Ripon and to abandon operations (discontinue service) over the remaining 1.4 miles at Ripon.

Here, CNW and WSR seek authority for CNW to lease the 1.4-mile segment to WSR, for WSR to operate over the line, and for CNW and WSR to pool service and revenues from traffic on the line. The Commission is requesting comments on the pooling, and on the lease and operation. Parties are asked to discuss whether, inasmuch as CNW is seeking in AB-1 (Sub-No. 177) to discontinue service over the 1.4-mile segment, the arrangement contemplated by CNW and WSR qualifies as pooling. That portion of the application involving lease of a line of railroad will be considered under the Commission's general exemption authority (49 U.S.C. 10505).

An investigation has been instituted in AB-1 (Sub-No. 177), and parties have submitted evidence. The Commission is not asking for further discussion on the merits of that abandonment and discontinuance application. The Commission will, however, conform that proceeding to the time frames and deadlines of this directly-related proceeding and issue its decisions simultaneously.

Decided: December 13, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-30034 Filed 12-18-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Ben's Truck & Equipment, Inc., et al.

In accordance with Department policy, 28 CFR 50.7, Notice is hereby given that on November 25, 1985 a proposed Consent Decree in *United States* v. *Ben's Truck & Equipment, Inc. and P&M Cedar Products, Inc.*, Civil Action No. S-84-1672-MLS, was lodged with the United States Court for the Eastern District of California. The proposed Consent Decree concerns the prevention of visible emissions and the proper procedures to be followed during demolition operations involving the removal of friable asbestos material. The proposed Consent Decree only relates to defendant P&M Cedar Products, Inc. and requires P&M to pay a civil penalty of $20,200 and enjoins P&M from further violations of various Sections of the Clean Air Act and the National Emission Standard for Hazardous Air Pollutants for asbestos.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication coments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Ben's Truck & Equipment, Inc. and P&M Cedar Products, Inc.*, D.J. Ref. 90-5-2-1-743.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of California, 650 Capitol Mall, Sacramento, California 95814 and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California. Copies of the Consent Decree also may be examined at the Enviromental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Rsources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29992 Filed 12-18-85; 8:45 am]

BILLING CODE 4401-10-M

Lodging of Consent Decree Pursuant to Clean Air Act and Clean Water Act; Consolidated Rail Corp.

In accordance with Department policy, 26, CFR 50.7, notice is hereby given that on November 26, 1985, a proposed consent decree in *United States v. Consolidated Rail Corporation*, Civ. No. C82-2767, was lodged with the United States District Court for the Northern District of Ohio. This agreement resolves a judicial enforcement action brought by the United States against Consolidated Rail Corporation for violations of the Clean Air Act and Clean Water Act at Conrail's coal handling facility in Ashtabula, Ohio.

The proposed consent decree provides that Conrail will install an enclosure for its cross-river coal conveyor by November 30, 1986. Until the enclosure is completed, Conrail will install and operate a watering spray system to reduce fugitive coal emissions from its coal storage piles. The proposed decree states that Conrail has already installed a run-off collection and treatment system and received an NPDES permit from the State of Ohio in March 1985. Conrail has also demonstrated that its discharges from the collection and treatment system are in compliance with the NPDES permit effluent limitations. Finally, the agreement provides for the payment of a civil penalty of $75,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Consolidated Rail Corporation*, D.J. Ref. 90-5-2-1-432.

The proposed consent decree may be examined at the office of the United States Attorney or the regional office of the Environmental Protection Agency as follows:

U.S. Attorney: U.S. Attorney, Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114

EPA: Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29997 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Action To Enjoin Emission of Air Pollutants; Fairchild Republic Co.

In accordance with Departmental Policy, 28 CFR 50.7, 39 FR 19029, notice is hereby given that a consent decree in *United States v. Fairchild Republic Company*, Civil Action No. CV-85-3701, has been lodged with the United States District Court for the Eastern District of New York. The consent decree establishes a compliance program for the Farmingdale, New York plant owned and operated by Fairchild Republic Company, to bring the plant into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* and the New York State Implementation Plan ("SIP"), relating to the emission of volatile organic compounds ("VOC"), and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Fairchild Republic Company*, D.J. Ref. No. 90-5-2-1-713.

The consent decree may be examined at the office of the United States Attorney, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of

the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29996 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Air Act; Koch Industries, Inc.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on November 25, 1985, a proposed Consent Decree in *U.S. v. Koch Industries, Inc.* Civil Action No. 85F-2532, was lodged with the United States District Court for the District of Colorado. The complaint filed by the United States alleged violations of the Clean Air Act by Koch Industries due to its failure to obtain a Prevention of Significant Deterioration (PSD) permit pursuant to section 165 of the Act before commencing installing two additional gas-fired compressor engines at its gas processing plant in Adams County, Colorado. The complaint sought injunctive relief and civil penalties. The Consent Decree requires Koch Industries to obtain federally enforceable restrictions on its two compressor engines, in compliance with PSD regulations (40 CFR Part 52), to meet specific emission requirements, and to pay a civil penalty of $14,000.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Koch Industries, Inc.*, D.J. Ref. 90-5-2-1-847.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Robert N. Miller, 1200 Federal Office Building, 1961 Stout Street, Denver, Colorado 80294 and at the Region VIII Office of the Enviornmental Protection Agency, One Denver Place—Suite 1300, 999—18th Street, Denver, Colorado 80202-2413. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please include a check in the amount of $1.30 (ten cents per page reproduction cost) payable to the Treasury of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29994 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Air Act; Youngstown, OH

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 3, 1985, a proposed consent decree in *United States v. City of Youngstown*, No. C84-2929-Y, was lodged with the United States District Court for the Northern District of Ohio. This agreement resolves a judicial enforcement action brought by the United States against the City of Youngstown which alleged violations of the Clean Air Act at the city's sludge incinerators in Youngstown, Ohio.

The proposed consent decree provides that the city will install a scribber on each of the two incinerators which are operated in connection with the city's wastewater treatment plant and implement certain other modifications to the incinerator system by May 2, 1987. The city will also continue to implement an interim control program which reduces particulate emissions to 71.3 tons per year until August 22, 1986, when the first scrubber will be installed. The city is required to comply with the particulate emission limitations in the Ohio SIP on August 22, 1986, when the first scrubber becomes operational. The interim measures include restrictions on the sludge feed-rate, incinerator operating temperatures, and sludge content. The city has agreed to pay a civil penalty of $30,000 for past violations. Finally, the decree establishes monitoring and reporting requirements and provides for stipulated penalties for failure to comply with the provisions of the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Youngstown*, D.J. Ref. 90-5-2-1-705.

The proposed consent decree may be examined at the office of the United States Attorney or the regional office of the Environmental Protection Agency as follows:

U.S. Attorney: U.S. Attorney, Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114

EPA: Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please attach a check in the amount of $2.20, payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29993 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Toxic Substances Control Act; Cannelton Industries, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 3, 1985 a proposed Consent Decree in the consolidated cases of *United States* v. *Cannelton Industries Inc.*, Civil Action No. 83-2406, and *Cannelton Industries, Inc.* v. *United States*, Civil Action Nos. 83-2388 and 84-2078, was lodged with the United States District Court for the Southern District of West Virginia. The proposed Consent Decree requires Cannelton to remedy an underground spill ob PCB di-electric fluid which occurred while Cannelton was closing its Mine No. 105, near Cannelton (Kanawha County), West Virginia, in April, 1982. The contaminated area extends approximately one hundred ninety (190) feet from a point in the Bullpush Slope approximately three hundred fifty (350) feet below the surface back down the Slope approximately one hundred fifty (150) feet to the point where the Slope intersects with an entry in the No. 2 Gas coal seam, and then approxiamtely forty (40) feet further into the Mine.

The proposed Decree requires Cannelton to: cover the spill with a 12

inch thick cap consisting of bentonite clay and concrete; to seal Mine No. 5; to avoid using any part of the Mine in the future within 100 yards of the spill area, except under emergency situations reported within 24 hours to EPA; and to avoid using any part of the Mine in the future within a 1,000 yard radius of the spill area, except in accordance with notification and sampling procedures contained in the Decree.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of West Virginia, 500 Quarrier Street, Charleston, West Virginia 25301 and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. Copies of the proposed Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resourses Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29995 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Clean Water Act Enforcement Action; Middlesboro, KY

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *City of Middlesboro, Kentucky* was entered by the United States District Court for the Eastern District of Kentucky on December 2, 1985. The decree requires the city to build a new sewage treatment plant to rehabilitate its sewer system, to improve its operation and maintenance and to pay a civil penalty of $50,000. The decree contains milestone dates and reporting requirements and provides for stipulated penalties for noncompliance.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addresed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States* v. *City of Middlesboro*, 90-5-1-1-2066.

The consent decree can be examined at the office of the United States Attorney, Limestone and Barr Streets, Lexington, Kentucky, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice (Room 1515), Ninth and Pennsylvania Avenue NW., Washington, DC 20530.

A copy of the consent decree can be obtained in person or by mail from the Environmental Enforcement section at the above address at a cost of $7.40 (10 cents per page reproduction costs).

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-29996 Filed 12-18-85; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision

2. The title of the information collection: 10 CFR Part 25, "Access Authorization for Licensee Personnel."

3. The form number if applicable: Not applicable

4. How often the collection is required: On Occasion

5. Who will be required or asked to report: Licensees and other organizations

6. An estimate of the number of responses: 110

7. An estimate of the total number of hours needed to complete the requirement or request: 112

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable

9. Abstract: Licensees and other organizations are required to provide information to ensure that an adequate level of protection is provided for NRC classified information.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Oficer is R. Stephen Scott, (301) 492-8585. Dated at Bethesda, Maryland this 16th day of December 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85-30090 Filed 12-18-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

General Public Utilities Nuclear Corp.; Environmental Assessment and Notice of Finding of No Significant Environmental Impact

The U.S. Nuclear Regulatory Commission (the Commission) is planning to issue an Exemption relative to the Facility Operating License No. DPR-73, issued to General Public Utilities Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2), located in Londonderry Township, Dauphin County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action: The action being considered by the Commission is an exemption from assessments, analyses and other requirements of 10 CFR 50.61 for protection against pressurized thermal shock events.

Specifically 10 CFR 50.61 requires the licensee to submit to the U.S. Nuclear Regulatory Commission projected values for reference temperature for each weld and plate or forging in the reactor vessel beltline and an analysis and schedule for implementation of a flux reduction program if the projected values of reference temperature are expected to exceed the pressurized thermal shock criterion set forth in Paragraph (b)(2) of 10 CFR 50.61.

The Need for the Action: Given the lack of pressurization of the Reactor Coolant System (RCS) and the low core and RCS temperatures, pressurized thermal shock is not a credible event. Accordingly, analyses to determine the potential for and actions to protect against pressurized thermal shock for each weld and plate or forging in the reactor vessel beltline are not

warranted. Undertaking the analyses and other actions required by 10 CFR 50.61 would impose an unnecessary burden and expense on the licensee with no concomitant benefit.

Environmental Impacts of the Proposed Actions: The staff has evaluated the subject exemption and concludes that there are no significant radiological or nonradiological impacts to the environment as a result of this action. The exemption removes the Commission's requirement to conduct analyses and make assessments of pressurized thermal shock events.

Alternate to this Action: Since we have concluded that there is no significant environmental impact associated with the subject Exemption, any alternatives to this change will have either no significant environmental impact or greater environmental impact. This would not reduce significant environmental impacts of plant operations and would result in the application of unnecessary regulatory requirements.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Alternate Use of Resources: This action does not involve the use of resources not previously considered in connected with the Final Programmatic Impact Statement for TMI-2 dated March 1981.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the subject Exemption. Based upon the foregoing environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see: (1) Letter from F. R. Standerfer, GPUNC, to B. J. Snyder, USNRC, 10 CFR 50.61 Exemption Request, dated August 27, 1985.

The above documents are available for inspection at the Commission's Local Public Document Room ,1717 H Street, N.W., Washington, DC, and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

For the Nuclear Regulatory Commission.

William D. Travers,

Director, TMI-2 Cleanup Project Directorate, Office of Nuclear Reactor Regulation.

[FR Doc. 85-30092 Filed 12-18-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-622]

Finding of No Significant Impact; Renewal of Special Nuclear Materials License No. SNM-561; Department of the Army

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Materials License No. SNM-561 for the continued operation of the U.S. Army Armament Research and Development Center at Dover, New Jersey.

Summary of the Environmental Asssessment

Identification of the Proposed Action: The proposed action would allow the Army to continue operation for 5 years. Material covered under this license is used for military research and development projects as defined in 10 CFR 70.4(j).

The Need for the Proposed Action: Activities under this license serve a variety of research and development needs for the military. Activities involve research programs primarily in the areas of weapons, weapon systems, and munitions for use in the U.S. Army. Denial of the license renewal for the continued operation of the ARDC, Dover site, would require that similar activities be started at another site. Although denial or renewal of the SNM license for ARDC is an alternative available to the NRC, it would be considerd only if issues of public health and safety cannot be resolved to the satisfaction of the regulatory authorities involved.

Environmental Impacts of the Proposed Action: There will be no effluents produced from normal operation, only some solid waste generated from activation samples. Waste samples will be properly disposed. The sealed sources do not generate any waste.

Finding of No Significant Impact: The Commission has determined not to prepare an Environmental Impact Statement for the proposed action. Based upon the Environmental Assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Environmental Assessment for the proposed action, on which this Finding of No Significant Impact is based, relied on the U.S. Army Armament Research and Development Center license renewal application, License SNM-561, Docket No. 70-622, August 17, 1984.

The Environmental Assessment and the Above Document related to this proposed action are available for public inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling (301) 427-4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commisison, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 11th day of December 1985.

For the Nuclear Regulatory Commission.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 85-30091 Filed 12-18-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on January 15, 1986, Room 1167, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 15, 1986—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss NRC Staff resolution and implementation of USI A-46, "Seismic Qualification of Equipment in Operating Plants." The SQUG/EQE evaluation of the March 1985 Chilean earthquake will also be discussed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff,

its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. A. Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 12, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-30093 Filed 12-18-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14846; (File No. 812-6192)]

Financiere Credit Suisse—First Boston and Financiere, Inc.; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants From All Provisions of the Act

December 13, 1985.

Notice is hereby given that Financiere Credit Suisse—First Boston (the "Company") and Financiere, Inc. ("Financiere") c/o Scott M. Freeman, Esq., Cravath, Swaine & Moore, One Chase Manhattan Plaza, New York, NY 10005, filed an application on August 27, 1985, and an amendment thereto on December 3, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting the Company and Financiere 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 made therein, which are summarized below, and to the Act for the applicable provisions thereof.

According to the application, the Company is organized and regulated under the laws of Switzerland and had total consolidated revenues of Sfr. 298 million (U.S. $115 million) in 1984 and total consolidated equity of Sfr. 485 million (U.S. $187 million) at December 31, 1984. The Company states that it is an international financial services group composed of companies ("Operating Subsidiaries") that raise capital, trade securities and provide investment management and corporate structuring services for companies, governments, institutional investors and other clients worldwide.

Applicants represent that Financiere is a wholly-owned subsidiary of the Company, incorporated in Delaware on March 14, 1985, for the sole purpose of serving as a financing vehicle for the Company's proposed commercial paper program (the "Commercial Paper Program"). Pursuant to the Commercial Paper Program, Financiere will issue commercial paper (the "Commercial Paper") in the United States and loan the proceeds thereof to the Company's Operating Subsidiaries for use in current transactions. In exchange for the Commercial Paper, the Operating Subsidiaries will give Financiere their prommissory notes. The interest payments on the promissory notes will exactly offset the Financiere's payments on the Commercial Paper. Applicants anticipate that the size of the proposed Commercial Paper Program will be in the range of $400 million. The Commercial Paper will generally have maturities of less than 60 days, with the typical maturity in the vicinity of 30 days and most of the Commercial Paper will be sold in denominations in excess of $1,000,000, with the typical denomination in the range of $5,000,000.

Applicants represent that Financiere will be directly liable on the Commercial Paper and that the Company will directly and unconditionally guarantee the payment of principal of, interest on and premium, if any, on the Commercial Paper to the holders thereof. Such guarantee will provide that in the event of any default with respect to such payments on the Commercial Paper, the holders may institute legal proceedings directly against the Company to enforce the Company's guarantee without first proceeding against Financiere. The guarantee of the Company will rank *pari passu* with all other general, unsecured, unsubordinated obligations of the Company.

In addition to the unconditional guarantee provided by the Company, Applicants propose a letter of credit arrangement whereby the Commercial Paper will be issued pursuant to a facility agreement, a depositary agreement and an issuing and paying agency agreement among the Company, Financiere, a major commercial bank acting as issuing agent, paying agent, and depositary (the "Depositary"), and Credit Suisse, a large Swiss commercial bank, and will be supported by a "direct pay" irrevocable letter of credit (the "Letter of Credit") issued by Credit Suisse to the Depositary for the benefit of holders of the Commercial Paper. The Depositary will make drawings under the Letter of Credit to obtain funds to pay the Commercial Paper as it matures, thus assuring timely and complete repayment on the Commercial Paper. The Company represents that it will guarantee to Credit Suisse payment by Financiere of its obligations to Credit Suisse.

Applicants represent that the Commercial Paper will (i) have maturities not exceeding 270 days, (ii) be in bearer or registered form, (iii) be issued in denominations of not less than $100,000, (iv) not be advertised for sale to the general public and (v) be sold through major dealers in the commercial paper market only to institutional investors or other entities that normally participate in the established commercial paper market. Applicants undertake to ensure that each dealer will furnish to each offeree of the Commercial Paper, prior to sale of any Commercial Paper to such offeree, memorandum (the "Offering Memorandum") describing the businesses of the Company and providing its most recent annual audited financial statements, together with a brief description of the material differences between accounting principles utilized in preparation of the Company's financial statements and generally accepted accounting principles used by similar institutions in the United States. Applicants further represent that the Offering Memorandum will be at least as comprehensive as memoranda customarily used in issuances of commercial paper in the United States and will be updated as promptly as practicable to reflect material changes in the Company's status. The Company and Financiere consent to having any order granting the relief requested herein expressly conditioned upon their compliance with the undertaking regarding the Offering Memorandum.

Applicants state that the proposed offering of Commercial Paper will be exempt from registration under the Securities Act of 1933 (the "1933 Act") pursuant to section 3(a)(2), 3(a)(3) or 4(2) thereof. Applicants undertake not to market any Commercial Paper prior to receiving an opinion of its United States counsel that the proposed offering is entitled to an exemption from the registration requirements of the 1933 Act. Applicants do not request review or approval by the Commission regarding the availability of such exemption.

Applicants represent that any issue of debt securities in the United States (not including deposits) shall have received, prior to issuance, one of the two highest investment grade ratings from at least

one nationally recognized statistical rating organization and that their United States counsel shall have certified that such rating has been received. However, no such rating shall be required if, in the opinion of Applicants' United States counsel, an exemption from registration is available under section 4(2) of the 1933 Act or Regulation D thereunder. Moreover, in the event that either or both Applicants issue any debt securities requiring registration under the 1933 Act, Applicants undertake to refrain from selling such obligations until the registration statement filed in connection with such offering has been declared effective by the Commission.

In connection with their proposed issuance and sale of any debt securities in the United States, Applicants undertake to appoint an agent to accept service of process in any action based on the obligations instituted against either or both of them in any state or federal court by any holder based on the obligations, the guarantees thereon or the manner of the offering. Applicants further undertake to accept the jurisdiction of any state or federal court located in the City of New York in respect of any action based on such obligations and instituted by any holder thereof. Applicants represent that such appointment of an authorized agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the obligations shall have been paid. Neither the issuing agent nor the agent for service of process will be a trustee for the holders of the obligations and will not have any responsibilities or duties to act for such holders as would a trustee. Applicant consent to any order granting the requested relief being expressly conditioned upon compliance with all representations and undertaking set forth above and in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 6, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon an Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30040 Filed 12-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14845; (File No. 812-5772)]

IDS Mutual, Inc.; Notice of Application

December 13, 1985.

Notice is hereby given that IDS Mutual, Inc., IDS Stock Fund, Inc., IDS Selective Fund, Inc., IDS Variable Payment Fund, Inc. (now known as IDS Equity Plus Fund, Inc.), IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc, IDS Growth Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS Tax-Free Money Fund, Inc., IDS Discovery Fund, Inc., IDS Extra Income Fund, Inc., IDS Strategy Fund, Inc., IDS International Fund, Inc., IDS Managed Retirement Fund, Inc., IDS Life Capital Resource Fund I, Inc., IDS Life Capital Resource Fund II, Inc.,[1] IDS Life Moneyshare Fund, Inc., IDS Life Special Income Fund I, Inc., IDS Life Special Income Fund II, Inc.,[2] at 1000 Roanoke Building, Minneapolis, Minnesota 55402; IDS Life Variable Annuity Fund A, IDS Life Variable Annuity Fund B, IDS Certificate Company (collectively, the "Funds"), IDS Financial Services Inc. ("IDS"),[3] IDS Life Insurance Company ("IDS Life"), at IDS Tower, Minneapolis, Minnesota 55402; Shearson Lehman Brothers Inc. ("Shearson"),[4] at American Express Tower, World Financial Center, New York, New York 10285-1900; Foster & Marshall/American Express Inc. (now Known as Foster & Marshall Inc.) (Foster & Marshall"), at 205 Columbia Street, Seattle, Washington 98104; Robinson-Humphrey/American Express Inc. (now known as The Robinson-Humphrey Company, Inc.) ("Robinson-Humphrey"), at 3333 Peachtree Road, NE., Atlanta, Georgia 30383; and Chiles Heider & Co., Inc. ("Chiles, Heider") at 1300 Woodmen Tower, Omaha, Nebraska 68102 filed an application with the Commission on February 15, 1984, pursuant to section 10(f) of the Investment Company Act of 1940 (the "Act"), and amendments thereto on December 5, 1984, and March 1, 1985, for an order exempting the Funds, IDS, IDS Life, Shearson, Foster & Marshall, Robinson-Humprey and Chiles, Heider (collectively, the "Applicants") from the provisions of section 10(f) of the Act, and Rule 10f-3 thereunder, to the extent necessary to permit the Funds, subject to certain conditions, to purchase securities through underwriting syndicates in which Shearson, Foster & Marshall, Robinson-Humphrey and/or Chiles, Heider (collectively, the "Underwriters") participate. 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 provisions thereof relevant to any consideration of the application.

Five of the Funds have contracted with IDS Life investment management services. IDS Life in turn employs IDS for certain investment advice rendered in connection with each of those Funds. Seventeen Funds employ IDS as their principal underwriter and investment manager. With combined assets of $8,870,138,943 on July 31, 1984, those seventeen funds represent one of the ten largest mutual fund complexes in the United States. Applicants state that IDS Life Variable Annuity Fund A and IDS Life Variable Annuity Fund B (collectively "Funds A and B") are separate accounts of IDS Life. According to Applicants, both Funds A and B have boards of managers with certain defined authority, and have entered into agreements with IDS Life for investment management and distribution services. Applicants also state that under the terms of an agreement between IDS Life and IDS, IDS provides investment advice with respect to the management of the investments of Funds A and B. Finally, IDS Certificate Company ("IDSCC") is a wholly-owned subsidiary of IDS registered as a face-amount certificate company under the Act that is represented to be by far the largest issuer of face-amount investment certificates in the United States. IDSCC receives from IDS advice, statistical data and recommendations with respect to the acquisition and disposition of securities for IDSCC's portfolio.

Applicants state that IDS is engaged directly and through subsidiaries in

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[1] IDS Life Capital Resource Fund I, Inc. and IDS Life Capital Resource Fund II, Inc. recently merged and are now known as IDS Life Capital Resource Fund, Inc.

[2] IDS Life Special Income Fund I, Inc. and IDS Life Special Income Fund II, Inc. recently merged and are now known as IDS Life Special Income Fund, Inc.

[3] IDS's name was changed from "IDS/American Express Inc." to "IDS Financial Services Inc." On January 30, 1985.

[4] Shearson's name was changed from "Shearson Lehman/American Express Inc." to "Shearson Lehman Brothers Inc." on March 15, 1985.

providing a variety of financial products, including investment advisory services. Applicants state that IDS Life, a stock life insurance company, is a wholly-owned subsidiary of IDS. According to the application on January 12, 1984, IDS became a wholly-owned subsidiary of American Express Company ("American Express"), a corporation engaged through various subsidiaries in providing a variety of travel-related, insurance, international banking and investment services.

Applicants represent that each of the Underwriters is a direct or indirect subsidiary of American Express. Shearson, which became a wholly-owned subsidiary of American Express in June 1981, is said to be one of the leading full-line investment service firms serving the United States and foreign securities and commodities market. Applicants state that, among other activities, Shearon acts as manager, co-manager or syndicate member in public offerings of debt and equity securities.

Applicants state that, on May 11, 1984, Shearson and American Express completed a transaction resulting in Shearson's acquisition of Lehman Brothers Kuhn Loeb Incorporated ("Lehman"). Applicants represent that, as part of the acquisition, the corporate and municipal finance departments of Shearson and Lehman have been combined, which has in turn resulted in Shearson's becoming a major participant in all areas of the securities underwriting business. Applicants further represent that Foster & Marshall, Robinson-Humphrey and Chiles, Heider are active at least on a regional basis in the business of underwriting securities. Applicants state that, by virtue of being subsidiaries of American Express, IDS and each of Underwriters may be deemed under section 2(a)(3) of the Act to be "affiliated persons" of each other.

Applicants request an exemptive order of the Commission so as to permit the Funds and any other registered investment companies for which IDS, IDS Life, or any other subsidiary of IDS serves as investment adviser after the date (March 1, 1985) on which Applicants' second amendment was filed with the Commission (collectively, "Covered Funds") to purchase through any underwriting Syndicate in which any of the Underwriter (or any other broker-dealer that may become an "affiliated person" of IDS as defined in section 2(a)(3) of the Act) is a participant ("Affiliated Syndicate") an aggregate amoung of securities exceeding the percentage limitations currently contained in paragraph(d) of Rule 10f-3. Specifically, Applicants request that Covered Funds be subject to two sets of specified limitations that are represented to be based on historical trading patters of the Funds and that vary depending on the kind and principal amount of the securities being offered through the Affiliated Syndicate. The first set of limitations would apply to offerings of corporate equity or debt securities registered under the Securities Act of 1933 and would permit Covered Funds to purchase in the aggregate through an Affiliated Syndicate from four to 10 percent of an offering of securities depending on the size of the offering. The second set of limitations would apple to offerings of municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934 and would permit Covered Funds to purchase in the aggregate through an Affiliated Syndicate from four to 15 percent of an offering depending on the size of the offering. In addition Applicants set forth specific conditions which will govern purchases of securities on behalf of the Funds through Affiliated Syndicates when the transactions are for less than four percent of a particular offering, the amount permitted by paragraph (d) of Rule 10f-3.[5]

Applicants state that, in investing on behalf of the Funds in its capacity as investment manager, IDS often purchases securities offered through fixed price underwriting syndicates.[6] Applicants state that IDS looks to syndicates for securities purchases for a number of reasons. Applicants represent that purchasing securities through syndicates may afford IDS the opportunity to acquire a relatively large quantity of securities without significantly influencing an existing secondary market for the securities. Applicants also state, among other things, that the price for securities offered through a syndicate may be better than that available to IDS in the secondary market for the securities.

Paragraph (d) of Rule 10f-3 generally provides that investment companies employing the same investment adviser may puchase in the aggregate from members of an underwriting syndicate in which affiliate of the investment adviser participates no more than the greater of (1) four percent of the offering or (2) $500,000, to a maximum limit of 10 percent of the offering. Applicants state that the greater of four percent of an offering or $500,000 is significantly lower than the amount of securities that the Funds have often purchased in the past through underwriting syndicates. Thus, Applicants assert, complying with the terms of Rule 10f-3(d) could result in limiting, for reasons other than investment merit, the amount of securities the Funds can purchase through Affiliated Syndicates. According to the application, IDS believes that the limitation would have its greater effect during those periods of the time when attactive opportunities exist in the new issue markets or when the Funds are experiencing net sales of their shares.

In light of the large amounts of securities the Funds purchase through underwriting syndicates, and in light of the significant participation of the Underwriters in the underwriting business, Applicants contend that paragraph (d)'s limitations would have the effect of interfering with the Funds' normal investment practices to a far greater degree than those limitations might with most other investment conpany complexes. To support their contention, Applicants note that only one mutual fund complex currently among the top ten complexes in terms of non-money market fund assets is affiliated with a borker-dealer having an underwriting business of a size comparable to that of Shearson's. Applicants contend that substituting the quantity limitations that they are proposing for those contained in paragraph(d) will alleviate the undesirable effect of paragraph(d) described above and will provide the Funds with necessary investment flexibility similary to their historic purchase patterns. Applicants also submit that, in view of the Underwriters'

[5] By letter dated November 13, 1985, Applicants set forth their position on the question of whether the Covered Funds should be able to continue to purchase securities under the provisions of Rule 10f-3 if the exemption sought by the application is granted. Applicants wrote that they believed they should be able to use the Rule for purchases of securities from affiliated syndicates or less than four percent in the aggregate, but they also stated that they were willing to subject such purchase transactions to several additional conditions. Two conditions were identical to those that will apply in the case of purchases in excess of the four percent limit under the exemptive application-enhanced review and non-solicitation. A new third condition involving prior notice was agreed to by the Applicants. For a further descripiton of these conditions, see the text at page 9, *infra*.

[6] By letter dated October 8, 1985, for example, Applicants represent that underwritten securities were approximately 14 and 16 percent, respectively, of the total non-money market securities purchases for the Funds in 1982 and 1983. They further respresented that such data illustrated an historical pattern of the Funds' purchasing large amounts of securities through fixed price underwriting syndicates. We have been advised by counsel for the Applicants that this additional background information, the representations referred to in footnotes 7 and 8 at page 8, *infra*, the conditions referred to on footnote 5 at page 5 *supra*, and the name change listed on page 1, *supra*, will be set forth in a formal amendment to the applications to be filed during the notice period.

lack of influence over the Funds, the potential for the Funds' engaging in the kinds of transactions with which section 10(f) is intended to deal is at best negligible.

Furthermore, the application contains a number of conditions designed to protect the interests of the Funds and Fund shareholders. In summary, they are as follows. First, a representative of each Covered Fund who is not affiliated with IDS or any of the Underwriters will be required to approve the Fund's purchase of securities through an Affiliated Syndicate before the purchase is completed.[7] Second, the board of directors or managers of a Covered Fund or a committee of the board will review the terms of each purchase of securities by the Fund through an Affiliated Syndicate as soon as practicable after the completion of the purchase and quarterly thereafter.[8] Third, the Underwriters have specifically undertaken not to attempt to solicit directly or indirectly the participation of any Covered Fund in an Affiliated Syndicate. Fourth, the limits of the consideration that a Covered Fund may pay in connection with a purchase of securities through an Affiliated Syndicate are generally stricter than the analogus limits contained in Rule 10f-3(e). Fifth, the role of any Underwriter in an Affiliated Syndicate must be that of a member and may not be that of a manager or co-manager. Sixth, the board of directors or managers of each Covered Fund will adopt procedures designed to ensure that purchases covered by the exemption are effected in accordance with the terms of the conditions listed above and review those procedures annually. Seventh, each Covered Fund will (1) maintain and preserve permanently a written copy of the above procedures and (2) maintain and preserve for a period not less than six years a written record of the purchases covered by the exemption. Eighth, each Covered Fund will report transactions covered by the exemption on appropriate Commission reports.

With respect to transactions covered by the four percent limitation contained in Rule 10f-3, Applicants have agreed to the imposition of the second and third conditions in the application concerning enhanced director review procedures, both soon after the transaction and quarterly thereafter, and the non-solicitation condition. As a third condition, IDS has undertaken that it will notify the Covered Funds each time it proposes to acquire up to four percent of any offering where an Underwriter is the manager or co-manager, and it will delay any such acquisition for 24 hours to permit the Covered Funds to object to the transaction. Applicants contend that this last condition should not be nearly as burdensome for IDS and the Covered Funds to accomplish as the prior review requirement to be conducted by an independent representative of each Fund pursuant to the first condition in the application. For all the reasons stated above, Applicants request that the Commission enter an order pursuant to section 10(f) of the Act permitting them to enter into the transactions described in the application subject to the conditions set forth therein.

Finally, the Commission has determined that any order issued on the application should specifically provide that, if amendments to Rule 10f-3 are subsequently adopted, they will supersede the exemptive order. However, if the rule amendments are minor or procedural, an application to extend the exemptive order would be favorably considered. This will ensure that granting the application will not result in the Funds' maintaining a competitive advantage over mutual fund groups.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 7, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses 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.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-30041 Filed 12-18-85; 8:45 am]

BILLING CODE 8010-01-M

[7] The letter of October 8, 1985, represents that any such person would be a person skilled in reviewing securities transactions.

[8] The letter of October 8, 1985, represents that at least a majority of each Covered Fund's board of directors would be comprised of non-interested directors, within the meaning of section 2(a)(19) of the Act, as long as the requested exemption is in effect.

[Release No. 34-22706; File No. SR-MSTC-85-8]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company Relating to Use of the MST System Communications Services

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 November 21, 1985, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) Article I, Rule 3, Section 2 of the Rules of the Midwest Securities Trust Company is hereby amended as follows:

Article I.

Definitions and General Provision.

Rule 3.

Indemnification

Section 2 (a) No change in text.

(b) No change in text.

(c) No change in text.

(d) In consideration of the Corporation furnishing communications services to a Participant whereby the Participant may send or receive information to or from the Corporation, or instruct the Corporation to act on behalf of the Participant: (i) the Corporation shall not be liable for any loss of or damage to information sent or received through the communications services, provided that the Corporation shall use its best efforts to reconstitute for the Participant, information lost or damaged as a result of the Corporation's own grossly negligent, fraudulent or criminal acts; (ii) the Participant shall indemnify and hold harmless the Corporation against any loss, liability, or expense sustained, arising from any action, proceeding or claim of a third party who, with the prior approval of the Participant, may have received information or other services from communications services furnished by the Corporation to a Participant.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change clarifies the liabilities and respective rights of MSTC and its Participants with respect to Participants's use of MST System communications services. Through these communications services, MSTC Participants received from independent vendors, computer terminals which allow the Participants to access the MST System.

Previously, MSTC Participants were asked to sign an MSTC Communications Service Agreement (Agreement), under which MSTC disclaimed liability for losses arising from computer terminal malfunction. Rather than continue to require such an agreement, MSTC management believes it would be more expedient to codify the Agreement's relevant provisons in an MSTC Rule. Consequently, the proposed rule filing represents a codification of the previously utilized Agreement.

Consistent with the Agreement, the rule change clarifies MSTC's liability for losses arising from the furnishing of communications services to Participants. The proposed rule change provides that MSTC will not be liable for information lost through the communications services, provided that MSTC will use its best efforts to retrieve information lost due to MSTC's gross negligence. In the event that the Participant shares MST System-generated information with a third party, and where the third party brings an action against MSTC over such information, the Participant will indemnify MSTC under the proposed rule change. This proposed rule change will impose reasonable safeguards where MSTC and its Participants experience communications services malfunctions due to computer problems.

The proposed rule change is consistent with section 17A of the Securities Exchange Act in that it recognizes new data processing and communications techniques that facilitate securities clearance and settlement.

(B) Self-Regulatory Organization's Statment on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods 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 approved the 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 & Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 9, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 12, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30043 Filed 12-18-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/915]

Advisory Committee on International Investment, Technology, and Development, Subcommittee on Transborder Data Flows; Meeting

The Department of State will hold a meeting of the Subcommittee on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development on January 8, 1986 from 2:00 p.m. to 4:00 p.m. The meeting will be in Room 1105 at the Department of State, 2201 "C" Street, NW., Washington, D.C. 20520.

The purpose of the meeting will be to discuss the invisibles code and the U.S. proposal for joint work with the CMIT committee, to review the OECD/ICCP Special Session on Telecommunications Policy, and to discuss the BIAC/CCITT proposal for a work program project.

Access to the State Department is controlled. Therefore, members of the public wishing to attend the meeting must contact the Office of Investment Affairs, (202) 632-2728, in order to arrange admittance. Please use the "C" street entrance.

The Chairman of the Subcommittee will, as time permits, entertain comments from members of the public at the meeting.

Dated: December 10, 1985.

Walter B. Lockwood, Jr.,

Executive Secretary.

[FR Doc. 85-30038 Filed 12-18-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/917]

Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 8, 1986, at 10:00 a.m. in Room 1205, Department of State, 2201 C Street NW., Washington, D.C.

Study Group A deals with international telecommunications policy and services; Study Group B deals with

preparation for the PC/WATTC Study Group Meeting.

Study Group A will review matters relating to the January/February 1986 Working Party meetings of CCITT Study Group III taking place in Geneva, and provide a debriefing of the November Working Party meetings of CCITT Study Groups I and III. In addition, it will make its final preparations regarding the U.S. Delegation to the upcoming meetings; and its final assessment of the current Study Group III contributions that have been submitted for consideration.

Study Group B will review matters relating to the upcoming meeting of the CCITT PC/WATTC Study Group scheduled to take place in Geneva, March 3–7, 1986, and any related activities within Study Group III.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact the office of Earl Barbely, Department of State, Washington, D.C., telephone (202) 632–6700. All attendees must use the C Street entrance to the building.

Dated: December 4, 1985

Earl S. Barbely,

Director, Office of Technical Standards and Development.

[FR Doc. 85–30050 Filed 12–18–85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/916]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 9, 1986 at 9:30 a.m. in Room 1105, Department of Commerce Building, 325 Broadway, Boulder, Colorado.

The purpose of this meeting is to consider CCITT proposed contributions at the Rapporteurs meetings on message handling, directory systems and presentation transfer syntax. Working Parties of Study Group VII are scheduled to be held in Geneva during January-February 1986.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Lorna Kent, Department of Commerce, Boulder, Colorado, telephone (303) 497–3764.

Dated: December 4, 1985.

Earl S. Barbely,

Director, Office of Technical Standards and Development.

[FR Doc. 85–30037 Filed 12–18–85; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; San Juan County, NM

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 will be prepared for a proposed highway project in San Juan County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mr. Carl S. Armbrister, Program Development Engineer, Federal Highway Administration, 117 U.S. Court House, Santa Fe, New Mexico 87504–1088, telephone (505) 988–6254, or Mr. W. L. Taylor, Environmental Section, New Mexico State Highway Department, 1129 Cerrillos Road, P.O. Box 1149, Santa Fe, New Mexico 87504–1149, telephone (505) 471–0510.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the New Mexico State Highway Department (NMSHD) will prepare an environmental impact statement (EIS) on a proposal to improve US 64 between the communities of Bloomfield and Blanco in San Juan County, New Mexico. The proposed improvement would involve the reconstruction and partial realignment of US 64 for approximately 12 miles. It would also include the widening or replacement of the San Juan River bridge, east of Blanco.

Improvements to the corridor are considered necessary to correct safety deficiencies existing throughout the length of the corridor, and to relieve congestion within the communities of Bloomfield and Blanco.

Alternatives under consideration include the no build alternative and three other alternatives all of which involve partial reconstruction of the existing roadway and some new alignment construction. A four-lane urban section is proposed by the three build alternatives at Blanco and by two of the alternatives at Bloomfield.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time.

A public information meeting has been held to discuss preliminary project plans. A public hearing will be held after circulation of the Draft EIS. The public hearing will be advertised by public notice and individual notices will inform agencies, groups and individuals that have expressed particular concerns. 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 project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed project and the EIS should be addressed to the FHWA or NMSHD at the addresses provided above.

Issued on: December 13, 1985.

Anthony L. Alonzo,

Division Administrator, Santa Fe, New Mexico.

[FR Doc. 85–30047 Filed 12–18–85; 8:45 am]

BILLING CODE 4910-22-M

Commercial Motor Vehicle Safety Regulatory Review Panel

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the Commercial Motor Vehicle Safety Regulatory Review Panel will hold a meeting on January 21 and 22, 1986, beginning at 9:00 a.m., in Washington, DC, at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, DC, Room 4200. The meeting is open to the public.

The agenda includes the following topics: the status briefings on the repromulgation of the Federal Motor Carrier Safety regulations and a briefing on the consultant effort to organize and abstract State motor carrier safety laws and regulations.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Lukens, Executive Director, Commercial Motor Vehicle Safety Regulatory Review Panel, Federal Highway Administration, HOA–1, Room 4218, 400 Seventh Street, SW., Washington, DC 20590, (202) 426–0390.

Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: December 16, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85-29980 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

[Docket No. IRA-34]

Application for Inconsistency Ruling; State of Illinois; Extension of Comment Period

AGENCY: Office of Hazardous Materials Transportation; Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of time for public comment.

SUMMARY: This notice extends the public comment period for IRA-34 (50 FR 45186, October 30, 1985).

DATE: Comments should be received by January 21, 1986. (Late filed comments will be considered to the extent practicable.)

ADDRESSES: The application and all related correspondence and comments may be reviewed in the Dockets Branch, Office of Hazardous Materials Transportation, Room 8426, 400 Seventh Street, S.W., Washington, DC 20590. Comments on the application may be submitted to the Dockets Branch at the above address. To ensure proper handling, indicate Docket No. IRA-34 on your submission. Three copies of each submission are requested.

A copy of each comment must also be sent to the following individuals:

Mr. Jack McKay, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, DC 20036

Mr. Henry L. Henderson, Assistant Attorney General, Environmental Control Division, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601

Certification of the fact that copies have been sent to these individuals is to be indicated on any comments submitted to the Dockets Branch. [The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. McKay and Henderson at the addresses noted in the Federal Register."]

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590. (Tel: 202/755-4972).

SUPPLEMENTARY INFORMATION: On October 30, 1985, RSPA published a notice for comment concerning Wisconsin Electric Power Company's application for an administrative ruling on the question of whether an Illinois statute, which imposes a fee of $1000 per cask upon owners of spent nuclear fuel being transported through Illinois, is inconsistent with the Hazardous Materials Transportation Act or the regulations promulgated thereunder and, therefore, preempted under 49 U.S.C. 1811(a).

The public comment period was scheduled to end on December 20, 1985. Because a number of prospective commenters have requested additional time, RSPA is extending the comment period to January 21, 1986.

Issued in Washington, DC, on December 16, 1985.

Alan I. Roberts, Director,

Office of Hazardous Materials Transportation.

[FR Doc. 85-30088 Filed 12-18-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 38-85]

Treasury Notes of December 31, 1987, Series AD-1987

Washington, December 12, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated Treasury Notes of December 31, 1987, Series AD-1987 (CUSIP No. 912827 TA 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1985, and will accure interest from that date, payable on a semiannual basis on June 30, 1986, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1987, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additonal interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Tuesday, December 17, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 16, 1985, and received no later than Tuesday, December 31, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have

entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred , e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Tuesday, December 31, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bill, notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institutional to which the tender was submitted, which much be received from institutional investors no later than Friday, December 27, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and and Loan Note Accounts on or before Tuesday, December 31, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public

announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-30115 Filed 12-17-85; 11:01 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 39-85]

Treasury Notes of December 31, 1989; Series P-1989

Washington, December 12, 1985.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of December 31, 1989, Series P-1989 (CUSIP No. 912827 TB 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1985, and will accrue interest from that date, payable on a semiannual basis on June 30, 1986, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, December 18, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 17, 1985, and received no later than Tuesday, December 31, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commericial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commerical banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commerical bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a $1/8$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tender will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Tuesday, December 31, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 27, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, December 31, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-30114 Filed 12-17-85; 11:01 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirement Under OMB Review

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 revisions to our form IAP-66, Certificate of Eligibility for Exchange Visitor (J-1) Status, which has been cleared by OMB (3116-0008, Expiration 3/31/87).

DATE: Comments must be received by January 17, 1986.

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 Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-3785.

SUPPLEMENTARY INFORMATION: Title: "Certificate of Eligibility for Exchange Visitor (J-1) Status". Revisions to the USIA Form IAP-66 have been made to help in identification of the individuals requesting J-1 visas, indication of whether an individual is subject to the home residence requirement, deletion of the requirement for a teenager-sponsor to give the name of a host family, and to spell out clearly the funding arrangements for the period of time involved.

Dated: December 13, 1985.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 85-29984 Filed 12-18-85; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held in the Omar Bradley Conference Room of the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420, on January 9 and 10, 1986. Both sessions will begin at 8:45 a.m. and conclude at 4:30 p.m.

The meeting will be open to the public to the seating capacity of the room. Anyone having questions concerning the meeting may contact Authur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Veterans Administration Central Office (phone 202–389–3317/3303).

Dated: December 11, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–30021 Filed 12–18–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 244
Thursday, December 19, 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 DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:36 p.m. on Friday, December 13, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in the Farmers State Bank of Barry County, Exeter, Missouri, Exeter, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Friday, December 13, 1985; (2) accept the bid for the transaction submitted by Security Bank of Southwest Missouri, Exeter, Missouri, a newly-chartered State nonmember bank; (3) approve the applications of Security Bank of Southwest Missouri, Exeter, Missouri, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in The Farmers State Bank of Barry County, Exeter, Missouri; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 4:39 p.m., and at 6:40 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Lake National Bank, Lake Ozark, Missouri, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Friday, December 13, 1985; (2) accepted the bid for the transaction submitted by the Central Lake State Bank, Lake Ozark, Missouri, a newly-chartered State nonmember bank subsidiary of Central Bankcompany, Jefferson City, Missouri; (3) approved (a) the applications of The Central Lake State Bank, Lake Ozark, Missouri, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in Lake National Bank, Lake Ozark, Missouri, and for consent to establish the sole branch of Lake National Bank as a branch of The Central Lake State Bank, and (b) the application of The Central Trust Bank, Jefferson City, Missouri, for consent to merge, under its charter and title, with The Central Lake State Bank, Lake Ozark, Missouri, and for consent to establish the two offices of the Central Lake State Bank as branches of The Central Trust Bank; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 6:44 p.m., and at 9:50 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors adopted a resolution making funds available for the payment of insured deposits made in First National Bank of Lincoln County, Ruidoso, New Mexico, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Friday, December 13, 1985.

In reconvening the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. H. Joe Selby, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 16, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-30135 Filed 12-17-85; 12:57 pm]

BILLING CODE 6714-01-M

2

FEDERAL MARITIME COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: December 13, 1985, 50 FR 50984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: December 18, 1985, 10:00 a.m.

CHANGES IN THE MEETING:

Withdrawal of the following item from the open session:

1. Agreement No. 203-010852: Discussion Agreement in the Far East-U.S. Atlantic Trades among Nippon Yusen Kaisha, Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd.

Addition of the following items to the closed session:

6. Agreement No. 203-010852: Discussion Agreement in the Far East-U.S. Atlantic Trades among Nippon Yusen Kaisha, Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd.

7. Consideration of a proposed 2.5 percent overall rate increased filed by United States Lines, Inc., in the Hawaiian Trade, and protest thereto.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30170 Filed 12-17-85; 3:41 pm]

BILLING CODE 6730-01-M

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, December 13, 1985.

CHANGE IN THE MEETING: Additional item.

The following additional item will be considered at an open meeting scheduled for Thursday, December 18, 1985, at 10:00 a.m.:

Consideration of whether to authorize a proposal by Columbia Gas System, Inc. (Columbia), a registered holding company, Columbia Gas Transmission Corp. (Transmission), a subsidiary of Columbia engaged in the production, transportation and sale of natural gas, and Columbia Producer Settlement Corps. ("PSC") a newly formed subsidiary of Columbia, for the issuance by Transmission of up to $800 million first mortgage bonds to certain Southwest gas producers, the purchase of the bonds by PSC, and the guarantee by Columbia of PSC's obligation to pay Producers the value of the bonds, in settlement of certain of Transmission's high-cost natural gas purchase obligations. For further information, please contact Kathleen Brandon at (202) 272-2676.

Commissioner Peters, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272-3195.

John Wheeler,

Secretary.

[FR Doc. 85-30121 Filed 12-17-85; 11:27 am]

BILLING CODE 8010-01-M

Federal Register

Thursday
December 19, 1985

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulations (FAR); Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Unallowable Costs Under FAR 31.205

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.201–2, Determining allowability.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–63 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in a May 7, 1985, report entitled, "Improvements Needed in Department of Defense Procedures to Prevent Reimbursement of Unallowable Costs on Government Contracts," recommended a FAR revision that would reduce differences and disagreements among contractors, Government auditors, and contracting officers; improve overhead negotiations; and reduce inconsistent treatment of costs under FAR 31.205. GAO has concluded that there are costs which may be made unallowable by one subsection of FAR 31.205, but allowed into the negotiation process by another subsection. They believe that the forthcoming revision of FAR 31.205–1, Public relations and advertising costs, did not go far enough in eliminating the ambiguities in the FAR which cause contractors, Government auditors, and contracting officers to have different interpretations on allowability. Consequently, they recommended that the FAR should be amended so that any cost made specifically unallowable under any subsection of FAR 31.205, Selected costs, cannot be allowable under any other section of FAR Subpart 31.2.

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council concurred with the GAO recommendation and are proposing a revision of FAR 31.201–2, Determining allowability, to implement that recommendation. The proposed revision includes an example that illustrates the meaning and intent of the FAR revision.

The proposed revision also complies with the provision of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99–145) that requires cost principle amendments to define in detail and specific terms those costs which are unallowable.

B. Regulatory Flexibility Act

The proposed change to FAR 31.201–2 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C Paperwork Reduction Act

The Paperwork Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.201–2 is amended by adding paragraph (d) to read as follows:

31.201–2 Determining allowability.

* * * * *

(d) Costs made specifically unallowable under any subsection of 31.205 are not allowable under any other sections or subsections of Subpart 31.2. To illustrate, a contractor's donation to a scholarship fund for the family of a deceased employee that is specifically unallowable under 31.205–8, is not allowable under 31.205–13 on the basis that the objective of the contribution was to improve employer-employee relations, even though this is a generally allowable cost objective under 31.205–13.

[FR Doc. 85–29974 Filed 12–18–85; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Part 31

Federal Acquisition Regulation (FAR); Company-Furnished Automobiles

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205–6, Compensation for personal services, and 31.205–46, Travel costs, concerning company-furnished automobiles.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–64 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

A provision contained in section 911 of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99–145) specifies that, as a minimum, the cost principles applicable to contractor costs of company-furnished automobiles shall be clarified to define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are proposing revisions to FAR 31.205–6, Compensation for personal services, and

31.205–46, Travel costs, to implement the Act. The proposed revisions state that the cost of contractor-owned or -leased automobiles is allowable, if reasonable, to the extent that the automobiles are used for company business. Additional proposed language states that the portion of the cost of company-furnished automobiles that relates to personal use by employees is compensation for personal services and is unallowable. The Councils believe it is inappropriate for the Government to reimburse contractor employees' personal costs at taxpayers' expense.

B. Regulatory Flexibility Act

The proposed revisions to FAR 31.205–6(m) and 31.205–46(f) are not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public beyond those already required by the Internal Revenue Code.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205–6 is amended by revising paragraph (m) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(m) *Fringe Benefits.* (1) Fringe benefits are allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries. Fringe benefits include, but are not limited to, the cost of vacations, sick leave, holidays, military leave, employee insurance, and supplemental unemployment benefit plans. Except as provided elsewhere in Subpart 31.2, the costs of fringe benefits are allowable to the extent that they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor.

(2) That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees (see 31.205–46(f)).

3. Section 31.205–46 is amended by adding paragraph (f) to read as follows:

31.205–46 Travel costs.

* * * * *

(f) Costs of contractor-owned or -leased automobiles, as used in this paragraph, include the costs of lease, operation (including personnel), maintenance, depreciation, insurance, etc. These costs are allowable, if reasonable, to the extent that the automobiles are used for company business. That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is compensation for personal services and is unallowable as stated in 31.205–6(m)(2).

[FR Doc. 85–29975 Filed 12–18–85; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 31

Federal Acquisition Regulation (FAR); Implementation of Congressional Direction Regarding the Costs of Membership in Social, Dining, and County Clubs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205–14, Entertainment costs, to implement Congressional direction regarding the costs of membership in social, dining, and country clubs.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–65 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering a change to FAR 31.205–14, Entertainment costs. The change under consideration is designed to prohibit Government reimbursement of the costs of contractor memberships in social, dining, or country clubs or organizations. The proposed change is based on the Defense Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99–145) and is considered necessary to ensure that only reasonable costs are paid under Government contracts.

B. Regulatory Flexibility Act

The proposed changes to FAR 31.205–14 are not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq. The proposed rule merely clarifies the allowability of certain membership costs incurred by contractors. Contractors already separately record membership costs in the normal course of business and such existing information provides an adequate basis for compliance with the proposed rule.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205–14 is revised to read as follows:

31.205–14 Entertainment costs.

Costs of amusement, diversion, social activities, and any directly associated costs such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities are unallowable. Costs of membership in social, dining, or country clubs or organizations are also unallowable, regardless of whether the cost is reported as taxable income to the employees (but see 31.205–13 and 31.205–43).

[FR Doc. 85–29976 Filed 12–18–85; 8:am]

BILLING CODE 6820–61–M

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48 CFR Part 31

Federal Acquisition Regulation (FAR); Costs of Litigating Appeals Against the Government

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205–33, Professional and consultant service costs.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–66 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

A provision contained in Section 911 of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99–145) specifies that, as a minimum, the cost principle applicable to "professional and consulting services, including legal services" be clarified to define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

In response to the legislation, the Defense Acquisition Regulatory Council and the Civilian Agency acquisition Council are considering revisions to FAR 31.205–33, Professional and consultant service costs. One revision under consideration adds to the list of unallowable legal, accounting and consultant services those costs which are incurred: (1) In defense against Government claims or appeals and (2) the prosecution of appeals against the Government. Additional language is being proposed to make unallowable costs of legal, accounting, and consultant services, and directly associated costs incurred in connection with the defense or prosecution of lawsuits or appeals between two contractors arising from either: (1) An agreement or contract concerning a teaming arrangement, a joint venture, or similar arrangment of shared interest in a Government contract: or (2) dual sourcing, co-production, or similar programs.

These revisions are considered necessary because of problems encountered in administering this cost principle and they are not a change in policy. Such costs are presently being disallowed but disputed by some contractors.

B. Regulatory Flexibility Act

The proposed revision to FAR 31.205–33 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205–33 is amended by revising paragraph (d) and adding paragraph (f) to read as follows:

31.205–33 Professional and consultant service costs.

* * * * *

(d) Costs of legal, accounting, and consultant services and directly associated costs incurred in connection with organization and reorganization (also see 31.205–27), defense of antitrust suits, defense against Government claims or appeals, or the prosecution of claims or appeals against the Government (see 33.201) are unallowable. Such costs incurred in connection with patent infringement litigation are unallowable unless otherwise provided for in the contract.

* * * * *

(f) Costs of legal, accounting, and consultant services and directly associated costs incurred in connection with the defense or prosecution of lawsuits or appeals between two contractors arising from either: (1) An agreement or contract concerning a teaming arrangement, a joint venture, or similar arrangement of shared interest in a Government contract; or (2) dual sourcing, co-production, or similar programs, are unallowable.

[FR Doc. 85–29977 Filed 12–18–85; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 31

Federal Acquisition Regulation (FAR); Executive Lobbying Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering promulgation of a new cost principle, executive lobbying costs, in FAR 31.205.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85-67 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

A provision contained in section 911 of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99-145) specifies that, as a minimum, the cost principles applicable to executive branch lobbying shall be clarified to define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are proposing a new cost principle, FAR 31.205-52, Executive lobbying costs, to implement the Act. The proposed cost principle states that costs incurred to induce, directly or indirectly, actions of the executive branch of the Federal Government relating to regulatory or contract matters on any basis other then the merits are unallowable. The Councils believe costs incurred to improperly influence the executive branch of the Federal Government should be disallowed. Proper communication regarding policy matters are helpful and in many cases indispensable to Government decision makers and costs thereof should be allowable.

The Councils are also considering revising the title of FAR 31.205-22 to read, "Legislative lobbying costs" to distinguish it from the new cost principle.

B. Regulatory Flexibility Act.

The proposed addition of FAR 31.205-52 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C 3501 et seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205-52 is added to read as follows:

31.205-52 Executive lobbying costs.

Costs incurred to induce, directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a regulatory or contract matter on any basis other than the merits are unallowable.

3. Section 31.205-22 is amended by revising the title to read as follows:

31.205-22 Legislative lobbying costs.

* * * * *

[FR Doc. 85-29978 Filed 12-18-85; 8:45 am]

BILLING CODE 6820-61-M

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48 CFR Part 31

Federal Acquisition Regulation (FAR); Alcoholic Beverage Costs

AGENCY: Department of Defense (DOD), General Services Administration (GAS), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering promulgation of a new cost principle, Alcoholic beverage costs, in FAR 31.205.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, Far Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85-68 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering a change to add FAR 31.205-51, Alcoholic beverage costs. The new cost principle is designed to prohibit Government reimbursement of the costs of alcoholic beverages. The proposed cost principle is based on Title 9, section 911 of the DOD Authorization Act of 1986 and is considered necessary to ensure that only reasonable and appropriate costs are paid under Government contracts.

B. Regulatory Flexibility Act

The proposed addition of FAR 31.205-51 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205-51 is added to read as follows:

31.205-51 Alcoholic beverage costs.

The costs of alcoholic beverages are unallowable.

[FR Doc. 85-29979 Filed 12-18-85; 8:45 am]

BILLING CODE 6820-61-M

Federal Register

Thursday
December 19, 1985

Part III

Department of the Interior

National Park Service

36 CFR Parts 1, 2, 3, 4, 5, 7, and 50
General Regulations for Areas Administered by the National Park Service; National Capital Parks Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2, 3, 4, 5, 7 and 50

General Regulations for Areas Administered by the National Park Service; National Capital Parks Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking reorganizes regulations pertaining to the management and protection of areas administered by the National Park Service in the National Capital Region. It also makes applicable to those park areas the General Regulations that apply to all other units of the National Park System throughout the country.

The Service has determined that a completely separate set of regulations is no longer necessary to manage park areas in Washington, DC and vicinity effectively. Only those regulations that address issues unique to park areas in the National Capital Region will be retained as Special Regulations; all others that duplicate provisions of the Service's General Regulations will be eliminated. Some regulations have been revised slightly to make consistent use of terms and format found in the Service's general regulations, but no new regulatory actions are being proposed.

DATES: Written comments, suggestions or objections regarding this proposed rule will be accepted until February 18, 1986.

ADDRESS: Written comments should be sent to Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, telephone (202) 426–6700.

SUPPLEMENTARY INFORMATION:

Background

General regulations found in Parts 1 through 5 of 36 Code of Federal Regulations apply to all units of the National Park System except those administered by the National Capital Region in the District of Columbia and its environs (defined as Arlington, Fairfax, Loudoun, Prince William and Stafford counties and Alexandria city in Virginia, and Prince Georges, Charles, Anne Arundel and Montgomery counties in Maryland, 36 CFR 50.4(c)). The general regulations are supplemented by special regulations applicable to individual park areas, as found in Parts 7 and 13. Finally, parks in the District of Columbia and its environs are subject to extensive regulations found in Part 50.

This dual set of regulatory schemes has resulted in considerable redundancy. For example, both the general regulations (Part 2) and regulations applicable to National Capital Region parks (Part 50) deal with many of the same resource protection and public use matters, for example, horses, pets, picnicking, and disorderly conduct. It serves no purpose to have two sets of regulations which regulate many of the same activities.

Further, having different sets of regulatory schemes for different geographic areas has resulted in some confusion. For example, Park Rangers and U.S. Park Policemen in C & O Canal National Historical Park, encompassing lands in the District of Columbia, Maryland, and West Virginia, must use one set of regulations for parts of the park located in the District of Columbia and in Montgomery County, Maryland, and another set of regulations for those parts of the park located in the remainder of Maryland and in West Virginia.

In addition, Part 50 regulations, written primarily for urban parks, sometimes have little relevance to more rural parks such as Prince William Forest Park or Manassas National Battlefield Park, both of which are administered by the National Capital Region. For example, a large portion of the Part 50 regulations deal with demonstrations and special events that occur frequently in the parks of Washington, DC, and seldom in the more rural parks.

Further, Part 50 regulations sometimes neglect provisions necessary to more rural parks. For example, Part 50 does not address aircraft such as hot air balloons or ultra light craft, as the general regulations do in 36 CFR 2.17. Managers of parks subject to Part 50, such as Manassas, are without regulatory tools to manage the rapidly-increasing use of these balloons and crafts. Another example of an activity not addressed by Part 50 regulations, but which is occasionally a problem, is snowmobiling. The general regulations address this activity in § 2.18.

Another problem is the illegal use of metal detectors for location of Civil War artifacts in battlefield parks such as Manassas. Part 50 regulations require some actual damage, injury or removal before an individual with a metal detector can be prevented from using the device under the regulations. (36 CFR 50.7(1)). The general regulations prohibit the possession of a mineral or metal detector unless the device is broken down and stored to prevent its use while in park areas. (36 CFR 2.1(a)(7)).

Proposed Regulatory Changes

To meet the concerns caused by this dual system of park regulation, the National Park Service proposes to eliminate the CFR Part applicable only to the parks in the District of Columbia and its environs (Part 50), to make the general regulations contained in Parts 1–5 applicable to all units of the National Park System, including the District of Columbia parks, and to put regulations applicable only to District of Columbia parks, or to parks in the District of Columbia and its environs, in special regulations in Part 7. The specific changes follow.

1. Parts 1 through 5 (General Regulations)

The rule would amend § 1.2 of 36 CFR by eliminating the present provision excepting parks in the District of Columbia and its environs from the applicability of the general regulations. Parks in the District of Columbia and its environs would then be subject to the same regulations as parks throughout the country, thus avoiding the duplication and confusion in the present dual regulation systems. Regulations specific to these parks would supplement the general regulations and would be placed in Part 7.

In addition, § 1.2 would be amended to make the general regulations applicable to other Federal reservations in the environs of the District of Columbia. Section 1.4 would be amended to include the definition of the term "other Federal reservations in the environs of the District of Columbia." Finally, § 1.2 would be amended to delete references to Part 6, which was deleted in a 1983 rulemaking. See 49 FR 30275, June 30, 1983.

2. Part 50 (National Capital Parks Regulations)

Since the general regulations would be made applicable to the National Capital Region parks, regulations in Part 50 would be deleted except for those specific to the District of Columbia or to the District and its environs. Regulations retained would be placed in Part 7 as detailed below.

Regulations deleted would be those that are duplicative of general regulations or those duplicative of local law. For example, both Part 50 and Part 2 deal with horses, pets, and picnicking.

Further, provisions in Part 50 dealing with such topics as disorderly conduct and traffic also are covered by local law. Especially in the District of Columbia, which is an area of exclusive federal jurisdiction, local law often is applied. The following sections in Part 50 would be deleted altogether:

50.2 Applicability of Federal laws
50.3 Applicability of District of Columbia and State laws
50.4 Definitions
50.5 Penalties
50.7 Federal property; miscellaneous provisions
50.8 Lamps and lamp posts in park areas
50.9 Comfort stations and other structures
50.10 Trees, shrubs, plants, grass and other vegetation
50.11 Dogs, cats, and livestock
50.12 Horses
50.13 Grazing; permitting animals to run loose
50.14 Picnics in park areas
50.17 Gambling
50.26 Indecency, immorality, profanity
50.28 Use of liquors; intoxication
50.29 Laws and regulations applicable to traffic control; enforcement
50.30 Obstructing entrances, exits, sidewalks
50.31 Speed restrictions
50.32 Reckless driving, prohibited operations
50.33 Parking restrictions; impounding of vehicles
50.34 Traffic signs
50.35 Washing of cars prohibited
50.37 Vehicles; weight and tread restrictions
50.38 Tampering with vehicles prohibited
50.39 Prevention of smoke
50.40 Bicycling, roller skating and coasting restrictions
50.41 Boating
50.42 Swimming, water skiing, etc.
50.43 Collection of scientific specimens
50.44 Lost and found articles
50.45 Photographing; restrictions
50.46 Discrimination in furnishing public accommodations and transportation services
50.46a Discrimination in employment practices
50.47 Installation permits
50.48 Making false reports to the United States Park Police
50.49 Dangerous weapons
50.50 Fires
50.51 Sanitation

3. Part 7 (Special Regulations)

The regulations presently in Part 50 that would be retained would be redesignated as sections in Part 7. The retained regulations would be placed either under special regulation 36 CFR 7.96, National Park Service Areas in the District of Columbia, or under special regulation 36 CFR 7.99, National Capital Region Parks.

The special regulation applicable only to District of Columbia parks would include the following provisions now in Part 50:

§ 50.1 Applicability of regulations. This section would be revised to make these special regulations applicable to areas administered by the National Park Service in the District of Columbia.

§ 50.19 Demonstrations and special events. This section would be retained in its entirety, with minor grammatical changes, as it specifically addresses issues unique to the Washington area parks. These regulations have been carefully crafted over the years to respond to the experiences of the National Park Service in the District of Columbia and to local court decisions.

§ 50.24 Soliciting, advertising, sales. This section would be deleted as duplicative of provisions in the general regulations concerning advertising and of provisions in present § 50.52 concerning sales, with the exception of paragraph (a) relating to solicitations. This provision is retained as it applies a flat ban to solicitations, this being more restrictive than provisions in the general regulations allowing solicitations for which a permit is granted. However, the section would be revised to make the language consistent with the sales provision in § 2.37 of Part 2 of this Chapter.

§ 50.27 Camping. The majority of this section would be retained as it addresses problems specific to the District of Columbia parks and responds to local court decisions. Provisions duplicative of provisions in the general regulations would be deleted.

§ 50.52 Sale and distribution of printed matter. This section would be retained in its entirety, with minor grammatical changes, as it addresses specific parks in the District of Columbia and problems specific to the District of Columbia parks, and responds to local court decisions.

The special regulation applicable to parks in the District of Columbia and its environs would include the following provisions now in Part 50:

§ 50.1 Applicability of regulations. This section would be revised to make these special regulations applicable to areas administered by the National Park Service in the District of Columbia and its environs and to other Federal reservations in the environs of the District of Columbia.

§ 50.15 Athletics. This section would be retained in its entirety, except for the reference in paragraph (d) to another section in Part 50, and except for minor changes, as it addresses specific District of Columbia park areas and addresses problems of substantial impact on parks in the District of Columbia and its environs.

§ 50.16 Model planes. This section would be retained, with minor grammatical changes, as the general regulations provide no comparable prohibitions and the flying of model planes could be a significant problem in urban parks.

§ 50.18 Hunting and fishing. This section would be deleted as presently written because the General Regulations cover the subjects of hunting and fishing. However, to avoid making unlawful those fishing practices that are sanctioned under various state laws, a new regulation allowing fishing as authorized under state law, unless otherwise designated, would be added.

§ 50.25 Nuisances; disorderly conduct. This section would be deleted with the exception of the paragraph concerning swimming in certain park areas and entering into waters from park areas. This paragraph addresses specific National Capital Region parks and grants law enforcement officers the authority to cite persons for entering into dangerous waters, an authority lacking in Parts 1–5 of Chapter 1.

§ 50.36 Commercial vehicles and common carriers. This section would be retained in its entirety, with minor grammatical changes, with the exception of paragraph (c) which duplicates in large part paragraph (a). This section is retained because it addresses activities of unique concern to parks in the District of Columbia and its environs and, in fact, addresses those activities in several named parks.

The only changes that would occur in these sections when they are transposed would be: (1) Corrections of typographical errors in the original sections; (2) revisions in references to internal paragraphs and sections; (3) redesignation of "National Capital Parks" as "the National Capital Region", reflecting an administrative name change; (4) deletion of the reference in § 50.19(c) to the availability of permit applications at the National Visitor Center, Union Station, as the National Park Service no longer administers that facility; (5) deletion of the reference to the President's Cup Regatta in § 50.19, as there is no longer such an event; (6) revision in § 50.19 of the location of the Folk Life Festival, held in the Mall each year, as this location has changed slightly; (7) revision in § 50.19(d)(1)(vii), "Inaugural Ceremonies", to change the date "January 20, 1981", to the more general "Inauguration Day" to reflect the true intent of the paragraph; and (8) revisions of text to clarify the intent of certain regulations, to correct grammatical errors or to make

consistent the use of terms defined in § 1.4.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the address noted at the beginning of the rulemaking.

Drafting Information

The following persons participated in the writing of this rule: Richard G. Robbins and Patricia S. Bangert, Office of the Solicitor, U.S. Department of the Interior.

Paperwork Reduction Act

The information requirements contained in the general regulations, Parts 2 and 3 of 36 CFR, have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1024–0026. The information requirements contained in § 7.96 of Part 50 have been approved by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, and assigned clearance number 1024–0021.

Compliance With Other Laws

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The National Park Service also has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, does not require a small entity flexibility analysis under 5 U.S.C. 601. The proposed rule eliminates many present restrictions. While it extends the applicability of other provisions to parks administered by the National Capital Region, the rule makes applicable, to a great extent, provisions that are duplicative of those presently in effect. No new provisions are being instituted. Further, experience has been that the general regulations have had minimal positive or negative impacts on the following types of businesses: some small businesses selling certain park-related items; local guide services and commercial packers; aircraft salvage companies; local repair shops and filling stations; and ranching and farming interests. Therefore, the rule will have no significant impact on any aspect of the economy.

The National Park Service has further determined that this proposed rule is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act, 42 U.S.C. 4332, *et seq.* An environmental assessment and a Finding of No Significant Impact (FONSI) have been prepared by the National Park Service for the general regulations here made applicable to the National Capital Region parks. We adopt those documents here. The documents are available for review at the Division of Visitor Services, National Park Service, 18th and C St., NW., Washington, DC 20240, telephone (202) 343–4874.

List of Subjects

36 CFR Part 1

National parks, Penalties.

36 CFR Part 2

National parks, Signs and symbols.

36 CFR Part 3

Marine safety, National parks.

36 CFR Part 4

National parks, Traffic regulations.

36 CFR Part 5

Alcohol and alcoholic beverages, Business and industry, Civil rights, Equal employment opportunity, National parks, Pets, Transportation.

36 CFR Part 7

National parks.

36 CFR Part 50

District of Columbia, National parks, National Capital Region.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter 1 as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 l–6a(e), 462(k).

2. Section 1.2 is revised to read as follows:

§ 1.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting or otherwise within:

(1) The boundaries of federally owned lands and waters administered by or subject to the jurisdiction of the National Park Service; or

(2) The boundaries of lands and waters, controlled, leased, administered or otherwise subject to the jurisdiction of the National Park Service, including other Federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81); or

(3) Less-than-fee interests to the extent necessary to fulfill the purpose of the acquired Federal interest and compatible with the retained nonfederal interest.

(b) The regulations contained in Parts 1 through 5 and Part 7 of this chapter are not applicable on privately owned lands and waters (including Indian lands and waters owned individually or tribally) within the boundaries of a park area, except as may be provided by regulations relating specifically to privately owned lands and waters under the legislative jurisdiction of the United States.

(c) The regulations contained in Part 7 and Part 13 of this chapter are special regulations prescribed for specific park areas. Those regulations may amend, modify, relax or make more stringent the regulations contained in Parts 1 through 5 and Part 12 of this chapter.

(d) The regulations contained in Parts 2 through 5 and Part 7 shall not be construed to prohibit administrative activities conducted by the National Park Service, or its agents, in accordance with approved general management and resources management plans, or in emergency operations involving threats to life, property, or park resources.

§ 1.4 [Amended]

3. Paragraph (a) of § 1.4 is amended by adding the following definition after the definition of "Operator" and before the definition of "Pack animal":

(a) * * *

* * * * *

"Other Federal reservations in the environs of the District of Columbia" means Federal areas, which are not under the administrative jurisdiction of the Department of the Interior, located in Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the City of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland, exclusive of military reservations, unless the policing of such areas by the U.S. Park Police is specifically requested by the Secretary of Defense or a designee thereof.

* * * * *

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

4. Part 7 is amended as follows:

a. By revising the authority citation to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); §§ 7.96 and 7.99 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

b. By adding a new § 7.96 to read as follows:

§ 7.96 National Park Service Areas in the District of Columbia.

(a) *Applicability of regulations.* This section applies to all park areas administered by the National Park Service in the District of Columbia.

(b) *Demonstrations and special events*—(1) *Definitions.* (i) The term "demonstrations" includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual park use by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(ii) The term "special events" includes sports events, pageants, celebrations, historical reenactments, regattas, entertainments, exhibitions, parades, fairs, festivals and similar events (including such events presented by the National Park Service), which are not demonstrations under paragraph (b)(1)(i) of this section, and which are engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term also does not include casual park use by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(iii) The term "national celebration events" means the annually recurring special events regularly scheduled by the National Capital Region, which are listed in paragraph (b)(4)(i) of this section.

(iv) The term "White House area" means all park areas, including sidewalks adjacent thereto, within these bounds: on the south, Constitution Avenue, NW.; on the north, H Street, NW.; on the east, 15th Street, NW.; and on the west, 17th Street, NW.

(v) The term "White House sidewalk" means the south sidewalk of Pennsylvania Avenue, NW., between East and West Executive Avenues, NW.

(vi) The term "Lafayette Park" means the park areas, including sidewalks adjacent thereto, within these bounds: on the south, Pennsylvania Avenue, NW.; on the north, H Street, NW.; on the east, Madison Place, NW.; and on the west, Jackson Place, NW.

(vii) The term "Ellipse" means the park areas, including sidewalks adjacent thereto, within these bounds: on the south, Constitution Avenue, NW.; on the north, E Street, NW.; on the west, 17th Street, NW.; and on the east, 15th Street, NW.

(viii) The term "Regional Director" means the official in charge of the National Capital Region, National Park Service, U.S. Department of the Interior, or an authorized representative thereof.

(ix) The term "other park areas" includes all areas, including sidewalks adjacent thereto, other than the White House area, administered by the National Capital Region.

(x) The term "Vietnam Veterans Memorial" means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

(2) *Permit Requirements.* Demonstrations and special events may be held only pursuant to a permit issued in accordance with the provisions of this section except:

(i) Demonstrations involving 25 persons or fewer may be held without a permit *provided* that the other conditions required for the issuance of a permit are met and *provided further* that the group is not merely an extension of another group already availing itself of the 25-person maximum under this provision or will not unreasonably interfere with other demonstrations or special events.

(ii) Demonstrations may be held in the following park areas without a permit *provided* that the conduct of such demonstrations is reasonably consistent with the protection and use of the indicated park area and the other requirements of this section. The numerical limitations listed below are applicable only for demonstrations conducted without a permit in such areas. Larger demonstrations may take place in these areas pursuant to a permit.

(A) *Franklin Park.* Thirteenth Street, between I and K Streets, NW., for no more than 500 persons.

(B) *McPherson Square.* Fifteenth Street, between I and K Streets, NW., for no more than 500 persons.

(C) *U.S. Reservation No. 31.* West of 18th Street and south of H Street, NW., for no more than 100 persons.

(D) *Rock Creek and Potomac Parkway.* West of 23rd Street, south of P Street, NW., for no more than 1,000 persons.

(E) *U.S. Reservation No. 46.* North side of Pennsylvania Avenue, west of Eighth Street and south of D Street, SE., for no more than 25 persons and south of D Street, SW., for no more than 25 persons.

(3) *Permit Applications.* Permit applications may be obtained at the Office of Public Affairs, National Capital Region, 1100 Ohio Drive, SW., Washington, DC. 20242. Applicants shall submit permit applications in writing on a form provided by the National Park Service so as to be received by the Regional Director at least 48 hours in advance of any proposed demonstration or special event. This 48-hour period will be waived by the Regional Director if the size and nature of the activity will not reasonably require the commitment of park resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period. The Regional Director shall accept permit applications only during the hours of 8 a.m.–4 p.m., Monday through Friday, holidays excepted. All demonstration applications, except those seeking waiver of the numerical limitations applicable to Lafayette Park (paragraph (b)(5)(ii) of this section), are deemed granted, subject to all limitations and restrictions applicable to said park area, unless denied within 24 hours of receipt. However, where a permit has been granted, or is deemed to have been granted pursuant to this subsection, the Regional Director may revoke that permit pursuant to paragraph (b)(6) of this section.

(i) *White House Area.* No permit may be issued authorizing demonstrations in the White House area, except for the White House sidewalk, Lafayette Park and the Ellipse. No permit may be issued authorizing special events, except for the Ellipse, and except for annual commemorative wreath-laying ceremonies relating to the statutes in Lafayette Park.

(ii) *Other park areas.* No permits may be issued authorizing demonstrations or

special events in the following other park areas:

(A) The Washington Monument, which means the area enclosed within the inner circle that surrounds the Monument's base, except for the official annual commemorative Washington birthday ceremony.

(B) The Kennedy Center, which means the area under the administration of the National Park Service within the building known as the John F. Kennedy Center for the Performing Arts and includes the roof terrace and outdoor terraces on the north, south, and west portions of the institution as well as the driveways leading to the parking garages. For the purpose of this section, the term "Kennedy Center" does not include the east building sidewalk, outdoor plaza or grassy areas at the Center. Demonstrations are permitted on those latter areas *provided* entrances to the Center are not obstructed or vehicular traffic in its vicinity is not impeded.

(C) The Lincoln Memorial, which means that portion of the park area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level, except for the official annual commemorative Lincoln birthday ceremony.

(D) The Jefferson Memorial, which means the circular portion of the Jefferson Memorial enclosed by the outermost series of columns, and all portions on the same levels or above the base of those columns, except for the official annual commemorative Jefferson birthday ceremony.

(E) The Vietnam Veterans Memorial, except for official annual Memorial Day and Veterans Day commemorative ceremonies. Note: The darkened portions of the diagrams at the conclusion of paragraph (b) of this section show the areas where demonstrations or special events are prohibited.

(4) *Permit Processing.* (i) Permit applications for demonstrations and special events are processed in order of receipt, and the use of a particular area is allocated in order of receipt of fully executed applications, subject to the limitations set forth in this section. *Provided, however,* that the following national celebration events have priority use of the particular park area during the indicated period:

(A) *Christmas Pageant of Peace.* In the oval portion of the Ellipse only, during approximately the last three weeks in December.

(B) *Cherry Blossom Festival.* In the Japanese Lantern area adjacent to the Tidal Basin and on the Ellipse and the Washington Monument Grounds adjacent to Constitution Avenue, between 15th & 17th Streets, NW., for six days usually in late March or early April.

(C) *Fourth of July Celebration.* On the Washington Monument Grounds.

(D) *Festival of American Folklife.* In the area bounded on the south by Jefferson Drive, NW.; on the north by Madison Drive, NW.; on the east by 7th Street, NW.; on the west by 14th Street, NW., for a two-week period in approximately late June and early July.

(E) *Columbus Day Commemorative Wreath-Laying.* At the Columbus statue on the Union Plaza on Columbus Day.

(F) *Inaugural Ceremonies.* The White House sidewalk and Lafayette Park, exclusive of the northeast quadrant, for the exclusive use of the Inaugural Committee on Inauguration Day.

(ii) Other demonstrations or special events are permitted in park areas under permit to the National Celebration Events listed in this paragraph to the extent that they do not significantly interfere with the National Celebration Events. No activity containing structures is permitted closer than 50 feet to another activity containing structures without the mutual consent of the sponsors of those activities.

(iii) A permit may be denied in writing by the Regional Director upon the following grounds:

(A) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorized activities which do not reasonably permit multiple occupancy of the particular area; in that event, an alternate site, if available for the activity, will be proposed by the Regional Director to the applicant.

(B) It reasonably appears that the proposed demonstration or special event will present a clear and present danger to the public safety, good order, or health.

(C) The proposed demonstration or special event is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; in that event, the Regional Director shall propose an alternate site to the applicant, if available for the activity; in this connnection, the Regional Director shall reasonably take into account possible damage to the park, including trees, shrubbery, other plantings, park installations and statues.

(D) The application proposes activities contrary to any of the provisions of this section or other applicable law or regulation.

(5) *Permit Limitations.* Issuance of a permit is subject to the following limitations:

(i) No more than 750 persons are permitted to conduct a demonstration on the While House sidewalk at any one time.

(ii) No more than 3,000 persons are permitted to conduct a demonstration in Lafayette Park at any one time.

(A) The Regional Director may waive the 3,000 person limitation for Lafayette Park and/or the 750 person limitation for the White House Sidewalk upon a showing by the applicant that good faith efforts will be made to plan and marshal the demonstration in such a fashion so as to render unlikely any substantial risk of unreasonable disruption or violence.

(B) In making a waiver determination, the Regional Director shall consider and the applicant shall furnish at least ten days in advance of the proposed demonstration, the functions the marshals will perform, the means by which they will be identified, and their method of communication with each other and the crowd. This requirement will be satisfied by completion and submission of the same form referred to in paragraph (b)(3) of this section.

(iii) No permit will be issued for a demonstration on the White House Sidewalk and in Lafayette Park at the same time except when the organization, group, or other sponsor of such demonstration undertakes in good faith all reasonable action, including the provision of sufficient marshals, to insure good order and self-discipline in conducting such demonstration and any necessary movement of persons, so that the numerical limitations and waiver provisions described in paragraphs (b)(5) (i) and (ii) of this section are observed.

(iv) No permit will be issued authorizing demonstrations or special events in excess of the time periods set out below: *Provided, however,* that the stated periods will be extended for demonstrations only, unless another application requests use of the particular area and said application preclues double occupancy:

(A) White House area, except the Ellipse: Seven days.

(B) The Ellipse and all other park areas: Three weeks.

(v) The Regional Director may restrict demonstrations and special events weekdays (except holidays) between the hours of 7:00 to 9:30 a.m. and 4:00 to 6:30 p.m. if it reasonably appears necessary to avoid unreasonable interference with rush-hour traffic.

(vi) Special events are not permitted unless approved by the Regional Director. In determining whether to approve a proposed special event, the Regional Director shall consider and base the determination upon the following criteria:

(A) Whether the objectives and purposes of the proposed special event relate to and are within the basic mission and responsibilities of the National Capital Region, National Park Service.

(B) Whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed special event.

(C) Whether the proposed special event can be permitted within a reasonable budgetary allocation of National Park Service funds considering the event's public appeal, and the anticipated participation of the general public therein.

(D) Whether the proposed event is duplicative of events previously offered in National Capital Region areas or elsewhere in or about Washington, DC.

(E) Whether the activities contemplated for the proposed special event are in conformity with all applicable laws and regulations.

(vii) In connection with permitted demonstrations or special events, temporary structures may be erected for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays. Temporary structures may not be used outside designated camping areas for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Temporary structures are permitted to the extent described above, provided prior notice has been given to the Regional Director, except that:

(A) Structures are not permitted on the White House sidewalk.

(B) All such temporary structures shall be erected in such a manner so as not to harm park resources unreasonably and shall be removed as soon as practicable after the conclusion of the permitted demonstration or special event.

(C) The Regional Director may impose reasonable restrictions upon the use of temporary structures in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns.

(D) Any structures utilized in a demonstration extending in duration beyond the time limitations specified in paragraphs (b)(5)(iv) (A) and (B) of this section shall be capable of being removed upon 24 hours notice and the site restored, or, the structure shall be secured in such a fashion so as not to interfere unreasonably with use of the park area by other permittees authorized under this section.

(E) Individuals or groups of 25 persons or fewer demonstrating under the small group permit exemption of paragraph (b)(2)(i) of this section are not allowed to erect temporary structures other than small lecterns or speakers' platforms. This provision does not restrict the use of portable signs or banners.

(viii) No signs or placards shall be permitted on the White House sidewalk except those made of cardboard, posterboard or cloth having dimensions no greater than three feet in width, twenty feet in length, and one-quarter inch in thickness. No supports shall be permitted for signs or placards except those made of wood having cross-sectional dimensions no greater than three-quarter of an inch by three-quarter of an inch. Stationary signs or placards shall be no closer than three feet from the White House sidewalk fence. All signs and placards shall be attended at all times that they remain on the White House sidewalk. Signs or placards shall be considered to be attended only when they are in physical contact with a person. No signs or placards shall be tied, fastened, or otherwise attached to or leaned against the White House fence, lamp posts or other structures on the White House sidewalk. No signs or placards shall be held, placed or set down on the center portion of the White House sidewalk, comprising ten yards on either side of the center point on the sidewalk; *Provided, however,* that individuals may demonstrate while carrying signs on that portion of the sidewalk if they continue to move along the sidewalk.

(ix) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk or on the west sidewalk of East Executive Avenue, NW., between Pennsylvania Avenue, NW., and E Street, NW., or on the north sidewalk of E Street, NW., between East and West Executive Avenues, NW.; *Provided, however,* that such property, except structures, may be momentarily placed or set down in the immediate presence of the owner on those sidewalks.

(x) Stages and sound amplification may not be placed closer than one hundred (100) feet from the boundaries of the Vietnam Veterans Memorial and sound systems shall be directed away from the memorial at all times.

(xi) Sound amplification equipment is allowed in connection with permitted demonstrations or special events, provided prior notice has been given to the Regional Director, except that:

(A) Sound amplification equipment may not be used on the White House sidewalk, other than hand-portable sound amplification equipment which the Regional Director determines is necessary for crowd-control purposes.

(B) The Regional Director reserves the right to limit the sound amplification equipment so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area.

(xii) A permit may contain additional reasonable conditions and additional time limitations, consistent with this section, in the interest of protecting park resources, the use of nearby areas by other persons, and other legitimate park value concerns.

(xiii) A permit issued under this section does not authorize activities outside of areas under administration by the National Capital Region. Applicants may also be required to obtain a permit from the District of Columbia or other appropriate governmental entity for demonstrations or special events sought to be conducted either wholly or in part in other than park areas.

(6) *Permit Revocation.* A permit issued for a demonstration is revocable only upon a ground for which an application therefor would be subject to denial under paragraphs (b) (4) or (5) of this section. Any such revocation, prior to the conduct of the demonstration, shall be in writing and shall be approved by the Regional Director. During the conduct of a demonstration, a permit may be revoked by the ranking U.S. Park Police supervisory official in charge if continuation of the event presents a clear and present danger to the public safety, good order or health or for any violation of applicable law or regulation. A permit issued for a special event is revocable, at any time, in the reasonable discretion of the Regional Director.

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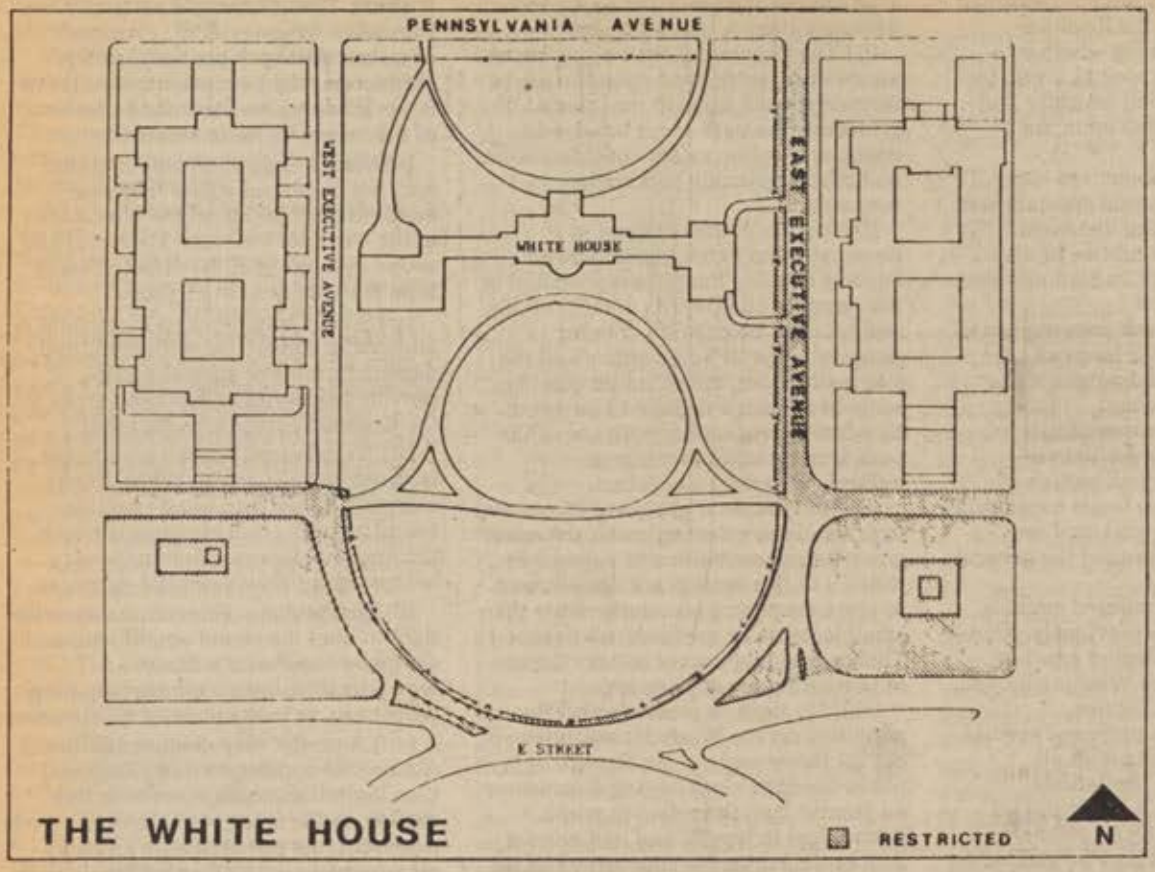
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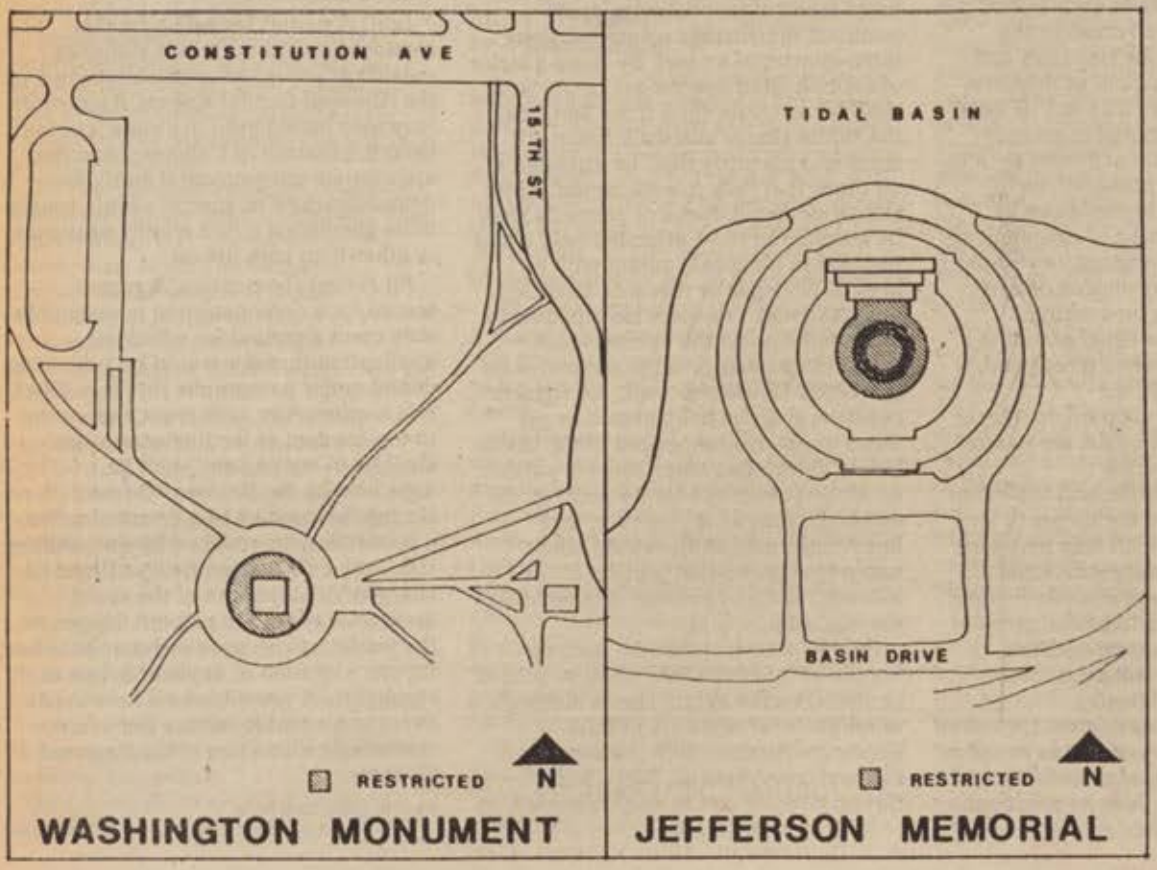
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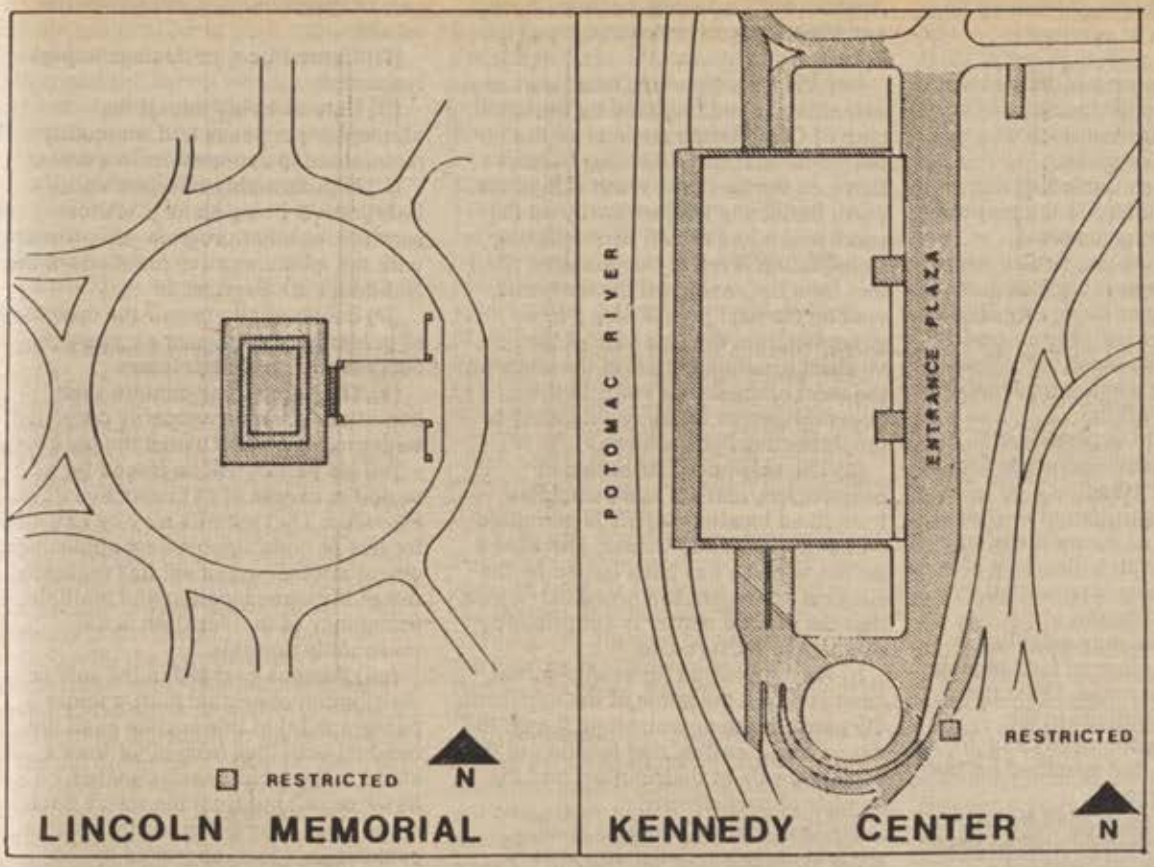
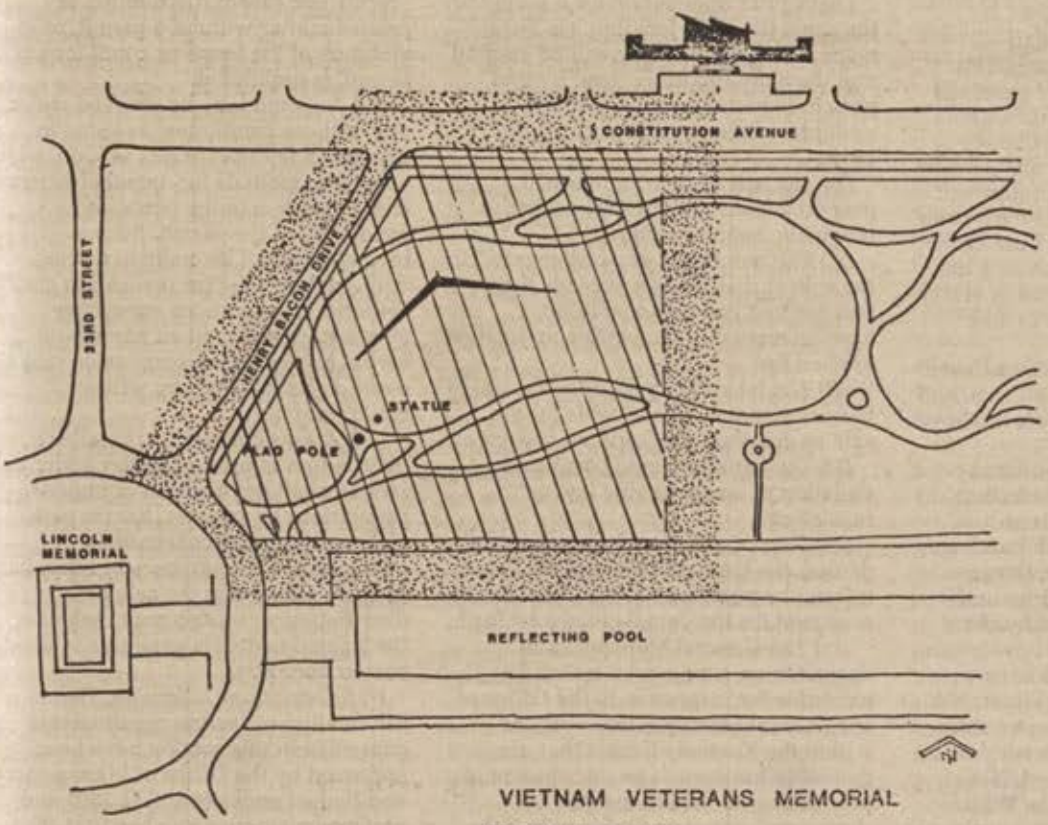




VIETNAM VETERANS MEMORIAL

RESTRICTED AREA
RESTRICTED SOUND & STAGING AREA

BILLING CODE 4310-70-C

(c) *Soliciting.* Soliciting or demanding gifts, money, goods or services is prohibited.

(d) *Camping.* Camping is defined as the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping is permitted only in areas designated by the Superintendent, who may establish limitations of time allowed for camping in any public campground. Upon the posting of such limitations in the campground, no person shall camp for a period longer than that specified for the particular campground.

(e) *Sales.* (1) No sales shall be made nor admission fee charged and no article may be exposed for sale without a permit except as noted in the following paragraphs.

(2) The sale or distribution of newspapers, leaflets, and pamphlets, conducted without the aid of stands or structures, is allowed in all park areas open to the general public without a permit except the following areas where such sale or distribution is prohibited:

(i) Lincoln Memorial area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level.

(ii) Jefferson Memorial area enclosed by the outermost series of columns, and all portions on the same levels or above the base of these columns.

(iii) Washington Monument area enclosed within the inner circle that surrounds the Monument's base.

(iv) The interior of all park buildings, including, but not limited to, those portions of the Kennedy Center and Ford's Theatre administered by the National Park Service.

(v) The White House Park area bounded on the north by H Street, NW.; on the south by Constitution Avenue, NW.; on the west by 17th Street, NW.; and on the east by 15th Street, NW.; except for Lafayette Park, the White House sidewalk (the south Pennsylvania Avenue, NW. sidewalk between East and West Executive Avenues) and the Ellipse.

(vi) Vietnam Veterans Memorial area extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

(3) The sale and distribution of newspapers, leaflets and pamphlets from fixed location stands is permitted within the Kennedy Center, provided a permit to do so has been issued by the General Manager: *And provided further,* that the printed matter is not primarily commercial advertising.

(i) An application for such a permit must set forth the name of the applicant; the name of the organization, if any; the date, time, duration, and location of the proposed sale or distribution; and the number of participants.

(ii) The General Manager shall, without unreasonable delay, issue a permit on proper application unless:

(A) A prior application for a permit for the same time and location has been made which has been or will be granted and the activities authorized by that permit do not reasonably permit multiple occupancy of the particular area;

(B) The sale of distribution will present a clear and present danger to the public health or safety;

(C) The number of persons engaged in the sale or distribution exceeds the number that can reasonably be accommodated in the particular location applied for;

(D) The location applied for has not been designated as available for the sale or distribution of printed matter; or

(E) The activity would constitute a violation of an applicable law or regulation.

(iii) If an application for a permit is denied, the General Manager shall so inform the applicant in writing, with the reason(s) for the denial clearly set forth.

(iv) The General Manager shall designate on a map, which shall be available for inspection in the Office of the General Manager, the locations within the Kennedy Center that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would:

(A) Cause injury or damage to park resources;

(B) Unreasonably impair the atmosphere of peace and tranquility maintained in commemorative areas;

(C) Unreasonably interfere with interpretive, living history, visitor services, or other program activities or with the administrative functions of the National Park Service; or

(D) Substantially impair the operation of public use facilities or services of concessioners or contractors.

(v) The permit may contain such conditions as are reasonably consistent with protection and use of the park area.

(vi) No permit will be issued for a period in excess of 14 consective days: *Provided,* That permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(vii) Persons engaged in the sale or distribution of printed matter under paragraph (e) of this section shall not conduct activities from other than a stand in the locations designated, or hawk or call out from the stand. Each stand shall bear a sign identifying the sponsor, in a form approved by the General Manager.

(viii) The sale or distribution of printed matter without a permit, or in violation of the terms or conditions of a permit, is prohibited.

(ix) A permit may be revoked under any of those conditions, as listed in paragraph (e)(3)(ii) of this section, which constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

(4) Persons engaged in the sale or distribution of printed matter under this section shall not obstruct or impede pedestrians or vehicles, harass park visitors with physical contact, misrepresent the purposes or affiliations of those engaged in the sale or distribution, or misrepresent whether the printed matter is available without cost or donation.

(f) *Information Collection.* The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024–0021.

The information is being collected to provide notification to park managers, United States Park Police, Metropolitan Police, and the Secret Service of the plans of organizers of large-scale demonstrations and special events in order to assist in the provision of security and logistical support. This information will be used to further those purposes. The obligation is required to obtain a benefit.

c. By adding a new § 7.99 to read as follows:

§ 7.99 National Capital Region Parks.

(a) *Applicability of regulations.* This section applies to all park areas administered by National Capital Region in the District of Columbia and in Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the City of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland and to other federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the act of March 17, 1948 (62 Stat. 81).

(b) *Athletics.*—(1) *Permits for organized games.* Playing baseball, football, croquet, tennis, and other organized games or sports except pursuant to a permit and upon the grounds provided for such purposes, is prohibited.

(2) *Wet grounds.* Persons holding a permit to engage in athletics at certain times and at places authorized for this use are prohibited from exercising the privilege of play accorded by the permit if the grounds are wet or otherwise unsuitable for play without damage to the turf.

(3) *Golf and tennis; fees.* No person may use golf or tennis facilities without paying the required fee, and in compliance with conditions approved by the Regional Director. Trespassing, intimidating, harassing or otherwise interfering with authorized golf players, or interfering with the play of tennis players is prohibited.

(4) *Ice skating.* Ice skating is prohibited except in areas and at times designated by the Superintendent. Skating in such a manner as to endanger the safety of other persons is prohibited.

(c) *Model planes.* Flying a model powered plane from any park area is prohibited without a permit.

(d) *Fishing.* Unless otherwise designated, fishing in a manner authorized under applicable State law is allowed.

(e) *Swimming.* Bathing, swimming or wading in any fountain or pool except where officially authorized is prohibited. Bathing, swimming or wading in the Tidal Basin, the Chesapeake and Ohio Canal, or Rock Creek, or entering from other areas covered by this part the Potomac River, Anacostia River, Washington Channel or Georgetown Channel, except for the purpose of saving a drowning person, is prohibited.

(f) *Commercial vehicles and common carriers.*—(1) *Operation in park areas prohibited; exceptions.* Commercial vehicles and common carriers, loaded, or unloaded, are prohibited on park roads and bridges except on the section of Constitution Avenue east of 19th Street or on other roads and bridges designated by the Superintendent, or when authorized by a permit or when operated in compliance with paragraph (f)(2) of this section.

(c) *George Washington Memorial Parkway; passenger-carrying vehicles; permits; fees.* (i) Taxicabs licensed in the District of Columbia, Maryland, or Virginia, are allowed on any portion of the George Washington Memorial Parkway without a permit or payment of fees.

(ii) Passenger-carrying vehicles for hire or compensation, other than taxicabs, having a seating capacity of not more than fourteen (14) passengers, excluding the operator, when engaged in services authorized by concession agreement to be operated from the Washington National Airport and/or Dulles International Airport, are allowed on any portion of the George Washington Memorial Parkway in Virginia without a permit or payment of fees. However, when operating on a sightseeing basis an operator of such a vehicle shall comply with paragraph (f)(2)(iv) of this section.

(iii) Passenger-carrying vehicles for hire or compensation, other than those to which paragraphs (f)(2) (i) and (ii) of this section apply, are allowed on the George Washington Memorial Parkway upon issuance of a permit by the Regional Director, under the following conditions:

(A) When operating on a regular schedule: to provide passenger service on any portion between Mount Vernon and the Arlington Bridge, or provide limited direct nonstop passenger service from Key Bridge to a terminus at the Central Intelligence Agency Building at Langley, Virginia, and direct return, or to provide limited direct nonstop passenger service from the interchange at Route 123 to a terminus at the Central Intelligence Agency Building at Langley, Virginia, and direct return. Permittees shall file a schedule of operation and all schedule changes with the Regional Director showing the number of such vehicles and total miles to be operated on the parkway.

(B) When operating nonscheduled direct, nonstop service primarily for the accommodation of air travelers arriving at or leaving from Dulles International Airport or Washington National Airport: between Dulles International Airport and a terminal in Washington, DC, over the George Washington Memorial Parkway between Virginia Route 123 and Key Bridge; or between Washington National Airport and a terminal in Washington, DC, over the George Washington Memorial Parkway befween Washington National Airport and 14th Street Bridge; or between Dulles International Airport and Washington National Airport over the George Washington Memorial Parkway between Virginia Route 123 and Washington National Airport. Permittees shall file a report of all operations and total miles operated on the George Washington Memorial Parkway with the Regional Director.

(C) Permits are issued to operators of vehicles described in paragraphs (f)(2)(iii)(A) and (B) normally for a period of one year, effective from July 1 until the following June 30, at the rate of one cent (1¢) per mile for each mile each such vehicle operates upon the parkway. Payment shall be made quarterly within twenty (20) days after the end of quarter based upon a certification by the operator of the total mileage operated upon the parkway.

(iv) Sightseeing passenger-carrying vehicles for hire or compensation other than taxicabs may be permitted on the George Washington Memorial Parkway upon issuance of a permit by the Regional Director, to provide sightseeing service on any portion of the parkway. Permits may be issued either on an annual basis for a fee of three dollars ($3.00) for each passenger-carrying seat in such vehicle; on a quarterly basis for a fee of seventy-five cents (75¢) per seat; or on a daily basis at the rate of one dollar ($1.00) per vehicle per day.

(3) *Taxicabs.*—(i) *Operations around Memorials.* Parking, except in designated taxicab stands, or cruising on the access roads to the Washington Monument, the Lincoln Memorial, the Jefferson Memorial, and the circular roads around the same, of any taxicab or hack without passengers is prohibited. However, this section does not prohibit the operation of empty cabs responding to definite calls for hack service by passengers waiting at such Memorials, or of empty cabs which have just discharged passengers at the entrances of the Memorials, when such operation is incidental to the empty

cabs' leaving the area by the shortest route.

(ii) *Stands.* The Superintendent may designate taxicab stands in suitable and convenient locations to serve the public.

(4) The provisions of this section prohibiting commercial trucks and common carriers do not apply within other Federal reservations in the environs of the District of Columbia and do not apply on that portion of Suitland Parkway between the intersection with Maryland Route 337 and the end of the Parkway at Maryland Route 4, a length of 0.6 mile.

PART 60—NATIONAL CAPITAL PARKS REGULATIONS [REMOVED]

5. Part 50 is removed.

Dated: October 31, 1985.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-29556 Filed 12-18-85; 8:45 am]

BILLING CODE 4310-70-M

federal register

Thursday
December 19, 1985

Part IV

Environmental Protection Agency

40 CFR Part 766

Polyhalogenated Dibenzo-p-Dioxins/ Dibenzofurans; Testing and Reporting Requirements; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 766

[OPTS-83002; FRL-2916-4]

Polyhalogenated Dibenzo-p-Dioxins/ Dibenzofurans; Testing and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes, under section 4 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603, to require manufacturers and importers of 14 commercial organic chemicals to test for the presence of certain chlorinated and brominated dibenzo-p-dioxins (dioxins) and dibenzofurans (furans). In addition, this testing will be required for 20 other commercial organic chemicals not currently manufactured or imported commercially in the United States if their manufacture or importation should resume.

EPA also proposes, under section 8(a) of TSCA, to require manufacturers and importers of the 14 commercially produced chemicals to submit existing test data on contamination of these chemicals with dioxins or furans and to require similar information on the 20 other chemicals should commercial manufacture or importation resume. EPA also proposes to require under section 8(d) that all chemical manufacturers submit health and safety studies on any dibenzo-p-dioxins and/or dibenzofurans.

If the testing proposed under this rule, or other valid existing test data, shows that these commercial chemicals contain dioxins at concentrations at or above 0.1 parts per billion (ppb) per congener and/ or furans at or above 1.0 ppb per congener, EPA proposes to require, with respect to the chemicals the submission of: (1) Production, process, use, exposure, and disposal data under section 8(a) of TSCA; (2) unpublished health and safety studies under section 8(d) of TSCA; and (3) records of allegations of significant adverse reactions both to the chemicals and to the dioxins/furans under section 8(c) of TSCA.

This rule also proposes, under section 8(a) of TSCA, to require the submission of production, process, use, exposure, and disposal data by manufacturers of chemical products made from any of 12 precursor chemicals to determine whether there is further need for dioxin and furan testing of the chemical products made from these precursor chemicals.

DATES: The public is asked to submit written comments on or before February 18, 1986. If persons request time for oral comment by February 3, 1986, EPA will hold a public meeting on March 4, 1986, on this rule in Washington, DC. For further information on arranging to speak at the meeting, contact the TSCA Assistance Office.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Pesticides and Toxin Substances, Environmental Protection Agency, 401 M St. SW, Rm. E-201, Washington, DC 20460.

Comments should include the docket number OPTS-83002. Non-CBI comments received on this Notice will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107, at the above address.

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

SUPPLEMENTARY INFORMATION:

I. Background

EPA has long recognized the potential public health and environmental significance of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). 2,3,7,8-TCDD has been described as one of the most toxic substances known to man. It exhibits delayed biological response in many species and is lethal at exceptionally low doses to aquatic organisms, birds, and mammals. It has been shown to be carcinogenic, teratogenic, fetotoxic, and acnegenic. In addition, 2,3,7,8-TCDD has been shown to adversely affect the immune response in mammals. EPA also recongizes the potential health significance of a variety of tetra- through hepta- halogenated dibenzp-p-dioxins and dibenzofurans (HDDs and HDFs) that are structurally related to 2,3,7,8-TCDD in that they are chlorinated or brominated, at the 2,3,7 and 8 positions on the molocular structure (Reference 4). These dioxins and furans, as well as 2,3,7,8-TCDD, are the subjects of this rulemaking. Hereafter, unless otherwise stated, this notice will refer to tetra- through hepa- chlorinated and brominated dioxins and furans substituted at the 2,3,7 and 8 positions as a group by using, interchangeably, the terms "2,3,7,8-substituted dioxins and furans," "2,3,7,8-substituted chlorinated and brominated dioxins and furans," and "2,3,7,8-substituted HDDs/ HDFs."

The 2,3,7,8-substituted chlorinated dioxins and furans have been measured in a number of commercial chemicals (Ref. 37). EPA has reason to believe that they also appear in a number of other commercial chemicals. Further, because of the extreme toxicity of 2,3,7,8-TCDD and the toxicological similarity to 2,3,7,8-TCDD of the other 2,3,7,8-substituted chlorinated and brominated dioxins and furans, there is evidence that even at very low levels all the 2,3,7,8-substituted chlorinated and brominated dioxins and furans may be hazardous to health and the environment.

EPA has long been concerned about polychlorinated dioxins (PCDDs) and furans (PCDFs) as shown by the number of EPA activities completed, underway, or planned for the analysis of both the toxicity of and potential for human and environmental exposures to these chemicals. EPA's National Dioxin Strategy (Ref. 29), issued in December 1983, offers a comprehensive overview of EPA's past, present, and planned activities in this area. EPA's past regulatory efforts on dioxins and furans focused on a number of products and processes that could generate chlorinated dioxins and furans or could otherwise lead to human or environmental exposure to these substances. The activities of concern have been 2,4,5-trichlorophenol production and use (a notice of intent to cancel registrations of pesticides containing 2,4,5-trichlorophenol was published in the **Federal Register** of October 18, 1983 (48 FR 48434)); pentachlorophenol use (a notice of intent to cancel registrations for pesticides containing pentachlorophenol was published in the **Federal Register** of July 13, 1984 (49 FR 28666)); fires involving polychlorinated biphenyls (a final rule was published in the **Federal Register** of July 17, 1985 (50 FR 29170) placing additional conditions and restrictions on the use of PCB transformers, including a phaseout requirement); and the cleanup of PCDD disposal sites (several sites in southeastern Missouri are being cleaned up, and work is under way to clean up several sites where 2,4,5-T was manufactured and disposed). The Agency also completed action to list as hazardous wastes certain wastes that could contain trace amounts of PCDDs and PCDFs. The listing was published in the **Federal Register** of January 14, 1985

(50 FR 1978). The rule includes specific requirements for disposal of these wastes, including incineration at a Destruction Removal Efficiency of 99.9999 percent.

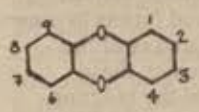
On October 22, 1984, the Environmental Defense Fund and the National Wildlife Federation filed a citizen's petition under section 21 of TSCA, 15 U.S.C. 2620. The petition (Ref. 8) requested that EPA commence certain regulatory actions related to HDDs and HDFs and initiate related investigations and research.

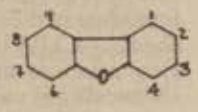
More specifically, the petitioners asked EPA to use its authority under TSCA to analyze aggregate hazards posed by multimedia release of specific 2,3,7,8-substituted congeners of dioxins and furans and to take action under TSCA to commence an integrated, multi-media effort to reduce the risks from the release of these chemicals.

Although the petitioners acknowledged that EPA in its Dioxin Strategy (Ref. 29) has recognized the need for a multi-media approach in cleaning up contamination, they believe that EPA has not taken sufficient action to prevent future contamination from the continued generation of HDDs and HDFs as contaminants during the manufacture of other chemicals and materials. The petitioners requested that EPA take a number of specific regulatory and information-gathering steps under TSCA to regulate generically, as a class of chemicals, the specified congeners; i.e., the 2,3,7,8-HDDs/HDFs.

EPA decided that, in general, it would deny the request to regulate the dioxins and furans under a multi-media TSCA approach for two reasons: (1) The Agency was already proceeding extensively to gather data and initiate regulation under other, more appropriate statutes, and (2) EPA did not have the data necessary to make a finding of unreasonable risk under section 6 of TSCA. EPA did decide, however, to grant part of the petition and initiated this rulemaking under sections 4 and 8 of TSCA to gather additional information on: (1) The presence of 2,3,7,8-substituted congeners of chlorinated and brominated dioxins and furans as contaminants in commercial chemicals; (2) the levels of contamination; (3) the amount of 2,3,7,8-substituted HDDs and HDFs produced, considering the production volume of the contaminated chemicals; (4) the reaction conditions and parameters which produced the 2,3,7,8-substituted HDDs/HDFs; (5) the end uses of the contaminated chemicals; (6) the routes of human and environmental exposure to the contamined chemicals; (7) the number of people potentially exposed to the contaminated chemicals; (8) significant adverse reactions following exposures to the chemicals or the contaminants; and (9) unpublished health and safety studies on the chemicals or the contaminants. Once these data are submitted, EPA will review them and decide whether additional regulatory action is needed under section 6 of TSCA to limit or control the further manufacture, processing, distribution in commerce, and/or use of chemicals contaminated with 2,3,7,8-substituted chlorinated or brominated dioxins and furans.

The specific congeners referred to in this rule as 2,3,7,8-substituted congeners of chlorinated or brominated dioxins and furans are the 15 2,3,7,8-substituted tetra-, penta-, hexa-, and heptachlorodibenzo-p-dioxins and dibenzofurans, and the 15 2,3,7,8-substituted tetra-, penta-, hexa-, and heptabromodibenzo-p-dioxins and dibenzofurans; i.e., those substituted at the 2,3,7, and 8 positions in the molecules diagrammed below:





II. Summary of Proposed Rule

A. Testing Requirements Under Section 4

Under section 4 of TSCA, explained below in Unit IV, EPA may require the contaminant testing of chemicals in order to develop data relevant to assessing the chemicals' risks to health and the environment. EPA has determined that it is appropriate for manufacturers of the 14 chemicals listed below to test these chemicals for contamination with 2,3,7,8-substituted HDDs/HDFs. The additional 20 chemicals not now in commercial production will be tested if commercial production begins or resumes.

The chemicals proposed for testing are listed below along with their Chemical Abstract Services (CAS) registry number, where available:

CAS No.	Chemical name
79-94-7	Tetrabromobisphenol-A.
94-75-7	2,4-Dichlorophenoxy acetic acid.
94-82-6	2,4-Dichlorophenoxybutyric acid.
118-75-2	2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione.
118-79-6	2,4,6-Tribromophenol.
120-83-2	2,4-Dichlorophenol.
1163-19-5	Decabromodiphenyloxide.
4162-45-2	Tetrabromobisphenol-A-bisethoxylate.
21850-44-2	Tetrabromobisphenol-A-bis-2,3-dibromopropylether.
25327-89-3	Allyl ether of tetrabromobisphenol-A.
32534-81-9	Pentabromodiphenyloxide.
32536-52-0	Octabromodiphenyloxide.
37853-59-1	1,2-Bis(tribromophenoxy)-ethane.
	Tetrabromobisphenol-A diacrylate.

The following additional chemicals will be tested if their commercial manufacture or importation resumes:

CAS No.	Chemical name
79-95-8	Tetrachlorobisphenol-A.
87-10-5	3,4,5-Tribromosalicylanilide.
87-65-0	2,6-Dichlorophenol.
95-77-2	3,4-Dichlorophenol.
95-95-4	2,4,5-Trichlorophenol.
99-28-5	2,6-Dibromo-4-nitrophenol.
120-36-5	2[2,4-(Dichlorophenoxy)]-propionic acid.
320-72-9	3,5-Dichlorosalicyclic acid.
488-47-1	Tetrabromocatechol.
576-24-9	2,3-Dichlorophenol.
583-78-8	2,5-Dichlorophenol.
609-71-9	Pentabromophenol.
615-58-7	2,4-Dibromophenol.
933-75-5	2,3,6-Trichlorophanol.
1940-42-7	4-Bromo-2,5-dichlorophenol.
2577-72-2	3,5-Dibromosalicylanilide.
3772-94-9	Pentachlorophenyl laurate.
37853-61-5	Bismethylether of tetrabromobisphenol-A.
	Alkylamine tetrachlorophenate.
	Tetrabromobisphenol-B.

The list of chemicals to be tested does not include those chemicals which meet all the criteria for listing, but which EPA believes have use only as pesticides. TSCA excludes pesticides from the definition of "chemical substances" and generally excludes pesticides from TSCA jurisdiction (TSCA section 3(2)). These chemicals are listed here, and the Agency solicits comments on whether they have uses other than as pesticides. Should other uses be found, these chemicals will be subject to the testing and reporting requirements under this rule.

Cas No.	Chemical name
70-30-4	2,2'-Methylenebis(3,4,6-trichlorophenol).
87-86-5	Pentachlorophenol and salts.
88-06-2	2,4,6-Trichlorophenol.
93-72-1	2,4,5-Trichlorophenoxypropanoic acid, esters and salts.
93-76-5	2,4,5-Tirchlorophenoxyacetic acid, esters and salts.
136-25-4	2,2-Dichloropropanoic acid, 2-(2,4,5-trichlorophanoxy)-ethyl esters.
136-78-7	2-(2,4-Dichlorophenoxyethyl sulfate), sodium salts.
299-84-3	Phosphorothioic acid, 0,0-dimethyl 0-(2,4,5-trichlorophenyl) ester.
1689-84-5	3,5-Dibromo-4-hydroxybenzonitrile.
2300-66-5	3,6-Dichloro-o-anisic acid, dimethylamine salt.
2463-84-5	o-(2-chloro-4-nitrophenyl)o,o-dimethyl-phosphorothioate.
3380-34-5	5-Chloro-2-(2,4-dichlorophenoxy) phenol.

Cas No.	Chemical name
25167-83-3	2,3,4,6-Tetrachlorophenol.
41198-08-7	o-(4-Bromo-2-chlorophenyl)o-ethyl s-propyl phosphorothioate.
	(2,4-Dichlorophenoxy) acetic acid, esters and salts.
	2,4-Dichlorophenoxybutyric acid, esters and salts.
	2-(2,4-(Dichlorophenoxyl) propionic acid, esters and salts.
	Chlorthiophos.

EPA is proposing that manufacturers required to test under this rule submit for Agency review, within 6 months of the date of promulgation of the final rule (or 6 months after manufacture or importation resumes for those chemicals not in commercial production), chemical matrix-specific test protocols sensitive enough to quantitate to the 0.1 ppb level for the 2,3,7,8-HDDs and the 1.0 ppb level for the 2,3,7,8-HDFs. EPA proposes that these levels of quantitation (LOQ) be achieved through the use of high-resolution gas chromatography (HR GC) with high resolution mass spectral detection (HR MS), unless another method can be demonstrated to reach the target LOQs.

EPA will review the protocols and offer recommendations where necessary to ensure that the methods are capable of accurately and precisely measuring dioxins and dibenzoturans at the targeted levels. During this review process EPA will take into account the possibility that interferences may not allow quantitation to the levels specified and, in those cases where reasonable efforts have been made to reach the target LOQ, the Agency may agree to an analytical protocol which results in a higher LOQ.

To facilitate the development of extraction, cleanup and analysis procedures in these protocols, EPA will provide a guidance document titled, "Guidelines for the Determination of Polyhalogenated Dibenzo-p-dioxins and Dibenzofurans in Commercial Products" (Ref. 20).

Within 1 year of the completion of EPA review of the protocols, test results must be submitted to EPA.

B. Reporting Requirements Under Section 8

Under section 8(a) of TSCA, EPA may require chemical manufacturers and processors to maintain such records and submit such reports as the Agency may reasonably require. EPA has determined that certain chemical manufacturers must submit information to assist the Agency in evaluating the risk from commercial chemicals potentially contaminated with 2,3,7,8-substituted HDDs/HDFs, subject to testing in the section 4 rule. The data required to be submitted under section 8 will be used to complete a comprehensive overview of uses, exposures, risks, and benefits of chemicals containing or potentially containing the 2,3,7,8-substituted HDDs/HDFs in order to assess the need for and nature of future regulatory control measures.

Under section 8(a) of TSCA, EPA is proposing that manufacturers of chemicals listed for testing submit, 90 days after promulgation of the final rule, any available test data, with necessary protocols, which show the results of any testing of their chemicals for concentrations of 2,3,7,8-substituted HDDs/HDFs. EPA will review the data and may exempt the manufacturer from any further testing under section 4 of TSCA.

Also under section 8(a) of TSCA, EPA is proposing to require manufacturers (except small manufacturers) of chemicals using any of the precusor chemicals listed below as feedstocks or intermediates to submit data on production volume, manufacturing process, reaction conditions, exposure, use and disposal for the manufactured chemicals. Precusor chemicals are not themselves contaminated, but can, during further processing and under certain reaction conditions, lead to formation of dioxins and furans in other chemicals. EPA is not aware of the circumstances under which these chemicals are used and the reaction conditions to which they are subject during manufacture of other chemicals. Should EPA learn from its data gathering process that reaction conditions favorable to dioxin and furan formation exist, EPA will review production, use, exposure and disposal data to determine whether a significant risk may exist and whether chemical products should be proposed for testing.

EPA also seeks comment on whether manufacturers of chemicals made from precursor chemicals should also be required to submit existing test data showing that the chemicals have been tested for the presence and levels of 2,3,7,8-HDDs/HDFs.

Precursor Chemicals

Cas No.	Chemical name
87-84-3	Pentabromocyclohexane.
69-64-5	4-Chloro-2-nitrophenol.
92-04-6	2-Chloro-4-phenylphenol.
94-74-6	4-Chloro-o-toloxy acetic acid.
94-81-5	4-(2-Methly-4-chlorophenoxy) butryic acid.
95-56-7	o-Bromophenol.
95-88-5	4-Chlororesorcinol.
95-57-8	o-Chlorophenol.
97-50-7	5-Chloro-2,4-dimethoryaniline.
99-30-9	2,6-Dichloro-4-nitroaniline.
615-67-8	Chlorohydroquinone.
827-94-1	2,6-Dibromo-4-nitroaniline.

Also under section 8(a) of TSCA, EPA is proposing to require all manufacturers of chemicals tested and found to contain 2,3,7,8-substituted HDDs/HDFs at or above the LOQs to submit to EPA further information on the chemicals, including production volumes, process data, reaction conditions, exposure, use and disposal. This information will be submitted within 90 days after submission of test results showing contamination levels at or above the LOQs.

In addition, for those chemicals tested and found to contain 2,3,7,8-substituted HDDs/HDFs at or above the LOQs, EPA is proposing to require manufacturers to submit records of alleged adverse reactions to the tested chemicals under section 8(c) of TSCA and health and safety data on the tested chemicals under section 8(d) of TSCA. These data must be submitted within 90 days of submission of a test report showing contamination at or above the LOQs.

Also required under section 8 (c) and (d) are allegations of significant adverse reactions to any dibenzo-p-dioxin and any dibenzofuran, and health and safety studies on any dibenzo-p-dioxin and dibenzofuran. Manufacturers of any chemical listed in this rule for testing are required to submit allegations of significant adverse reactions to any dibenzo-p-dioxin and any dibenzofuran within 90 days after promulgation of the final rule. Any chemical manufacturer possessing health and safety studies on any dibenzo-p-dioxin and any dibenzofuran is required to submit such studies within 90 days after promulgation of the final rule.

EPA will require additional process data under section 8(a) of TSCA if the test results on a given chemical are not clear. Publication of a notice in the **Federal Register** may take place and list chemicals for which some manufacturers have shown no contamination and some manufacturers have shown contamination above the LOQs. This notice would request all manufacturers who have not reported process data under section 8(a) of TSCA to do so.

III. Organization of this Proposal

The remainder of this Notice is organized according to the findings EPA must make under section 4 of TSCA and the factors the Agency must take into consideration before it may issue rules under section 8 of TSCA.

Section 4 of TSCA authorizes EPA to require, by rule, that chemical manufacturers or processors conduct tests to develop data relevant to the determination that the chemicals do or

do not present an unreasonable risk of injury to health or the environment. EPA must make a number of findings before it may issue a section 4 rule. Under section 4(a)(1)(A), EPA must find that a chemical may present an unreasonable risk of injury to health or the environment, that there are insufficient data and experience upon which the effects of activities involving the chemical can reasonably be determined or predicted, and that testing of the chemical is necessary to develop such data. Section 4(a)(1)(B) provides that, as an alternative to the unreasonable risk finding described in section 4(a)(1)(A), EPA may find that a chemical will be produced in substantial quantities and that it either enters or may reasonably be expected to enter the environment in substantial quantities or that there may be significant or substantial human exposure to the chemical.

Section 4(b) of TSCA requires EPA to deal with a number of issues before promulgating a testing rule. Section 4(b)(1) sets forth three additional issues to be included in a test rule. First, EPA must identify the chemical substances for which testing is required under the rule. Second, EPA is to include "standards for the development of test data." Such standards are defined in section 3(12) as a description of:

(1) The information relating to characteristics of the chemical for which data are being developed, and

(2) Any analysis that is to be performed on such data. Section 3(12) provides further that "to the extent necessary to assure that the data are reliable and adequate," test standards may include a prescription of:

(1) The manner in which data are to be developed,

(2) The specification of any test protocol or methodology,

(3) Any other requirement necessary to assure reliable and adequate data.

Third, section 4(b) requires EPA to specify the period within which persons required to conduct tests shall submit data to EPA. In determining the standards for development of test data and the period for submission of data, EPA's considerations shall include the relative costs of the various test protocols and methodologies that may be required and the reasonably forseeable availability of facilities and personnel needed to perform the testing required.

Section 4(b)(3)(B) sets forth the criteria for determining who should test. Persons who manufacture or intend to manufacture chemicals must test if EPA finds there are insufficient data upon which the effects of chemical manufacture can reasonably be determined or predicted; persons who process or intend to process chemicals must test if EPA makes such findings with respect ⅛to chemical processing; persons who manufacture or process must test if EPA makes such findings with respect to chemical distribution in commerce, use, or disposal. Section 4(b)(3) provides that two or more persons required to test may designate a party to conduct testing on their behalf. This provision, however, is not expected to be used for this rule.

Section 4(c) provides for exemptions from testing to avoid submission of duplicative data from different persons and provides for reimbursement of those who actually submitted the data. As explained further in unit IV.B.6, EPA does not expect these provisions to be used in this rulemaking.

Under section 8 of TSCA, EPA must determine the reasonableness of the information-gathering requirements based on the Agency's data needs and the costs of the regulation.

Accordingly, unit IV discusses most of the findings and considerations under section 4 of TSCA; unit V discusses costs of testing; and unit VI discusses the availability of testing facilities and personnel to perform the proposed testing. Unit VII discusses section 8 determinations. In addition, unit VIII discusses compliance and enforcement, unit IX describes the rulemaking record, and unit X lists references used by EPA in preparing this notice. Other regulatory requirements are discussed in unit XI.

IV. Findings and Considerations

A. Findings Under Section 4(a)

EPA has made three findings under section 4(a)(1)(A) of TSCA with respect to the 34 chemicals listed in unit II above. (These chemicals are also listed in § 766.20 of the proposed rule.) First, EPA finds that the chemicals may present an unreasonable risk of injury to health or the environment because they may be significantly contaminated with 2,3,7,8-substituted HDDs/HDFs, which may be highly toxic even at trace levels. Further, the cost of testing for the presence of these contaminants at the levels proposed by EPA is reasonable given the highly toxic nature of these dioxins/furans. Second, there are insufficient data upon which the effects of these chemicals on health or the environment can reasonably be determined because currently EPA has little, if any, data on the levels of dioxin or furan contamination or whether there is any dioxin or furan contamination. Third, EPA finds that analytical testing is necessary to develop data on contaminant levels because such testing is the only way to determine conclusively whether and at what levels dibenzo-p-dioxins and dibenzofurans are present.

1. Unreasonable Risk

EPA has concluded that 2,3,7,8-substituted HDDs/HDFs may be toxic at very low levels, that they may be present in certain chemicals, that their presence in these chemicals may present an unreasonable risk to humans and the environment, and that it is feasible in certain situations to alter process conditions to minimized their formation. In order to protect against the risk from HDDs and HDFs in a reasonable manner, it is necessary to first know where they are formed and at what levels. If the levels present unreasonable risk to health and the environment, EPA may take regulatory action to reduce them. If the levels do not present unreasonable risks to health or the environment, unnecessary regulation will be avoided and chemicals will be "cleared" from list of potentially contaminated products. Furthermore, as discussed in unit V, the costs of testing these chemicals at the levels proposed by EPA are reasonable given, the toxicity of 2,3,7,8-HDDs/HDFs.

a. Toxicity of 2,3,7,8-HDDs/HDFs

In evaluating the toxicity of the 2,3,7,8-substituted HDDs/HDFs, EPA considered strong evidence on the toxicity of 2,3,7,8-TCDD, i.e., data showing that a number of other 2,3,7,8-substituted chlorinated dioxins and dibenzofurans are qualitatively similar to 2,3,7,8-TCDD in their toxic action and other information indicating structural and chemical/biological activity similarities among all the 2,3,7,8-substituted chlorinated, as well as brominated, dioxins and dibenzofurans. EPA has concluded that for purposes of this rule it is prudent public health policy to assume that exposure to the other 2,3,7,8-substituted HDDs/HDFs would pose risks qualitatively similar to those posed by 2,3,7,8-TCDD. The reasons for this decision are discussed below.

The extreme toxicity of 2,3,7,8-TCDD is discussed in detail in EPA's February 1984 Ambient Water Quality Criteria (AWQC) document (Ref. 30) and in a number of other documents EPA has prepared for purposes of regulation. These include the Office of Research and Development's (ORD) Health Assessment Document (HAD) for 2,3,7,8-TCDD, 1,2,3,7,8-PeCDD, 1,2,3,6,7,8-HxCDD, and 1,2,3,6,7,8,9-HpCDD (Ref. 31), the Office of Solid Waste (OSW)

Health and Environmental Effects Profile (HEEP) for tetra-, penta-, and hexachlorodibenzo-p-dioxins (and the same congeners of dibenzofurans) (Ref. 32), a HEEP document for the brominated dioxins and another for the brominated dibenzofurans (Ref. 33), the Drinking Water Criteria Document (DWCD) prepared for the Office of Drinking Water (ODW) on 2,3,7,8-TCDD (Ref. 34), and a draft (HAD) document being prepared on the chlorine substituted dibenzofuran congeners of concern to EDF/NWF. Of particular note is the relative carcinogenic potency of 2,3,7,8-TCDD, which EPA's Cancer Assessment Group (CAG) estimated as the most potent of 55 suspect human carcinogens (Ref. 31). CAG ranks 2,3,7,8-TCDD as a 2–A carcinogen, which means that the chemical causes cancer in labortory animals and, therefore, may present a risk of cancer to humans. There is also suggestive epidemiological evidence that links 2,3,7,8-TCDD to the occurence of cancer, particularly soft tissue sarcoma, in humans. Cohort studies conducted in Sweden have associated soft tissue sarcomas with occupational exposure to phenoxy acid herbicides, some of which are contaiminated with 2,3,7,8-TCDD (Ref. 31). Although subsequent studies and discussion in the U.S. and elsewhere have added to the relevant information, the concern remains unresolved at this time (Refs. 6,10,13,14). Additional studies are in process which should clarify this issue (Ref. 11, 24 and 25).

Available data on 1,2,3,7,8-pentachlorodibenzo-p-dioxin (1,2,3,7,8-PeCDD), 1,2,3,4,7,8-hexachlorodibenzo-p-dioxin (1,2,3,4,7,8-HxCDD), 1,2,3,6,7,8-hexachlorodibenzo-p-dioxin (1,2,3,6,7,8-HxCDD), and 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-HxCDD), and 2,3,7,8-tetrachlorodibenzofuran (2,3,7,8-TCDF compared with the much more extensive data on 2,3,7,8-TCDD show that these other HDDs/HDFs are qualitatively similar in their toxic action to 2,3,7,8-TCDD. (See Refs. 5, 11, 12, 16, 24, 25, and 26.) These data suggest that the dioxins and dibenzofurans substituted at the 2,3,7 and 8 positions are relatively toxic congeners. Results are summarized below.

All animal species studies show very low median lethal doses in acute toxicity testing for all the 2,3,7,8-substituted chlorinated dioxins that have been tested. This is illustrated in mice, where 2,3,7,8-TCDD has an LD_{50} value of 0.88 micromole (umol) per kg and 1,2,3,7,8-PeCDD, 1,2,3,4,7,8-HxCDD, 2,3,6,7,8,-HxCDD and 1,2,3,7,8,9-HxCDD have LD_{50} values of 0.94, 2.11, 3.19, and 3.67 umol/kg, respectively. For 2,3,7,8-TCDF, the acute oral LD_{50} in the guinea pig is reported to be 5 μg/kg/bw (as compared with the acute oral LD_{50} for 2,3,7,8-TCDD in this species, which is 0.6 μg/kg/bw). Subchronic testing of 2,3,7,8-TCDF in rhesus macaques indiced that this compound is extraordinarily toxic. Based on EPA's review of this study, the no observed effect level (NOEL) for 2,3,7,8-TCDF is expected to be below 5.0 ppb. (Ref. 32). The author of this study concluded that continued daily oral intake of small amounts of 2,3,7,8-TCDF gave monkeys a disease which is clincially and morphologically similar to acute or chronic ingestion of 2,3,7,8-TCDD. For most of the observed biological effects, the potency of the two compounds is within an order of magnitude of each other, with 2,3,7,8-TCDF being slightly less toxic than 2,3,7,8-TCDD (Ref. 3). Some scientists have estimated that in laboratory animals, 2,3,7,8-TCDF is 2 to 33 percent less toxic than 2,3,7,8-TCDD, depending upon the particular effect studied. Further, the toxicity of 2,3,7,8-TCDF in rhesus macaques has been estimated to be about 20 times that of 3,4,4,5-tetrachlorobiphenyl, and 1,000 times more toxic than PCB Aroclor 1248, two of the suspected human carcinogens evaluated by CAG (Refs. 31 and 32).

Other chemical and biological indicators show strong similarities among many of the 2,3,7,8-substituted chlorinated dioxins and dibenzofurans. These similarities, discussed below, correlate with toxicity, persistence, and biodegradation—all factors that indicate these chemicals will cause similar effects on health and the environment.

All the 2,3,7,8-substituted HDDs/HDFs are structurally similar, with two benzene rings chlorinated or brominated at the 2,3,7 and 8 positions, joined by one oxygen bridge in the dibenzofuran molecule and two oxygen bridges in the dibenzo-p-dioxin molecule. This structural similarity between 2,3,7,8-TCDD/TCDF and the other 2,3,7,8-substituted HDDs and HDFs indicates a strong likelihood of very similar biological activity, with corresponding potential for toxic effect. These predicted similarities in biological activity and potential toxic effect are supported by data from studies discussed below.

Tests on the 2,3,7,8,-substituted chlorinated dioxins and dibenzofurans show that these compounds have similar ability to induce enzyme activity, a characteristic closely correlated with the degree of toxicity of a compound (Ref. 3). Comparison of *in vitro* studies shows that the 2,3,7,8-substituted chlorinated dioxins and dibenzofurans have similar ability to induce aryl hydrocarbon hydroxylase (AHH) in rat hepatoma cells at very low levels (Refs. 2 and 23) and have similar affinity to bind to the isolated hepatic aromatic hydrocarbon (Ah) cystolic receptor in certain species (Ref. 22).

The cellular biochemical mechanisms leading to the toxic response resulting from exposure to HDDs/HDFs are not known in complete detail. However, over the last few years experimental data have accumulated which suggest that an important role is played by this Ah receptor protein. This receptor binds halogenated polycyclic aromatic molecules, including HDDs and HDFs. In animals, the binding of 2,3,7,8-TCDD-related compounds to this receptor has been correlated with the expression of several systemic toxic effects, including sensitivity to acute toxic effects (LD_{50} values), thymic involution, chloracnegenic response, and the induction of several enzymes systems, some of which have been linked to carcinogenic pathways (References 2 and 21).

All of the 2,3,7,8-chlorinated dioxins and dibenzofurans, tested show a high likelihood of persisting in the human body and the environment should exposure occur. All are lipophilic, have high octanol/water partition coefficients in the same range (between 10^5 and 10^7), are highly persistent under normal environmental conditions (particularly when adsorbed to soil or other substrates) and are generally degraded every little by microbes, and have extensive half-lives in the environment (in excess of 10 years for 2,3,7,8-TCDD (Ref. 32)).

Since bromine as a substituent is more toxicologically active than chlorine (Ref. 33), EPA believes it is prudent to assume that 2,3,7,8-substitued bromodibenzo-p-dioxins and bromodibenzofurans are as toxic as the corresponding chlorinated compounds for purposes of this testing regulation.

EPA has decided that the other halogenated dioxins and dibenzofurans (iodinated and fluorinated) are sufficiently different from the chlorinated and brominated compounds that it would be too highly speculative to include them in this proposed rule.

b. Estimates of Potential Exposure to HDDs/HDFs.

Toxicity and exposure are the two basic components of risk. In the previous unit, EPA summarized available information on the toxicity of 2,3,7,8-HDDs/HDFs and concluded that

these materials are very toxic at low levels.

In order to estimate the potential for human exposure to 2,3,7,8-HDDs/HDFs which may be found in commercial products, EPA selected three levels of theoretical exposure encountered using three exposure categories. Using the CAG multistage linearized model discussed above, EPA calculated theoretical risks associated with Lifetime Average Daily Dose (LADD) values for each exposure level within each category, and explains below the calculation of risk estimates for the occupational and consumer use categories, which are the categories where significant risks are more likely to be encountered. In order to estimate the potential risks posed by exposures to 2,3,7,8-HDDs/HDFs in commercial products, EPA has assumed the LADDs represent exposures to 2,3,7,8-TCDD.

The Agency concludes that it is reasonable to expect that if these compounds are formed during the manufacturing of commercial chemicals, then exposures to them may arise because of the activities associated with the manufacturing, processing, distribution, use or disposal of the chemicals.

c. Risk Estimates for Persons Exposed to HDDs/HDFs.

EPA has estimated the level of risk associated with human exposures to a household cleaner which contains a chemical theoretically contaminated with 2,3,7,8-TCDD at both the 1.0 ppm and 0.1 ppb level, and for occupational dermal exposures encountered during organic chemical synthesis based on the physicochemical characteristics of 2,4-dichlorophenol (density, etc.) at these same levels. The levels were chosen to represent a range bounded by the approximate average concentration of dioxins reported in chemicals and products (Ref. 37) and the level specified in the Environmental Defense Fund/National Wildlife Foundation petition for total dioxins (Ref. 8). For purposes of this assessment, EPA has assumed that the dioxin present in the feedstock chemical is exclusively 2,3,7,8-TCDD.

1. Risk Estimates for Household Cleaner Exposures

EPA has calculated the LADD for a household cleaner used at full strength on a sponge or rag, and theorizes that the contaminated constituent of the cleanser passes through the sponge or rag, contacting the palm and fingers of one hand resulting in dermal exposure to HDDs/HDFs. The exposure model assumes that the cleaner contains 4.5 percent by volume of the contaminated chemical, i.e., every liter of the cleaner contains 45 ml. of the contaminated chemical.

The surface area exposed is calculated at 200 cm^2, consisting of one-fifth of the outstretched palm and fingers of one hand. The rate of skin adhesion is calculated at 1.5×10^{-3} ml/cm^2, which expresses a measurement of the thickness of the film of water in which the cleaner is dispersed, which remains on the hand after one partial wipe of the cleaning rag or sponge. Absorption of the dispersed cleanser film is assumed to be 100 percent.

The frequency of exposure (number of events per year) is estimated at 52, assuming one use of the cleaner per week, at 52 weeks per year. The average adult body weight is assumed to be 70 kg, and the average life span is assumed to be 70 years.

The LADD is calculated by multiplying the 70-year assumed life span by the annual exposure ($\mu g/yr$), divided by the product of the number of days per average life span (25,550) and the assumed average adult body weight, 70 kg.

At 1.0 ppm, the LADD is estimated at 2.7×10^{-5} $\mu g/kg/day$. Using the CAG risk assessment model for 2,3,7,8-TCDD [$Q1^*$(slope)$=1.6\times10^5$ $(ng/kg/day)^{-1}$], this LADD would correspond to an upper limit risk level of 4×10^{-3}. At 0.1 ppb, the LADD is estimated to be 2.7×10^{-9}. Using the CAG risk assessment for 2,3,7,8-TCDD, this LADD corresponds to 4×10^{-7} upper limit risk level.

Thus, dioxin contamination of 0.1 ppb to 1.0 ppm in a chemical which is ultimately used to formulate a household cleaner could present upper limit oncogenic risks in the range of 4.0×10^{-7} to 4×10^{-3}, depending on the level of contamination.

2. Risk Estimates for Occupational Dermal Exposure

EPA has calculated the LADD for occupational dermal exposures encountered during organic chemical synthesis on the basis of exposure to a chemical with the physicochemical properties of 2,4,-dichlorophenol. The surface area (S) exposed is assumed to be the entire surface area of both hands, estimated at 8.7×10^{-3} cm^2. The thickness of the liquid film (T) left on the hands after exposure is calculated at 1.8×10^{-3} cm, which is calculated as the average film thickness of five representative solutions. The frequency (F) of exposure occurrence (events per year) is estimated at 250, the average number of work days per year. Density of the liquid (D), based on the density of 2,4,-dichlorophenol, is estimated at 1.3 g/cm^3. The daily exposure (DX) are calculated in $\mu g/kg/day$ at the two levels of contamination (C, in $\mu g/g$) as follows:

$$\frac{S \times T \times D \times C}{\text{70 kg body weight}}$$

Annual exposures (AX) are calculated in $\mu g/kg/yr$ as fellows:

$S \times T \times D \times C \times F$

The calculation of the LADD values for the two levels of contamination are explained above under the household cleaner risk estimate calculation.

At the 1.0 ppm level the LADD value is calculated at 2.11×10^{-2} $\mu g/kg/day$. Using the CAG risk assessment model for 2,3,7,8-TCDD [$Q_1^*=1.6\times10^5$ $(ng/kg/day)^{-1}$], this LADD corresponds to an upper limit level of oncogenic risk which EPA projects very close to unity (a theoretical 1 in 1 occurrence, with probability too close for the CAG risk assessment model to calculate). At 0.1 ppb, the calculated LADD value of 2.11×10^{-6} corresponds to a 3×10^{-4} upper limit risk estimate or oncogenic risk. Thus, EPA's model indicates that exposures to chemicals contaminated with HDDs/HDFs (assumed to be as potent as 2,3,7,8-TCDD) during the synthesis of organic chemicals could result in a range of upper limit oncogenic risks from 3×10^{-4} to near unity.

A detailed description of the assumptions outlined above and the calculations performed for event exposure, annual exposure, and LADD values is contained in Reference 37.

As the discussion above indicates, chemical analysis for 2,3,7,8-substituted dioxin congeners at the tenth of a part per billion (ppb) level per congener is necessary to determine exposure levels that may present an unreasonable risk of harm to human health or the environment.

d. Case Study of the Feasibility of Minimizing Dioxin/Furan Contamination During Manufacture

Evidence that the amount of 2,3,7,8-TCDD formed during product chemical reactions can be reduced was presented during the cancellation hearings for the herbicide 2,4,5-T (Ref. 7). During those hearings, Dow Chemical Co. presented testimony describing modifications to production processes which reduced the 2,3,7,8-TCDD content in 2,4,5-T to a level of 0.01 ppm or lower. In 1976, Dow began efforts to remove 2,3,7,8-TCDD in final products, and investigated the possibility of altering reaction process

conditions to reduce 2,3,7,8-TCDD formation, thereby lowering the content formed during the actual production process.

DOW initially experimented with activated charcoal bed absorption, which allowed a 50 percent reduction in the levels of 2,3,7,8-TCDD in 2,4,5-T reaction product. Additional efforts included eliminating delays and reducing the duration of the reaction process, precise temperature control during the production process, and modification of the alkalinity (pH) of the process. These additional modifications of the reaction process allowed an additional 50 percent reduction (approximate) in the 2,3,7,8-TCDD content of the product.

As evidenced by this example, the reduction of dioxin contamination in commercial products through the manipulation of the reaction chemistry and conditions of process stream is a very real option. The economic feasibility of the process is also viable; Dow stated that should the production of 2,4,5-T be resumed, a level of 0.01 ppm 2,3,7,8-TCDD or below could be met as a process specification in manufacturing the product. This example demonstrates that dioxin contamination can be reduced through direct manipulation of the process chemistry and reaction conditions at a cost consistent with market price requirements.

e. Determination of Unreasonable Risk

EPA has considered the toxicity of 2,3,7,8-HDDs/HDFs, their structure-activity relationship, and the potential for exposure to them if present as contaminants in commercial chemical products. The example outlined in section (d) above illustrates the practicality of reducing or eliminating the amount of 2,3,7,8-TCDD contamination through manipulation of the production process. The cost of testing in this proposed rule is expected to remain under 3 million dollars, generated primarily by the synthesis and manufacture of analytical standards, development of cleanup, extraction, and test methodologies, and analysis of sample series. In balancing the cost of the testing proposed in this rule with potential risks which may result from exposures to 2,3,7,9-HUDDs/HDFs, EPA finds that the cost involved in generating data enabling a reasonable and accurate determination of risk is not excessive. The discussion of risk estimates above illustrates the necessity for levels of quantitation at the 0.1/1.0 ppb level. Although the testing costs are not inexpensive, these levels of quantitation are necessary for each congener of 2,3,7,8-HDDs/HDFs because these levels of exposure may be encountered in actual situations and may present a risk of concern. Even if the levels of quantitation were less sensitive, the incremental decrease in cost experienced in achieving these levels would not significantly decrease the overall costs of the proposed rule. (See Unit V.)

EPA is considering setting different levels of quantitation for each HDD/HDF based on the relative toxicities of the HDDs/HDFs expected to be present in the chemical (Ref. 3). The Agency requests comments on the utility of this method for use in the final rule.

These levels do not, however, constitute an "action level" under section 6 of TSCA, nor under any other statute. Under TSCA that level is dependent upon the Agency first making a determination that the reduction of risk to health or the environment outweighs the cost of society of such reduction. An action level under section 6 would be determined by many factors, including incremental risk reductions to exposed groups by alternative limits on dioxin and dibenzofuran concentrations in commercial chemicals, and the cost of reducing risks at each alternative level. For this purpose EPA must review data on toxicity, exposure, cost, availability of substitutes, and availability of technology. Using this process, it is likely that the "action level" for each chemical subject to a regulation under section 6 will be somewhat different.

2. Insufficiency of Data and Experience

With the exception of extensive data on 2,3,7,8-TCDD and some data on several related congeners as discussed in the preceding unit on toxicity, EPA has little or no data upon which to base a determination of toxicity or exposure for the chemicals listed for testing. These determinations are basic to a finding of unreasonable risk. Therefore, EPA is proposing that such data be developed, and that such testing be required in order to provide this data.

3. Necessity for Testing

EPA has determined that testing is necessary to generate data on which to base toxicity and exposure, because such data is fundamental to the assessment of risk, and because the analytical data generated by required testing in this proposed rule is currently not available in any accessible or usable form for purposes of assessing these potential risks.

B. Findings Under Section 4(b)

1. Identification of Substances to be Tested

EPA chose the chemicals for testing based on two broad criteria. Some chemicals have actually been tested in the past and found to contain 2,3,7,8-substituted HDDs/HDFs. The others are chemicals which EPA has good reason to believe are contaminated based on structural similarities with the chemicals actually tested and process conditions considered to aid the formation of dioxins and dibenzofurans. Thus, these listed chemicals contain carbon and utilize chlorine and/or bromine in their manufacture and are manufactured under circumstances that include high temperature or pressure and the presence of alkaline conditions.

Contamination of the listed chemicals is expected to occur during manufacture. Thus, the focus of the testing is on detecting contamination at the beginning of the manufacturing chain to allow EPA to draw conclusions about the degree of contamination during further processing of the chemical.

a. Chemicals to be Tested

The 34 chemicals to be tested are listed under unit II.A of this preamble and § 766.20 of this rule. The 14 chemicals in current commercial production will be immediately affected by promulagtion of this rule. The 20 chemicals not currently in commercial production will be affected should commercial production begin or resume.

b. Test Substance

EPA is proposing that manufacturers test chemicals which are listed in this proposed rule in all grades normally marketed in active commerce. This definition is purposely broad, in order to include as many forms and grades as are routinely found in the marketplace, but eliminates the requirement for testing of specialty chemicals prepared only on special order or in extremely small quantities on a custom basis, e.g., research quantities of analytical purity.

2. Standards for the Development of Test Data

This term is defined under section 3(12) of TSCA and refers to the prescription of the information for which test data are to be developed and any analysis to be performed on such data. It also includes the manner in which the data are to be developed, the specification of any test protocol or methodology, and any other requirements needed to provide assurance of the reliability and

adequacy of the data. These standards should be differentiated from analytical standards.

a. General Analytical Method Consideration

The analytical procedures specified in this proposed rule for the quantitative measurement of 2,3,7,8-HDDs/HDFs in commercial products include: (1) the quantitative extraction or partitioning of the analytes from the commercial product; (2) separation of the 2,3,7,8-HDDs/HDFs from interferences present in the extract; and (3) separation and quantitation of 2,3,7,8-substituted tetra-, hepta-, penta- and hexa-DD/DF congeners, using high-resolution gas chromatography and high-resolution mass spectrometry.

The most significant difference in the analysis of 2,3,7,8-HDDs/HDFs in commercial products in comparison with environmental and biological samples will be the extraction and cleanup procedures. The physical and chemical properties of environmental and biological matrices are typically different enough from the properties of the analytes to allow relative ease of separation. In contrast, the commercial products, in most cases, may be structurally similar to the analytes, complicating the separation and necessitating the complete removal of the matrix to avoid interferences in the final determination.

b. Detection Method

The extreme toxicity of certain 2,3,7,8-HDD/HDF congeners at very low levels of exposure necessitates analytical methods with very high sensitivity and specificity. EPA is specifying the use of high-resolution gas chromatography with high-resolution mass spectrometry (HRGC/HRMS) as the chemical analysis method of choice for this proposed rule.

HRGC is one of the most effective ways of separating the product chemical from 2,3,7,8-HDDs/HDFs and other similar impurities or byproducts which are present in solution following extraction and cleanup of the product chemical. It may be possible to use liquid chromatography to separate HDDs and HDFs from the product, byproducts, and other impurities in a product extract. EPA requests comment and further information on the application of these and other separation techniques to the analysis of halogenated chemical products for HDDs and HDFs.

HRGC optimizes separation of all components of an extract into a form that is most amenable to mass spectrometric detection. The analysis of trace amounts of 2,3,7,8-HDDs/HDFs, even when separated by HRGC, requires special selective detectors to identify and measure them. EPA is specifying high resolution mass spectrometry (HRMS) as the method of identification and measurement of 2,3,7,8-HDDs/HDFs in the extract separated by HRGC as outlined above.

EPA considered two other potentially useful detectors, electron, capture (EC) and low resolution mass spectrometry (LRMS), but believes that these methods are not sufficiently sensitive or specific to confirm unequivocally the presence of other similar compounds which are present in larger amounts or the same amounts as the 2,3,7,8-HDDs/HDFs. Triple quadrupole mass spectrometry (MS/MS) was also considered but EPA believes it has not been demonstrated to be sufficiently reproducible for most applications in this proposed rule.

HRMS provides more precise mass determination than is available using LRMS. Mass determination with relevant mass intensity ratio comparisons provides confirmation of the identity of chemicals separated by HRGC.

Even though EC may be as sensitive, or more sensitive than HRMS, the detection is based on the capacity of a chemical compound to capture electrons. This electron capture capacity cannot satisfactorily distinguish between the very broad class of halogenated hydrocarbon compounds (which include 2,3,7,8-HDDs/HDFs) and many other broad classes of compounds which are detected by EC. Non-2,3,7,8-HDD/HDF compounds which are impurities or byproducts present in the product chemical extract separated by HRGC are very likely to be detected by EC. EC does not have sufficient selectivity to distinguish between: (1) chlorinated/brominated compounds and other halogenated compounds; or (2) 2,3,7,8-HDDs and HDFs and other halogenated aromatic compounds. The selectivity to distinguish among these halogenated compound classes is essential to resolve the confounding of the analysis by the expected presence in the product extract of chemicals in all of these halogenated compound classes. Even more importantly, this proposed rule requires the still greater selectivity *within* these large halogenated compound classes, namely differences in levels of chlorination/bromination within 2,3,7,8-HDDs and distinction between 2,3,7,8-HDDs/HDFs.

Major advances in analytical capabilities for the HDFs during the last 2 years include the development and extensive use of chemical ionization (CI) and the use of CI in a triple-quadrupole mode. Detection limits in the range of parts per trillion (ppt) have been obtained using these techniques. EPA considers either of these two techniques as having potential for the analysis of HDDs and HDFs in commercial products, but these methods are not yet validated or standardized for use at the levels EPA is specifying in this proposed rule. For these reasons, EPA chose HRGC/HRMS as the analytical method in this proposed rule. EPA seeks comments on the adequacy of the analytical methods outlined above, in terms of achieving reliable data at the levels of detection specified in this proposed rule.

c. Method Sensitivity

A chief concern in using any analytical method is the ability to achieve the desired level of detection. The detection limits reported for various HDDs and HDFs in phenoxyalkanoic herbicides range from 5 to 500 ppb. A detection limit of 0.05 ppb can be achieved for specific congeners of TCDD and TCDF assuming a conservative instrument sensitivity (quadrupole MS) and a 1 μl aliquot from a 200 μl final extract of a 1 gram sample. By increasing initial sample size, decreasing final extract volume, or employing a more sensitive MS (magnetic sector double-focusing) instrument, this detection limit might be lowered to 0.01 ppb or 1.0 part per trillion (ppt). These detection limits are determined largely by the sensitivity of the instrument, and sample interferences may sequentially increase the detection limit attainable for a given matrix. EPA is proposing a detection limit of 0.1 ppb for 2,3,7,8-HDDs and 1.0 ppb for 2,3,7,8-HDFs. Using data reported at these limits of detection, the potential risks associated with exposure to 2,3,7,8-HDDs/HDFs in commercial products may be calculated (See Unit IV.A.1.c for a detailed discussion of risk assessment calculated for 2,3,7,8-HDDs/HDFs at the ppb level of exposure). EPA seeks comments on the appropriateness and feasibility of this proposed analytical detection limit.

d. Quality Assurance/Quality Control (QA/QC) Procedures

The first QA/QC procedure is the requirement of a Quality Assurance Plan (QAP). The QAP should include the following: history and disposition of samples, sampling and sample collection procedures, and extraction and instrumental analysis procedures. The QAP documents how the laboratory intends to demonstrate its capability to produce data which meet data quality requirements.

An accurate trace or history of the life of a sample to be chemically analyzed for 2,3,7,8-HDDs/HDFs must be assembled and should contain information beginning with a description of the system, scheme, or survey design for sample collection. A written record, called a chain-of-custody form, shall follow the sample. Necessary contents of the record are written general descriptions of what happens to the sample, schedules and timetables, disposition, handling, and who has custody. Following final chemical analysis, the last entry in this record should be the disposition of the sample. Any further use (particularly for another activity), movement, or examination of the sample should be added to the history.

Details of the sampling or sample collection procedure are the second section of the QAP. Since the history describes handling, disposition, schedules, and general descriptions of what happens in sampling, the requirement here is a detailed description of sampling and sample collection. Reasons for using a specific or general sample selection process and reasons for not using others must be included here. Estimates of how well the selected samples represent the material to be characterized are an essential part of QA. The greater the variability of composition of a material, the more frequently sampling is required for estimation and quantification purposes. In determining or estimating errors generated in sample collection, control samples or blanks, and 2,3,7,8-HDDs/HDFs (native compounds or, preferably, isotopically labelled compounds) reinforced controls or analytical standards, must be sent to the collection site(s) and returned with the samples for identical handling and treatment. Duplicate samples, which are collected, documented, and handled the same as other samples, are necessary for recovery, precision, and accuracy determinations.

The third section of the QAP is a description of the extraction and chemical analysis or screening test procedures. To determine both extraction, efficiency and measurement efficiency, it is necessary to use analytical standards of isotopically labelled 2,3,7,8-HDD/HDF mixtures or individual isotopically labelled 2,3,7,8-HDD/HDF compounds in control samples. Once capabilities have been established, the operator must determine precision and accuracy and use those determinations to designate acceptable bounds for analytical performance. The operator must keep control chart records to assure that the instrument readings of analytical standards fall within the range of acceptable performance. The operator must establish and describe the quantitative range of an instrument and analytical procedure. Specific requirements are as follows:

For chemical analysis, procedures must be demonstrated to be capable of reproducibly and repeatedly to quantitate 2,3,7,8-HDDs at 0.1 ppb resolvable peak, and 2,3,7,8-HDFs at 1.0 ppb per resolvable peak. Quality control check sample analysis begins the determination of system capabilities. Sets of samples shall be constructed such that no less than one sample set shall be analyzed in a single workday shift. A single set shall contain at the minimum: Calibration standards, method blanks, product samples, and another set of calibration standards, in that order. The calibration standard should contain each 2,3,7,8-substituted congener at concentrations capable of reinforcing a product sample to a product concentration of 0.1 ppb for 2,3,7,8-HDDs and 1.0 ppb for 2,3,7,8-HDFs. A method blank is a sample which has no product but is generated by treating an empty sample container with all of the same steps used in the cleanup, extraction, and chemical analysis of a product sample. A set not meeting the performance criteria below or not having a method blank with nondetected levels of native HDDs/HDFs shall require corrective action checking, and the set must be rerun with reports and explanations for the results from both sets.

For 2,3,7,8-HDDs, to demonstrate the requirement of a limit of quantitation of 0.1 ppb at least two analyses of the same isotopically labelled 2,3,7,8-HDD internal calibration standard spiked to a concentration of 0.1 ppb in a product must be quantifiable to within ±10 percent of each other. The limit of quantitation shall be determined by recovery of the internal calibration congeners which have been spiked into the product sample following sampling but before sample cleanup and extraction. The recovery of the internal calibration standard which has run through the entire chemical analysis must be within 70–130 percent of the amount spiked, or documented corrective actions must be taken and the sample set must be rerun.

For 2,3,7,8-HDFs, to demonstrate the requirement of a limit of quantitation of 1.0 ppb, at least two analyses of the same isotopically labelled 2,3,7,8-HDF internal standard spiked to a final concentration of 1.0 ppb in a product must be quantifiable to within ±10 percent of each other. The limit of quantitation shall be determined by recovery of the internal calibration standard congeners which have been spiked into the product following sampling but before sample cleanup and extraction. The recovery of the internal calibration standard which run through the entire chemical analysis must be within ±70–130 percent of the amount spiked or documented corrective actions must be taken and the sample set must be rerun.

Qualitative requirements include (1) response factors for 2,3,7,8-HDDs and HDFs to be measured and (2) instrument hardware and operating conditions (including type and source of column, carrier gas, flow rate operating temperature range, and ion source temperature). For both qualitative and quantitative measurements, the instrument operator should be blind to the nature or source of samples, particularly to duplicates, blanks, and brominated or chlorinated dibenzodioxin/diberzofuran enriched samples.

The limit of detection (LOD) and the limit of quantification, (LOQ) shall be described for each material. Tentative LOD and LOQ definitions are greater than or equal to 3 times background noise (LOD); and greater than or equal to 10 times background noise (LOQ). Details of quantitative calibration procedures for the known and/or expected range of the 2,3,7,8-HDD/HDF levels in actual samples complete this section of the QAP.

Finally, the last section of the QAP must include the results of laboratory participation in round robin analytical programs, the results of performance audits, systems audits, analytical result of performance audit samples, persons responsible for all aspects of sampling, chemical analysis, data analysis, corrective actions, and quality assurance/quality control. This section of the QAP must also include a description of how problems are handled and documented and how corrections in working level notebooks are indicated and explained.

e. Analytical standards

In using HRGC/HRMS to perform the analysis, several possible methods of quantitation were examined, based on analytical standards of 2,3,7,8-HDD/HDF compounds in concentrations similar to the concentration range of interest (0.1 ppb for 2,3,7,8-HDDs and 1.0 ppb for 2,3,7,8-HDFs) found in chemical products to be tested. Analytical standards must be reasonable

surrogates for 2,3,7,8-HDDs and HDFs with respect to response, retention time, and resolvability from other materials in the extract, and the surrogate standards must not interfere with the response, retention time, and resolvability of the 2,3,7,8-HDDs and HDFs.

Quantitation must be based on internal standards. The use of internal standards can provide continuous monitoring of extraction efficiency and method precision in the analysis of actual product samples, and thus the internal standards may provide information on matrix effects. The best surrogates to use as internal standards are 2,3,7,8-HDDs and HDFs with selected positions having been substituted with the same atoms but having a different isotope (and atomic mass) from native compounds. The isotopes may be deuterium for native hydrogen, carbon-13 or carbon-14 for native carbon, and chlorine-37 for native chlorine. The internal standards labeled with these isotopes have total masses and fragmentation masses which are significantly different from the total masses and fragmentation masses of the native compounds, such that there is no interference with identity and quantitation of the native 2,3,7,8-HDDs and HDFs using mass spectrometry.

External analytical standards have restricted capability to check extraction efficiency at the limit of quantitation. In addition, external standards may not provide adequate information on the true limit of quantitation which is affected by the actual product matrix. Since an external standard is not in a product sample extract, there is no potential interference with 2,3,7,8-HDDs and HDFs in an actual product sample, and the external standards may be native compounds.

A chemical product may be analyzed (1) solely by the use of internal analytical standards, or (2) at least one sample must be analyzed by using an internal standard (to evaluate extraction and matrix interferences), and the other samples may be analyzed using external standards only when response of the external standards is converted to the response observed for internal standards as proven in a valid comparison study.

Since the HDD and HDF compounds of greatest concern are those substituted at the 2,3,7,8 positions, EPA is specifying that these compounds be used as reference standards. Isotopically labelled standards shall be used as internal standards. Native standards may be used as internal standards for the special case using duplicate pairs of samples, as described earlier.

This rule requires quantitation for the following 2,3,7,8-substituted compounds:

Chlorinated compounds	Brominated compounds
2,3,7,8-TCDD	2,3,7,8-TBDD
1,2,3,7,8-PeCDD	1,2,3,7,8-PeBDD
1,2,3,4,7,8-HxCDD	1,2,3,4,7,8-HxBDD
1,2,3,6,7,8-HxCDD	1,2,3,6,7,8-HxBDD
1,2,3,7,8,9-HxCDD	1,2,3,7,8,9-HxBDD
1,2,3,4,6,7,8-HpCDD	1,2,3,4,6,7,8-HpBDD
2,3,7,8-TCDF	2,3,7,8-TBDF
1,2,3,7,8-PeCDF	1,2,3,7,8-PeBDF
2,3,4,7,8-PeCDF	2,3,4,7,8-PeBDF
1,2,3,4,7,8-HxCDF	1,2,3,4,7,8-HxBDF
1,2,3,6,7,8-HxCDF	1,2,3,6,7,8-HxBDF
1,2,3,7,8,9-HxCDF	1,2,3,7,8,9-HxBDF
2,3,4,6,7,8-HxCDF	2,3,4,6,7,8-HxBDF
1,2,3,4,6,7,8-HpCDF	1,2,3,4,6,7,8-HpBDF
1,2,3,4,7,8,9-HpCDF	1,2,3,4,7,8,9-HpBDF

EPA realizes that industry may have to develop analytical standards for PHDD/PHDF analysis in order to achieve the analytical accuracy and precision specified in this proposed rule. EPA has identified the following specific congeners as available for use as reference analytical standards:

CURRENTLY AVAILABLE DIBENZODIOXIN AND DIBENZOFURAN STANDARDS

Unlabeled	Stable isotope labeled
Dibenzodioxins	
Tetrachloro: 2,3,7,8	2,3,7,8 ($U^{-13}C^{12}$, 99%) 2,3,7,8 ($U^{-37}Cl_4$ 98%) 2,3,7,8 ($U^{-14}C$, 33mCi/mmol)
Tetrabromo: 2,3,7,8	2,3,7,8 ($U^{-13}C^{12}$, 99%)
Pentachloro: 1,2,3,7,8	1,2,3,7,8 ($U^{-13}C^{12}$, 99%)
Pentabromo: 1,2,3,7,8	1,2,3,7,8 ($U^{-13}C^{12}$, 99%)
Hexachloro: 1,2,3,4,7,8; 1,2,3,6,7,8; 1,2,3,7,8,9; 1,2,3,7,8,9	1,2,3,6,7,8/1,2,3,7,8,9 ($U^{-13}C^{12}$, 99%)
Hexabromo: 1,2,3,4,7,8; 1,2,3,6,7,8/1,2,3,7,8,9	1,2,3,6,7,8/1,2,3,7,8,9 ($U^{-13}C^{12}$, 99%)
Heptachloro: 1,2,3,4,6,7,8	1,2,3,4,6,7,8 ($U^{-13}C^{12}$, 99%)
Heptabromo: 1,2,3,4,6,7,8	
Dibenzofurans	
Tetracholoro: 2,3,7,8	2,3,7,8 ($U^{-13}C^{12}$, 99%)
Tetrabromo: 2,3,7,8	2,3,7,8 ($U^{-13}C^{12}$, 99%)
Pentachloro: 1,2,3,7,8; 2,3,4,7,8	1,2,3,7,8 ($U^{-13}C^{12}$, 99%)
Pentabromo: 1,2,3,7,8	1,2,3,7,8 ($U^{-13}C^{12}$, 99%)
Hexachloro: 1,2,3,4,7,8; 1,2,3,6,7,8; 1,2,3,7,8,9; 2,3,4,6,7,8	1,2,3,4,7,8 ($U^{-13}C^{12}$, 99%)
Hexabromo: 1,2,3,4,7,8	1,2,3,4,7,8 ($U^{-13}C^{12}$, 99%)
Heptachloro: 1,2,3,4,7,8,9; 1,2,3,4,6,7,8	1,2,3,4,6,7,8 ($U^{-13}C^{12}$, 99%)

3. Period for Submission of Test Data

EPA is proposing that manufacturers subject to the testing requirements of this rule submit protocols developed for the analytical methodology within 6 months after promulgation of a final rule, and that test results for the chemicals listed under unit II.A. of this preamble and § 766.20 of this rule be submitted no later than 1 year after EPA review of protocols for analytical methodology. Notification of EPA review of protocols and any comments will be accomplished by a letter to the manufacturer.

These submission dates apply to chemicals in production at the time this proposed rule becomes final. For those chemicals listed for testing which commence or resume production after the effective promulgation date of the final rule, submission dates will be within 6 months after the commencement or resumption of production for submission of test protocols, and within 1 year after EPA review of protocols for the submission of data developed.

The 1-year period for testing may be considerably more time than is needed to perform the actual extraction, cleanup and analysis. However, this amount of time allows an adequate utilization of available facilities without preempting other dioxin analysis work.

EPA requests comment on staging the testing period so that methods and results from testing of chlorinated compounds are received before the methods development and testing of brominated compounds occurs. Since very little testing of brominated compounds has been done, a staged requirement would allow time to work with the method on chlorinated compounds before modifying it for brominated compounds. Staging the testing would also free up additional laboratory capacity.

4. Persons Required to Test

EPA has found that there is insufficient data and experience upon which to reasonably determine or predict the effects of the manufacture, processing, distribution in commerce, use and disposal of the chemicals subject to the testing requirements of this rule (see unit I and unit VII 3). Therefore, in accordance with section 4(b)(3)(B) of TSCA, manufacturers and processors are responsible for testing. EPA expects, however, that only manufacturers will be subject to the provisions of this proposed rule, since only manufacturers should be expected to test for contamination in their products.

Persons who manufacture or who intend to manufacture the chemical substances listed under unit II.A of the preamble and § 766.20 of this rule at any time from the effective date of the final test rule to the end of the reimbursement period shall be subject to the testing requirements contained in this proposed rule. The end of the reimbursement period will be 5 years after the last final report on testing required in the final rule has been submitted.

Once this test rule is in effect (44 days after publication in the **Federal Register**), each current manufacturer

will have 30 days to submit either a letter of intent to perform the testing required or an application for exemption. Each manufacturer who submits a letter of intent to perform the specified testing will be obligated, first, to submit within 6 months of the effective date of the test rule a proposed study plan for that test and, ultimately, to perform testing.

Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790. In the case of the chemical substances listed in proposed § 766.20(a), EPA does not expect to grant exemptions under section 4(c) unless persons who manufacturer or intend to manufacture the chemical substances listed under § 766.20(a) provide information on starting materials, process conditions, and reaction conditions which demonstrate that their substance or mixture is substantially similar to those of another manufacturer subject to this proposed rule. Because of the wide variation in chemical process streams involving different reaction conditions of temperature, pressure, reaction time, types of reaction vessels, and transport equipment, EPA is proposing that each manufacturer individually test the chemical substances which they produce and develop data which will be "process-specific" for their individual product. EPA expects that these data will be unique for each chemical substance and each manufacturer and will ensure that the particular process conditions which influence the production of these chemicals are taken into account.

Chemical analysis methodologies and protocols may be developed by consortia, multilaboratory studies, or round robin studies. These cooperative situations not only may reduce the overall costs, but may so allow for evaluation of the effectiveness of several closely related protocols or operating procedures for the same kinds of products. Even though methodologies are cooperatively developed, however, all participants in the cooperative are still required individually to analyze their own products and report their own results.

It is expected that in all cases subject to this rule, testing will be performed by the manufacturers and that part of the cost of testing will be passed on to the processors through the pricing mechanism, thereby enabling them to share in the costs of testing. However, processors will be called upon to sponsor testing if manufacturers fail to do so, or processors may be required to provide reimbursement directly to those sponsoring this testing. If no manufacturer submits a letter of intent to perform testing within the 30-day period, EPA will publish a notice in the **Federal Register** to notify all processors of the subject chemical. The notice will state that EPA has not received letters of intent to perform testing and that current processors will have 30 days to submit either a letter of intent to perform the test or an exemption application for such testing. Each processor who submits a letter of intent to perform testing will be obligated to submit within 6 months of the publication of the **Federal Register** notice a proposed study plan and, ultimately, to perform testing.

If no manufacturer or processor submits a letter of intent to perform testing, EPA will notify all manufacturers and processors, either by notice in the **Federal Register** or by letter, that all exemption applications will be denied and that within 30 days all manufacturers and processors will be in violation of the rule until a proposed study plan is submitted for required testing.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790.

5. Bioanalytical Screening Methods

EPA recognizes that the analyses required to detect 2,3,7,8-HDDs/HDFs at the extremely low levels specified in this proposed rule are time consuming, laborious, and more costly than normal chemical analyses. In addition, the Agency recognizes that the number of laboratories adequately equipped and staffed with personnel qualified to perform these analyses is limited. Recognizing these limiting factors, EPA considered the possibility of giving manufacturers the option of conducting a less costly general screen to determine whether the full-scale analysis proposed would be necessary. If the manufacturer performed a general screen which showed no 2,3,7,8-HDDs/HDFs to be present at 0.1 ppb, full-scale analysis would not be required. Conversely, if the general screen yielded a positive result, testing to confirm and quantitate the 2,3,7,8-HDD/HDF level would be required. EPA first considered the use of a chemical screen, but found none suitable primarily because of the extremely high rate of false positives that result from product matrix interference.

EPA is continuing to investigate the possibility of using bioanalytical techniques as potential general screening methods in the interest of reducing time and resources for the testing. Bioanalytical techniques currently being examined by EPA include radioimmunoassay (Refs. 1 and 19), an aryl hydrocarbon hydroxylase (AHH) induction assay (Ref. 22), a cytosol receptor assay (Ref. 5), an early life stage (E.L.S.) bioassay (Ref. 15), and an *in vitro* keratinization assay (Refs. 12 and 18). Each of these techniques has afforded an alternative technique for screening for the presence of 2,3,7,8-HDDs/HDFs based on biological/biochemical properties.

The primary advantages of the radioimmunoassay, the AHH and the cytosol receptor assay are relatively low cost and rapidity. The disadvantages of these techniques in general is that they do not necessarily respond to specific isomers of HDDs and HDFs; they respond to other compounds such as halogenated biphenyls, azobenzenes, and nonhalogenated polynuclear aromatic hydrocarbons, and each technique is less sensitive than available mechanical analytical methods.

The *in vitro* keratinization or E.L.S. bioassays more recently have provided additional options and possibly more specificity for determining the presence of 2,3,7,8-HDDs/HDFs (Ref. 16). Both techniques have been demonstrated to give roughly comparable results with HRGC/MS analysis of total PCDDs and PCDFs in a PCB fire soot (Ref. 12, and fly ash from a municipal incinerator (Ref. 15).

It is important to note that each of the bioassay techniques is most sensitive to the presence of 2,3,7,8-TCDD as opposed to other HDDs/HDFs. It is speculated that the relative response to other HDDs and HDFs might be dependent on halogen substitution in the 2,3,7,8 positions and ultimately to the toxic potential of the compound. It is also important to note that the range of compounds evaluated with each of these bioassay techniques is somewhat limited. EPA believes that evaluation of commercial products for the presence of HDDs and HDFs with any of these bioassay techniques could be a valuable screening tool, particularly in terms of time and resources necessary for the chemical preparation and instrumental analyses of these chemicals. EPA is not convinced, however, that these

bioanalytical techniques are sensitive enough to achieve the level and specificity of detection necessary to quantitate 2,3,7,8-HDDs/HDFs at very low levels. Upon further development of the techniques and resolution of these concerns, EPA may adopt a bioanalytical screening technique in the final rule. Therefore, EPA seeks comments on the applicability and sensitivity of these bioanalytical techniques as potential screening tools for the detection of 2,3,7,8-HDDs/HDFs in commercial products.

V. Economic Analysis and Costs of Testing

A. Costs of Testing Under Section 4(a)(1)(A)

Three primary elements comprise the cost of this proposed rule under section 4: (1) Methods development; (2) synthesis of analytical standards; and (3) sample analysis (Ref. 27). At each point in the analysis a wide range of costs can be used depending on the option chosen. In each case, unless noted, a highest cost scenario has been assumed to demonstrate the greatest possible burden which may be incurred by the firms subject to testing.

1. Methods Development

Testing for the specified PHDD and PHDF congeners in commercial chemical products will require that methodologies for preparing and testing samples be developed by the manufacturers for each subject chemical. Manufacturers are free to use the most cost effective method of clean up and analysis that they can identify to meet the test requirements, including the QA/QC requirements. For methods development, EPA has assumed that all testing firms will coordinate to share the costs of methods development, estimated to be $250,000. An additional cost of $25,000 per chemical has been added to account for any adaptation of the general method required for a specific chemical matrix.

2. Synthesis of Analytical Standards

To conduct the sample analyses, a number of analytical standards that are not currently commercially available will have to be synthesized if they are not commercially available when the rule is promulgated. While the acquisition costs for standards that are commercially available are included in the cost of each sample analysis, the costs for synthesizing and producing the standards that are not available will be a unique cost of this rule. EPA has been able to identify 18 standards that are not now available or in process of becoming available. Estimated cost for synthesizing and manufacturing an adequate amount of native standards ranges from $3,000 to $5,000 depending on the isomeric positions of each. Estimated cost for synthesizing and manufacturing an adequate amount of each isotope-labeled standard is $5,000 to $10,000. In both cases, the higher unit cost was used, and 10 percent of the total cost was increased by a factor of 4 to account for additional difficulties encountered in synthesizing and manufacturing 10 percent of the standards. The total cost for manufacturing 18 standards (10 native and 8 isotope-labeled) is estimated to be $182,000.

3. Sample Analysis

EPA has assumed that each sample will be analyzed by the more expensive HR GC/MS, which is estimated to cost from $2,000 to $5,000 per sample. The maximum seven samples required for each chemical to be tested will therefore cost from $14,000 to $35,000. For purposes of this rule, EPA is using the upper bound cost of $35,000. EPA expects that 26 manufacturers will analyze 54 sample sets, for a total cost of $1,890,000. EPA believes that the cost differential for testing chemicals at levels orders of magnitude higher is minimal, and is soliciting additional data on such incremental cost differences.

Of the thirty-four commercial chemicals subject to this proposed test rule, only 14 chemicals are currently commercially manufactured or imported. Twenty-six firms have been identified as manufacturers and/or importers of the 14 chemicals. The total industry cost to carry out the proposed testing for the 14 chemicals currently commercially manufactured, using upper bound estimates, is $2.67 million. The cost for a manufacturer to resume production or import of a listed chemical which is not now in current commercial production is $60,000. This cost consists of $25,000 to adapt the method to the specific chemical and $35,000 for analysis of the seven required samples.

B. Economic Analysis Under Section 4(a)(1)(A)

1. Allocation of Costs

The distribution of economic impact among the testing firms and among the chemicals subject to testing is dependent on the allocation of jointly shared costs across the firms and chemicals. The impact analysis assumes that each firm will pay for the testing of its own chemicals, but the costs of standards synthesis and methods development will be allocated among firms based on the production volume of each firm's chemicals to be tested. Therefore, firms manufacturing larger quantities of chemicals will assume a greater proportion of the costs. Annualized costs to firms will range from $9,000 to $228,000, with 22 of 26 firms experiencing costs of less than $30,000.

2. Impact of Test Costs on Firm Revenue

Allocating total testing costs among the firms identified as current manufacturers and/or importers indicates that the specific costs of the rule per firm are small relative to the total sales of each firm. For 17 of the 26 firms subject to testing, annualized test costs are less than 0.1 percent of annual firm sales. For 8 of the remaining firms, annualized test costs are projected at less than 1 percent of annual sales. For one firm there is a potential for annualized test costs to run as high as 1.3 percent of annual sales.

3. Costs as a Percentage of Revenues From Chemical

For 10 of the 26 firms, the cost of the test rule is less than 1 percent of the revenue from the chemicals to be tested. For 5 firms, the cost is greater than 1 percent of annual revenue from the chemicals, but less than 50 percent. The test rule is expected to have little or no impact on the 10 firms; the impact on the 5 firms is expected to be minimal. The test costs imposed on seven chemicals currently manufactured (or imported) by 11 firms may be great enough to alter the market status of each chemical. In some cases, the continued marketability of a chemical may be threatened, while in other cases there may be changes in the firms manufacturing or importing a chemical (generally small volume producers discontinuing production in favor of larger volume producers). The annualized test cost allocated to each of 11 firms is greater than 100 percent of the anticipated annual revenue derived from the sale of the chemicals. Each of these 11 firms manufactures or imports the chemicals in small volumes, and is not likely to continue to produce or import the chemical. However, any lost revenue from small volumes of production will not seriously impact the firms.

4. Impact of Test Costs on Chemicals

Seven chemicals have annualized test costs lower than 1 percent of expected revenue, resulting in little impact. Seven chemicals have annualized test costs higher than 1 percent of expected revenue. Of these seven chemicals, three

should experience minimal impact, two because there are no chemical substitutes which are economically and functionally competitive, and the other because there is the possibility of discontinuing production of multiple grades of the chemical, thus reducing the impact of the rule. The remaining four chemicals may be more severely affected. Three are highly specialized, produced in small volumes, and have functional substitutes. This would indicate that test costs would cause these 3 chemicals to be removed from the market. However, all three are marketed currently at prices higher than their substitutes, indicating there may be some functional advantage leading to continued use at a higher price. If this is the case, these 3 chemicals may or may not be replaced by substitutes. The remaining chemical is imported in very small quantities by seven firms. Its annualized test costs are nearly 500 percent of annual revenue. In addition, functional substitutes are available, leading EPA to believe that none of the seven firms will continue to import this chemical, and the chemical will be displaced from the market.

EPA is requesting submission of additional information during the comment period to enable it to make a more specific assessment of the need for testing in the case of these four chemicals. Information requested is: specific uses for these chemcials, the names and properties of substitutes for these chemicals, process information and reaction conditions under which these chemicals are produced. The chemicals are: tetrabromobisphenol-A diacrylate; tetrabromobisphenol-A bis-ethoxylate; tetrabromobisphenol-A bis-2,3-dibromopropyl ether; 2,3,5,6,-tetrachloro-2,5-cyclohexadiene-1,4-dione.

The four chemicals which are threatened represent a minor portion of total sales for their manufactures/importers. For all but one firm, the lost sales would be less than 0.1 percent of the firm's total annual sales, and for the remaining firm, lost sales would equal 0.2 percent of total sales. For most of the firms manufacturing the four chemicals, the costs of conducting the tests would be greater than the lost revenue from discontinuing their sale.

5. Economic Consequences of This Rule

Based on currently available information, EPA has determined that this rule will have negligible economic consequences for any of the chemicals. For most of the chemicals to be tested, costs are extremely low compared to company revenues and revenues from the chemicals. While for other chemicals there may be effects on the marketability of the chemical or the ability of a particular firm to market the chemical at present, all these chemicals appear to be replaceable by functional substitutes, which manufacturers or importers could use if the cost of testing for dioxin and furan contamination is deemed too high. However, it is possible that these chemicals may be irreplaceable for certain specialized uses, (EPA is not currently aware of such uses) and that testing may not be warranted at this time if it is not expected to reveal significant risks. Accordingly, EPA could adopt a different strategy in the final rule for some chemicals, depending on the economic impact of requiring testing for the specific chemicals, the importance of various uses, the number of persons exposed, the levels of the individual chemicals to which persons may be exposed, and the potential for increased use of the chemicals. If EPA determines that testing for certain chemicals is not warranted at the time the final rule is promulgated, EPA may require reporting under the final version of the section 8 rule proposed in this notice to more accurately determine the need for testing these chemicals. EPA will require testing of all chemicals for which additional data is not submitted during the comment period for this rule.

VI. Availability of Facilities

Section 4(b)(1)(C) of TSCA requires that in the development of a test rule the Administrator consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Pursuant to this requirement, EPA conducted a survey of commercial analytic testing laboratories to determine the availability of facilities, equipment, and personnel necessary to perform the tests outlined in this proposed rule (Ref. 27).

A list of 57 laboratories was compiled, consisting of 17 laboratories with current contracts under the EPS's Superfund Contract Laboratory Program, and 40 laboratories from the 1984 Directory of the American Council of Independent Laboratories. Twenty-five laboratories (the 17 EPA contract labs and 8 others chosen at random) were contacted by telephone.

The laboratory capacity survey reviewed the availability of gas chromatography with low-resolution mass spectrometry (LR GC/MS), gas chromatography with high-resolution mass spectrometry (HR GC/MS), and gas chromatography with electron capture detection (GC/ECD). The survey further addressed each laboratory's overall capacity to perform PHDD/PHDF tests of any type.

Of the 25 firms surveyed, 18 reported PHDD/PHDF testing capability. Among the 18 labs, 104 total GC/MS systems were identified, including 8 HR GC/MS systems in 5 facilities and 1 medium resolution system. The total number of GC/ECD systems at the disposal of the survey respondents ranged from 80 to 101. All but one laboratory (with 3 LR GC/MS systems and 1 HR GC/MS system) reported additional capacity available to perform analyses for PHDD/PHDF contaminants in commercial products. Several university laboratories and the in-house research laboratories of some chemical manufacturers will supplement the available supply of HR GC/MS in commercial testing facilities.

Under the guidelines in this rule for selection of chemicals for testing, and sampling and test methodology, it is anticipated that the number of total tests required will be approximately 400 individual sample analyses. The preliminary conclusion of the laboratory capacity survey is that the analysis of these samples will not severely strain the capacity of commercial testing laboratories, supplemented by university and chemical industry research facilities, and the tests required by this rule will not increase the unit price of conducting individual analyses. See the economic analysis (Ref. 27) for a full discussion of laboratory capacity and price of sample analysis.

One testing option discussed in this proposed rule but not incorporated in the laboratory survey is the biological screen for PHDD/PHDF contamination. Because biological screening tests are still under development, the potential capacity available for conducting such tests is unknown. It is assumed, however, that because of the number of laboratories with facilities to conduct various biological analyses and the relatively low start up costs expected, the supply of laboratories to perform biological screens for PHDDs and PHDFs will be available to meet the demand generated by successful development and application of the tests.

VII. Section 8 Reporting

Under section 8(a)(1)(A) of TSCA, EPA may require chemical manufacturers to maintain such records and submit such reports as the Agency may reasonably require, which data are to be known to the person making the report or reasonably ascertainable (section 8(a)(2)). Further, section 8(a)(1)(A) exempts small manufacturers

from recordkeeping and reporting requirements, except where the manufacturer is also subject to a rule proposed or promulgated under section 4 (section 8(a)(3)(A)(ii)). Section 8(a)(2) also notes that to the extent feasible, EPA should not require unnecessary or duplicative reporting.

Small manufacturers are defined as: (1) The parent firm has total annual sales of less than $30 million, and no more than 45,400 kilograms (100,000 pounds) of any one chemical is produced at any one plant site (plant sites which manufacture more than 45,400 kilograms of a chemical product made from a precursor chemical listed under § 766.23 must report on that chemical from that plant site only); or (2) the manufacturer has total annual sales of less than $3 million, regardless of production volume of any chemical at any site. These small manufacturers are not required to report data concerning chemicals made from precursor chemicals under section 8(a) of TSCA. All other data required under section 8(a) must be reported by small manufacturers because it is triggered by a rule under section 4, making the small manufacturer subject both to a rule proposed or promulgated under sections 4 and 8(a).

Under section 8 of TSCA, EPA proposes to require staged reporting by: (1) Manufacturers of chemicals listed in § 766.20; (2) all organic chemical manufacturers; (3) manufacturers (except small manufacturers) of chemicals made from precursor chemicals listed under § 766.23; (4) all manufacturers of tested chemicals reporting a positive test result; and (5) all manufacturers of some uncontaminated chemicals when one manufacturer of a chemical reports contamination. The reporting is staged by a specific trigger from some other action. The first stage is triggered by this rule and occurs 90 days after promulgation of this rule. The second stage is triggered by the reporting of a positive test result, either under section 4, or as a result of test data submitted under section 8(a). The last stage may be triggered by a Notice published in the **Federal Register** by EPA naming those chemicals where at least one manufacturer has reported contamination. A manufacturer always has the option to submit 90 days after promulgation on this rule all data it may be required to submit under section 8 at varous times during the course of this rule.

A. Use of a form

To simplify both reporting and tabulation of production volume, process, use, exposure, and disposal data requested under section 8(a), EPA is proposing the use of a form, the Dioxin/Furan Report Form, § 766.30(e)(5), to be filled out for each chemical on which information is being reported under section 8(a). Submission of unpublished health and safety studies will follow procedures set out at 40 CFR Part 716. Submission of allegations of significant adverse reactions will follow procedures set out at 40 CFR Part 717.

B. Reporting timeframe

1. Reporting Triggered by Promulgation of This Rule.

Ninety days after promulgation of this rule, EPA proposes to require: (a) Manufacturers of chemicals listed under § 766.20 to submit available test data for those chemicals, data which shows contamination (or lack thereof) of the chemical by 2,3,7,8-HDDs/HDFs and which quantifies the level of contamination, along with any protocols showing how samples were taken, cleanup accomplished, and analysis done. This requirement is proposed under section 8(a) of TSCA; (b) Manufacturers of organic chemicals to submit unplublished health and safety studies on dioxins and/or furans. This requirement is proposed under section 8(d) of TSCA; (c) Manufacturers (except small manufacturers) of chemicals made from precursor chemicals listed under § 766.23, to submit information on production volume, process, reaction conditions, use, exposure, and disposal for each chemical product using a precursor chemical in the manufacturing process as a feedstock or intermediate. This requirement is proposed under section 8(a) of TSCA.

2. Reporting Triggered by a Positive Test Response

Ninety days after submission of a positive test response to EPA resulting from testing under section 4, or from previous testing submitted under section 8(a) of TSCA, EPA proposes to require manufacturers of contaminated chemicals to: (a) report production volume, process, reaction conditions, use, exposure and disposal data under section 8(a) of TSCA; (b) submit unpublished health and safety studies on the contaminated chemical under section 8(d) of TSCA; and (c) submit allegations of significant adverse reactions to the contaminated chemical and to the dioxin and/or furan contaminants under section 8(c) of TSCA.

3. Reporting Triggered by a "Federal Register" notice

Ninety days after EPA publication of a notice in the **Federal Register** listing chemicals for which positive test results from at least one manufacturer have shown contamination by 2,3,7,8-HDDs/HDFs at or above the LOQ, manufacturers of those chemicals which have been shown not to be contaminated are required to submit data on process and reaction conditions for their chemical. This requirement is proposed under section 8(a) of TSCA, and will only be used if EPA needs the process data to determine whether the process can be changed to produce a clean chemical.

C. Uses of the data

The kinds of data required under section 8(a) and the reasons for the Agency's request are set forth below. EPA is proposing to collect this information on a form, published under § 766.30(e)(5). Use of a form will facilitate reporting of data for the manufacturer, and processing and comparison of reported data for EPA.

1. Production and Use Information

EPA needs use information, including production volume for each use, as detailed as possible, to construct realistic exposure scenarios. EPA needs this information for tested chemicals only after a positive test result has been reported. For chemicals made from precursor chemicals, EPA needs this information to evaluate the potential exposure for any chemical products that may be candidates for future testing. Therefore EPA has requested this information under section 8(a) at two stages—from manufacturers of chemicals made from precursor chemicals 90 days after promulgation of this rule, and from manufacturers of chemicals listed for testing 90 days after a positive test result has been reported.

2. Process Information

EPA has requested very detailed reporting of the chemical manufacturing process and process conditions in part II of the form (EPA 7910-51). For chemicals made from precursor chemicals, EPA will examine process conditions and process chemistry to determine whether any of the products are likely to be contaminated, and therefore be candidates for future testing under section 4 of TSCA. For the chemicals listed in § 766.20 and shown to be contaminated EPA will examine process chemistry and process conditions to determine whether a process change will reduce the levels of contamination

to an acceptable risk level in the final chemical. For "clean" chemicals, where one manufacturer of a given chemical has reported contamination, EPA may compare processes and conditions to ensure that a process is available to produce a clean chemical and that the reports of noncontamination have a basis in process or process conditions. These data have been requested at three stages in the reporting cycle. Data from manufacturers of chemicals made from precursor chemicals have been requested 90 days after promulgation of the rule; data from manufacturers of contaminated chemicals have been requested 90 days after submission of positive test results; data from manufacturers of clean chemicals may be requested 90 days after publication of a notice in the Federal Register naming contaminated chemicals.

A manufacturer may be exempted from submitting process information in section II of the form if this information for the listed chemical and the same process has been provided to the Agency within the last 2 years on "RCRA Section 3007 Questionnaire; Organic Chemical Manufacturing Industry: Halogenated Dioxins, OMB No. 2000–0396."

3. A Description of Byproducts Resulting From the Manufacture of Listed Chemicals.

This is any available testing information showing levels of 2,3,7,8-HDDs/HDFs in listed chemicals. This information is designed to give EPA any test data on contamination levels in commercial chemicals as quickly as possible and to exempt manufacturers from the testing requirements under section 4 if the data meet the requirements of this rule. Under this proposed rule, this information must be submitted by manufacturers of listed chemicals 90 days after promulgation of this rule.

4. Exposure Information

Manufacturers of both listed chemicals with a positive test result and chemicals made from precursor chemicals would be required to report, by each specific step in the manufacturing process, the maximum number of workers involved in each operation and the maximum duration of time that any one worker will engage in the activity in hours per day and days per year. This information, will enable EPA to calculate occupational exposure to 2,3,7,8-HDDs/HDFs. Manufacturer's of listed chemicals with a positive test result would report this information 90 days after submission of the test result; manufacturers of chemicals made from precursor chemicals would report 90 days after promulgation of this rule.

5. Disposal Information

Information to be reported includes the amount of chemical released at each stage of the process that shows an environmental release on the process diagram. A description of control technology used to control or treat the environmental release should be reported, along with the method of disposing of any waste. This information, along with process information requested, assists the Agency in determining the fate of the dioxins and/or furans generated. The fate calculation will be used in determining levels and durations of exposures as a part of the exposure assessment. Some disposal information is avaialble from the Office of Solid Waste (OSW); however, the information does not account for different manufacturing sites. Any manufacturer who has completed and submitted all process data requested on the questionnaire titled "RCRA Section 3007 Questionnaire; Organic Chemicals Manufacturing Industry: Halogenated Dioxins, OMB No. 2000–0396" for both the chemical and the process in question within the past 2 years note that fact in its submission to EPA under section 8(a) and does not have to complete the section of the form on process conditions.

D. Costs of Reporting

Reporting costs under section 8 are minimal, and will vary depending on which provision a manufacturer is responding to. The most expensive reporting requirement is for the information needed to complete the Dioxins/Furans Report Form. Completion of this form is expected to cost from $1,607 to $3,214 depending on the complexity of process and use data to be reported. Submission of data from previously conducted tests is expected to cost from $273 to $546 per chemical. Reporting under section 8(c) is expected to cost from $188 to $376 per chemical; and reporting under section 8(d) is expected to cost from $250 to $320 plus $80 for each 15-page report submitted. These costs are not expected to have an impact on any firm's decision to manufacture or import the chemical reported on.

VIII. Compliance and Enforcement

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1)(A) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: "(A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records required by this Act or a rule" issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11(a) applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for chemicals listed under § 766.20. These inspections may be conducted to verify that testing has begun, schedules are being met, and reports accurately reflect the underlying raw data and interpretations and evaluations, and to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility is also derived from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and to include such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing

after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

IX. Rulemaking Record

EPA has established a record for this rulemaking (OPTS-83002). This record includes basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the following kinds of information:

1. **Federal Register** notices pertaining to this rule.
2. Study of availability of test facilities and personnel.
3. Economic analyses.
4. Communications before proposal consisting of written public and intra- or interagency memoranda and comments and summaries of telephone conservations.
5. Reports—published and unpublished factual materials.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Room E-107, 401 M St., SW., Washington, DC from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

X. References

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XI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the effect on the economy is not expected to exceed the costs of testing 14 chemicals and reporting on those contaminated, plus some additional reporting. The total costs of testing are expected to be $2.67 million. Reporting costs will add an additional $4,100. No significant increases in prices are expected to occur as a result of this rule, as reported in the economic impact analysis. No significant adverse effects are expected on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written, comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 et seq., Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) Very few small chemical manufacturers and importers will be required to test chemicals and report, and (2) small manufacturers have been exempted from a major reporting requirement.

For this rule the definition of small business is the one used in previous section 8(a) reporting rules, defined at § 766.4(k). For this certification, the total annual sales figure of $4 million was used as the cutoff to denote small chemical manufacturers and importers. Of the firms required to test, 5 qualify as small businesses. These 5 firms do not represent a substantial number of all small chemical manufacturing firms. For these 5 firms, amortized test costs are projected to be less than 1 percent of annual sales, approximately the same precentage experienced by larger manufacturing and importing companies. Only 1 small manufacturer is projected to experience test costs of 1.3 percent of annual sales, approximately 0.3 percent more than other large and small manufacturers.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control numbers 2070-0033 for reporting under section 4, 2070-0004 for submission of health and safety studies under section 8(d), 2070-0017 for submission of allegations of significant adverse reactions under section 8(c), and 2070-0420 for submission of information under section 8(a). Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place NW; Washington, DC 20503 marked "Attention: Desk Officer for EPA". The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental Protection Agency, Environmental protection, Hazardous material, Chemicals, Recordkeeping and reporting, Health and safety, Significant adverse reactions.

Dated: December 9, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that Chapter I of 40 CFR be amended by adding Part 766 to read as follows:

PART 766—DIBENZODIOXINS/DIBENZOFURANS

Subpart A—General Provisions

Subpart B—Specific Chemical Testing/Reporting Rules

Authority: 15 U.S.C. 2061.

Subpart A—General Provisions

§766.1 Scope and purpose.

(a) This Part identifies that chemical substances which are subject to reporting under section 8 of TSCA and testing under section 4 of TSCA, specifies persons required to report and test (manufacturers, including importers, and processors), prescribes the analytical methods required, including the target limits of quantitation and the congeners for which quantitation is required, and provides deadlines for submission of protocols, reports, studies, and test results to EPA. This part also identifies chemicals which are precursors (aids under appropriate process conditions to formation of halogenated dibenzo-p-dioxins (HDDs) and halogenated dibenzofurans (HDFs)), and identifies reporting requirements and persons required to report for chemicals made from these precursor chemicals.

(b) This Part requires manufacturers and processors of chemical substances identified in § 766.20(a) to submit letters of intent to test and protocols for the sampling, sample preparation, extraction and cleanup, and analysis of the chemical substances. Any submissions must be in accordance with the EPA test rule development and exemption procedures contained in Part 790 of this chapter and any modifications to such procedures contained in this Part.

(c) This Part requires manufacturers of chemical substances identified in § 766.20 to: submit any existing test data and protocols to EPA, to submit allegations of significant adverse reactions to HDDs and HDFs, to analyze chemicals for HDDs and HDFs and

report results. If a test result indicates the presence of contamination of a chemical product by HDDs and/or HDFs, this Part requires additional reporting. In some cases, additional reporting may be required of manufacturers reporting no contamination of a chemical product. This part also requires anyone possessing health and safety studies on HDDs and HDFs to submit such studies.

(d) This Part requires manufacturers of chemical substances produced from chemicals identified as precursors to HDD and HDF formation, listed at § 766.23(a), to report on chemical substances produced from such precursor chemicals.

§ 766.2 Applicability.

(a) This Part is applicable to each person who manufactures or intends to manufacture (including import), processes or intends to process, a chemical substance identified in § 766.20(a). This Part is also applicable to each person who manufactures or intends to manufacture (including import) a chemical product from any chemical substance identified in § 766.23(a). The duration for this rule is the period commencing with the effective date of this rule to the end of the reimbursement period defined in §766.24.

(b) Small manufacturers are exempt from reporting production volume, process, use, exposure and disposal data on chemicals made from precursor chemicals listed under § 766.23(a). Manufacturers qualify as small if they meet either of the standards set forth in § 766.4(k).

§ 766.3 Compliance.

Any person who fails or refuses to comply with any aspect of this Part is in violation of section 15 of TSCA. Section 15(1) makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) makes it unlawful for any person to fail or refuse to submit information required under this rule. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17 of TSCA, the district courts of the United States have jurisdiction to restrain any violation of section 15.

§ 766.4 Definitions.

The definitions in section 3 of TSCA and the definitions of §§ 704.3, 716.3, 717.3 and 790.3 also apply to this Part.

(a) Dioxin means any of a family of compounds which has as a nucleus a triple-ring structure consisting of two benzene rings connected through a pair of oxygen atoms.

(b) Dibenzofuran means any of a family of compounds which has as a nucleus a triple-ring structure. Two rings are benzene rings and the third ring, between the benzene rings, is formed by two bridges between the two benzene rings. The bridges are a carbon-carbon bridge and a carbon-oxygen-carbon bridge between respective substitution positions adjacent to the carbon-carbon bridge.

(c) Congener means any one particular member of a class of chemicals. A specific congener is denoted by unique chemical structure, for example 2,3,7,8-tetrachlorodibenzofuran.

(d) Homolog means a group of isomers that have the same degree of halogenation. For example, the homologous class of tetrachlorodibenzo-p-dioxins consists of all dibenzo-p-dioxins containing four chlorine atoms. When the homologous classes discussed in this rule are referred to, the following abbreviations for the prefix denoting the number of halogens are used:

tetra-, T (4 atoms)
penta-, Pe (5 atoms)
hexa-, Hx (6 atoms)
hepta-, Hp (7 atoms)

(e) Polyhalogenated dibenzo-p-dioxin (or PHDD) means any member of a class of dibenzo-p-dioxins containing one to eight chlorine substituents or one to eight bromine substituents. "Polychlorinated dibenzo-p-dioxin" (or PCDD) refers to any member of a class of dibenzo-p-dioxins with one to eight chlorine substitents; "polybrominated dibenzo-p-dioxin" (or PBDD) refers to any member of a class of dibenzo-p-dioxins with one to eight bromine substituents.

(f) Polyhalogenated dibenzofuran (or PHDF) means any member of a class of dibenzofurans containing one to eight chlorine, bromine, or a combination of chlorine and bromine substituents. "Polychlorinated dibenzofuran" refers to any member of a class of dibenzofurans with one to eight chlorine substituents; "polybrominated dibenzofurans" refers to any member of a class of dibenzofurans with one to eight bromine substituents.

(g) Positive test result means: (1) any resolvable gas chromatographic peak for any 2,3,7,8-HDD which equals or exceeds 0.1 part per billion; or (2) any resolvable gas chromatographic peak for any 2,3,7,8-HDF which equals or exceeds 1.0 part per billion.

(h) 2,3,7,8-HDD means any of the dibenzo-p-dioxins totally chlorinated or totally brominated at the following positions: 2,3,7,8; 1,2,3,7,8; 1,2,3,4,7,8,; 1,2,3,6,7,8; 1,2,3,7,8,9; and 1,2,3,4,7,8,9.

(i) 2,3,7,8-HDF means any of the dibenzofurans totally chlorinated or totally brominated at the following positions: 2,3,7,8; 1,2,3,7,8; 2,3,4,7,8; 1,2,3,4,7,8; 1,2,3,6,7,8; 1,2,3,7,8,9; 2,3,4,6,7,8; 1,2,3,4,6,7,8; and 1,2,3,4,7,8,9.

(j) Precursor means a chemical which is not contaminated due to the process conditions under which it is manufactured, but because of its molecular structure, under favorable process conditions, may cause or aid the formation of PHDDs and PHDFs in other chemicals in which it is used as a feedstock or intermediate.

(k) Small manufacturer means (1) the parent firm has total annual sales of less than $30 million, and no more than 45,400 kilograms (100,000 pounds) of any one chemical ius produced at any one plant site (plant sites which manufacture more than 45,400 kilograms of a chemical listed under § 766.20(a) or a chemical product made from a chemical listed under § 766.23(a) must report on that chemical from that plant site only); or (2) the manufacturer has total annual sales of less than $3 million, regardless of production volume of any chemical at any site.

(l) Reimbursement period means the period that begins when the data from the last test to be completed under a test rule is submitted to EPA, and ends after an amount of time equal to that required to develop that data or 5 years, whichever is later.

§ 766.5 Submission of information.

All information (including letters of intent, protocols, data, forms, studies and allegations) submitted to EPA under this part must bear the applicable Code of Federal Regulations (CFR) section number (e.g., § 766.30) and must be addressed to: Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC 20460.

§ 766.10 Test standards.

Testing required under Subpart B of this part must be performed using the protocols submitted to and reviewed by EPA unless modifications have been submitted and reviewed. All new data, documentation, records, protocols, specimens and reports generated as a result of testing under Subpart B of this part must be fully developed and retained in accordance with Part 792 of this chapter. These items must be made available during an inspection or submitted to EPA upon request by EPA or its authorized representative. Laboratories conducting testing for

submission to the Agency in response to a test rule promulgated under section 4 of TSCA must adhere to the TSCA Good Laboratory Practices (GLPs). These GLPs are published at 40 CFR Part 792. Sponsors must notify the laboratory that the testing is being conducted pursuant to TSCA section 4. Sponsors are also responsible for ensuring that laboratories conducting the testing abide by the TSCA GLP standards. Manufacturers must submit a certification to EPA that the laboratory performing the testing adhered to the TSCA GLPs.

§ 766.11 Testing guidelines.

Testing guidelines are contained in a report titled *Guidelines for the Determination of Polyhalogenated Dibenzo-p-dioxins and Dibenzofurans in Commercial Products.* Copies are available from TSCA Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (800-424-9065). Copies are also located in the public reference for this rule (docket no. OPTS-83002) and are available for inspection in the OPTS Reading Rm., E-107, 401 M Street SW., Washington, DC 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

§ 766.12 Congeners for which quantitation is required.

Quantitation for any of the following 2,3,7,8-HDD/HDF congeners which may be present in the chemical is required for the chemicals listed under § 766.20(a).

Chlorinated Dioxins	*Brominated Dioxins*
2,3,7,8-TCDD	2,3,7,8-TBDD
1,2,3,7,8-PeCDD	1,2,3,7,8-PeBDD
1,2,3,4,7,8-HxCDD	1,2,3,4,7,8-HxBDD
1,2,3,6,7,8-HxCDD	1,2,3,6,7,8-HxBDD
1,2,3,7,8,9-HxCDD	1,2,3,7,8,9-HxBDD
1,2,3,4,6,7,8-HpCDD	1,2,3,4,6,7,8-HpBDD

Chlorinated Furans	*Brominated Furans*
2,3,7,8-TCDF	2,3,7,8-TBDF
1,2,3,7,8-PeCDF	1,2,3,7,8-PeBDF
2,3,4,7,8-PeCDF	2,3,4,7,8-PeBDF
1,2,3,4,7,8-HxCDF	1,2,3,4,7,8-HxBDF
1,2,3,6,7,8-HxCDF	1,2,3,6,7,8-HxBDF
1,2,3,7,8,9-HxCDF	1,2,3,7,8,9-HxBDF
2,3,4,6,7,8-HxCDF	2,3,4,6,7,8-HxBDF
1,2,3,4,6,7,8-HpCDF	1,2,3,4,6,7,8-HpBDF
1,2,3,4,7,8,9-HpCDF	1,2,3,4,7,8,9-HpBDF

Subpart B—Specific Chemical Testing/Reporting Rules

§ 766.20 Chemicals for testing/reporting.

(a) *Identification of chemical substances for testing/reporting.* Chemicals required to be tested for the presence of the congeners of HDDS and HDFs listed under § 766.12 are listed by Chemical Abstracts Service (CAS) Number and Name. The chemicals listed under § 766.20(a)(1) are commercially manufactured and are subject to testing upon promulgation of this rule. Those chemicals listed under § 766.20(a)(2) are subject to testing upon commencement or resumption of commercial manufacture.

(1) *Chemicals commercially manufactured—*

CAS Number and *Chemical Name*
79-94-7 Tetrabromobisphenol-A
94-75-7 2,4-Dichlorophenoxyacetic acid
94-82-6 2,4-Dichlorophenoxybutyric acid
118-75-2 2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione
118-79-6 2,4,6-Tribromophenol
120-83-2 2,4-Dichlorophenol
1163-19-5 Decabromodiphenyloxide
4162-45-2 Tetrabromobisphenol-A-bisethoxylate
21850-44-2 Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether
25327-89-3 Allyl ether of tetrabromobisphenol-A
32534-81-9 Pentabromodiphenyloxide
32536-52-0 Octabromodiphenyloxide
37853-59-1 1,2-Bis(tribromophenoxy)-ethane
Tetrabromobisphenol-A diacrylate

(2) *Chemicals not commercially manufactured—*

CAS Number and *Chemical Name*
79-95-8 Tetrachlorobisphenol-A
87-10-5 3,4,5-Tribromosalicylanilide
87-65-0 2,6-Dichlorophenol
95-77-2 3,4-Dichlorophenol
95-95-4 2,4,5-Trichlorophenol
99-28-5 2,6-Dibromo-4-nitrophenol
120-36-5 2[2,4-(Dichlorophenoxy)]-propionic acid
320-72-9 3,5-Dichlorosalicyclic acid
488-47-1 Tetrabromocatechol
576-24-9 2,3-Dichlorophenol
583-78-8 2,5-Dichlorophenol
609-71-9 Pentabromophenol
615-58-7 2,4-Dibromophenol
933-75-5 2,3,6-Trichlorophenol
1940-42-7 4-Bromo-2,5-dichlorophenol
2577-72-2 3,5-Dibromosalicylanilide
3772-94-9 Pentachlorophenyl laurate
37853-61-5 Bismethylether of tetrabromobisphenol-A
Alkylamine tetrachlorophenate
Tetrabromobisphenol-B

(b) *Persons required to report, submit data and conduct tests.* All persons who manufacture or intend to manufacture or process or intend to process any chemical identified under paragraph (a) of this section from (*insert date 44 days from date of publication of the rule in the* **Federal Register**) to the end of the reimbursement period shall submit the following materials on the stated timetable:

(1) Letters of intent to test by (*insert date 45 days from date of publication of the rule in the* **Federal Register**);

(2) existing test data, with protocols, which show results of testing the chemical product for the existence of and level of any dibenzo-p-dioxins and dibenzofurans by (*insert date 90 days from the date of publication of the rule in the* **Federal Register**);

(3) allegations of significant adverse reactions based on any dibenzo-p-dioxins and/or dibenzofurans by (*insert date 90 days from date of publication of the rule in the* **Federal Register**);

(4) proposed protocols capable of analysis of each congener of HDDs/HDFs listed under § 766.12 at the required Level of Quantitation for the sample collection, clean-up, extraction and analysis of the chemicals listed under § 766.20(a)(1), by (*insert date 180 days from the date of publication of the rule in the* **Federal Register**);

(5) results of conducting the testing, including levels of each 2,3,7,8-HDD and HDF congener present above 0.1 ppb and 1.0 ppb respectively, for each product sample tested; negative results; any deviation from methods and QA submitted and reviewed by EPA; any corrective actions required during sampling and analysis; and actual precision and accuracy established for the samples analyzed, no later than 1 year after receipt of comments on the protocols from EPA;

(6) for chemicals with a positive test result, production volume, process, use, exposure and disposal data on form EPA 7910-51 (one form for each chemical with a positive test result), health and safety studies and allegations of severe adverse reactions based on the tested chemical, no later than 90 days after submission of the positive test result to EPA;

(7) manufacturers of chemicals for which no contamination has been reported may be requested to submit process data (Part II of form EPA 7910-51) if one manufacturer of that chemical reports contamination. Such a request will be made by publication of a notice in the **Federal Register.**

(8) manufacturers of any chemical listed under § 766.12(a)(2) will be required to test that chemical according to the schedule in this rule if that chemical enters commercial manufacture.

(c) Any chemical manufacturer in possession of health and safety studies on any dibenzo-p-dioxin or dibenzofuran must submit those studies not later than (*insert date 90 days from publication of this rule in the* **Federal Register**).

(d) The reporting of test results must follow the procedures set out in Part 790 of this chapter.

(e) The reporting of health and safety studies must follow all procedures set out in Part 716 of this chapter, except

that studies on dibenzo-p-dioxins and dibenzofurans must be submitted 90 days after publication of this final rule, and studies on chemicals tested under § 766.20(a)(1) must be submitted 90 days after submission of a positive test result.

(f) Submissions of allegations of significant adverse reactions caused by dibenzo-p-dioxins, dibenzofurans, or the tested chemical, must follow procedures set out under Part 717 of this chapter. Allegations of significant adverse reactions caused by dibenzo-p-dioxins and/or dibenzofurans must be submitted by (*insert date 90 days after date of publication of this rule in the* **Federal Register**) and allegations of significant adverse reactions caused by the tested chemical must be submitted no later than 90 days after submission of a positive test result.

(g) Information collection requirements under this rule have been approved by the Office of Management and Budget under control numbers 2070–0033 for reporting under section 4, 2070–0004 for health and safety studies, 2070–0017 for allegations under section 8(c), and 2070–0420 for submission of information under section 8(a).

§ 766.23 Reporting on precursor chemicals.

(a) *Identification of precursor chemicals.* Precursor chemicals are produced under conditions that will not yield HDDs and HDFs, but their molecular structure is conducive to HDD/HDF formation under favorable reaction conditions when they are used to produce other chemicals or products. Precursor chemicals are identified by CAS number and name.

CAS Number and Chemical Name	
87–84–3	Pentabromocyclohexane
89–64–5	4-Chloro-2-nitrophenol
92–04–6	2-Chloro-4-phenylphenol
94–74–6	4-Chloro-o-toloxy acetic acid
94–81–5	4-(2-Methyl-4-chlorophenoxy) butyric acid
95–56–7	o-Bromophenol
95–57–8	o-Chlorophenol
95–88–5	4-Chlororesorcinol
97–50–7	5-Chloro-2,4-dimethoxyaniline
99–30–9	2,6-Dichloro-4-nitroaniline
615–67–8	Chlorohydroquinone
827–94–1	2,6-Dibromo-4-nitroaniline.

(b) *Persons required to report.* All persons who manufacture or intend to manufacture chemical products using any of the chemicals listed under § 766.23(a) as feedstocks or intermediates, must report production, process, use, exposure and disposal data on form EPA 7910–51 under § 766.30(e)(5) for each such chemical product. Small manufacturers, defined under §766.4(k) are not required to report under this subpart. A separate form EPA 7910–51 must be submitted for each chemical product reported. All forms must be submitted to EPA no later than (*insert date 90 days from date of publicotion of this rule in the* **Federal Register**). Information collection requirements under this rule have been approved by the Office of Management and Budget under control number 2070–0420.

§ 766.25 Analytical test method.

The analytical method consists of several discrete steps, each fully described or reviewed in the document referred to in § 766.11, Testing Guidelines. Because of the difference in matrices of the chemicals listed for testing, no one method for sample selection, preparation, extraction and cleanup is prescribed. For analysis, High Resolution Gas Chromatography with High Resolution Mass Spectrometry is the method of choice, but other methods may be used if they can be demonstrated to reach the target LOQs.

(a) *Sample selection.* The chemical product to be tested should be sampled so that the specimens collected for analysis are representative of the whole. Guidelines for sample selection are provided in the support document referenced in § 766.11.

(b) *Sample preparation.* The sample must be mechanically homogenized and subsampled as necessary. Subsamples are spiked or reinforced with surrogate compounds or with standard stock solutions, and the surrogates or standards are thoroughly incorporated by mechanical agitation. Guidelines are provided in the document referenced in § 766.11.

(c) *Sample extraction and cleanup.* The spiked samples must be treated to separate the HDDs/HDFs from the sample matrix. Methods are reviewed in the document referenced in § 766.11, but the final method or methods are left to the discretion of the analyst, provided the instrumental response of the surrogates meets the criteria listed in the *Quality Assurance Plan for Measurement of Brominated or Chlorinated Dibenzofurans and Dibenzodioxins*, appendixes B and C of the document referenced in § 766.11. Cleanup techniques are described in the document referenced under § 766.11. These are chosen at the discretion of the analyst to meet the requirements of the chemical matrix.

(d) *Analysis.* The method of choice is High Resolution Gas Chromatographic/High Resolution Mass Spectrometric Determination, but alternate methods may be used if the manufacturer can demonstrate that the method will reach the target LOQs. Specific operating requirements are found in the document referenced in § 766.11.

§ 766.27 Method sensitivity.

(a) *2,3,7,8-Halogenated dibenzo-p-dioxins (HDDs).* The required limit of quantitation is 0.1 ppb for each resolved HRGC peak. For at least one product sample, at least two analyses of the same isotopically labelled HDD internal calibration standards spiked to a final product concentration of 0.1 ppb must be reproducibly extracted, cleaned up, and quantified to within ±10 percent of each other. For each spiked product sample, the signal to noise ratio for the calibration standard peaks after complete extraction and cleanup must be 10:1 or greater. The recovery of the internal calibration standards in the extracted and cleaned up product samples must be within 70–130 percent of the amount spiked.

(b) *2,3,7,8-Halogenated dibenzofurans (HDFs).* The required limit of quantitation is 1.0 ppb for each resolved HRGC peak. For at least one product sample, at least two analyses of the same isotopically labelled HDF internal calibration standards spiked to a final product concentration of 1.0 ppb must be reproducibly extracted, cleaned up, and quantified to within ±10 percent of each other. For each spiked product sample, the signal to noise ratio for the calibration standard peaks after complete extraction and cleanup must be 10:1 or greater. The recovery of the internal calibration standards in the extracted and cleaned up product samples must be within 70–130 percent of the amount spiked.

§ 766.28 Test results.

For purposes of reporting test results to EPA, and for further reporting triggered by a positive test result, a positive test result is defined at § 766.4(g).

§ 766.30 Reporting requirements.

(a) *Letters of intent.* Manufacturers who currently manufacture any chemical listed under § 766.20(a) are required to submit to EPA a letter which acknowledges their responsibility under this rule to report and test. This letter must be submitted no later than (*insert date 45 days from date of publication of rule in the* **Federal Register**).

(b) *Information required under section 8.* (1) Manufacturers of chemicals listed under § 766.20(a) are required to report, 90 days after publication of this rule in the **Federal Register**, results of all existing test data which show that any chemical listed under § 766.20(a) has been tested for the presence of HDDs

and/or HDFs. EPA will examine the data and notify the manufacturer whether it meets the requirements for testing required under Subpart B of this Part. If testing requirements under Subpart B are met, the manufacturer is exempt from such requirements. The manufacturer is not, however, exempted from requirements of reporting under § 766.30(e) if the test result from his chemical is positive.

(Approved by Office of Management and Budget under the control number 2070-0420)

(2) Any chemical manufacturer in possession of health and safety studies on dibenzo-p-dioxins and/or dibenzofurans is required to submit such studies to EPA no later than 90 days after publication of this rule in the **Federal Register**. Such studies shall be submitted in accordance with procedures set forth in Part 716 of this chapter.

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

(3) Manufacturers of chemicals listed under § 766.20(a) must submit allegations of significant adverse reactions caused by any HDDs and/or HDFs no later than 90 days after publication of this rule in the **Federal Register**. These allegations shall be submitted in accord with procedures set forth in Part 717 of this chapter.

(Approved by the Office of Management and Budget under the control number 2070-0017)

(4) Manufacturers of chemicals products using any of the chemicals listed under §766.23(a) as feedstocks or intermediates must report production, process, use, exposure and disposal data on form EPA 7910-51 for each such chemical product no later than 90 days after publication of this rule in the **Federal Register**.

(Approved by the Office of Management and Budget under the control number 2070-0420)

(c) *Protocols.* Protocols include all parts of the *Quality Assurance Plan for Measurement of Brominated or Chlorinated Dibenzofurans and Dibenzodioxins*, as stated in *Guidelines for the Determination of Polyhalogenated Dibenzo-p-dioxins and Dibenzofurans in Commercial Products*, which is referenced in § 766.11. EPA expects to receive specific plans for collection of samples from the process stream, naming the point of collection, the method of collecting the sample, and an estimate of how well the samples will represent the material to be characterized; a description of how control samples (blanks) and HDD/HDF-reinforced control samples, or isotopically labeled compounds (standards) and duplicate samples will be handled; a description of the chemical extraction and clean up procedures to be used; how extraction efficiency and measurement efficiency will be established; and a description of instrument hardware and operating conditions, including type and source of columns, carrier gas and flow rate, operating temperature range, and ion source temperature. These protocols for each chemical product to be tested must be submitted to EPA no later than 6 months after publication of this rule in the **Federal Register**.

(d) *Analytical test results.* All test results must be reported no later than 12 months after receipt of a letter from EPA commenting on protocols submitted. A positive test result is defined at § 766.4(g).

(Approved by the Office of Management and Budget under the control number 2070-0033)

(e) *Information required under section 8.* Submission of a positive test result triggers additional reporting under section 8 of TSCA, all of which must be submitted to EPA no later than 90 days after the date of submission of the positive test result.

(1) A form, EPA 7910-51 under paragraph (e)(5) of this section has been provided for submission of data required under section 8(a) of TSCA. The form is printed under paragraph (e)(5) of this section and copies are available from the TSCA Assistance Office. One form must be submitted for each chemical for which a positive test result has been submitted.

(Approved by the Office of Management and Budget under the control number 2070-0420)

(2) Health and safety studies for chemicals for which a positive test result have been submitted shall be submitted in accord with Part 716 of this chapter, except that the manufacturer has 90 days after submission of a positive test result to submit health and safety studies on the tested chemical.

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

(3) Allegations of significant adverse reactions to the chemical for which a positive test result has been submitted, shall be submitted in accord with Part 717 of this chapter, except that the manufacturer has 90 days after submission of a positive test result to submit such allegations on the tested chemical.

(Approved by the Office of Management and Budget under the control number 2070-0017)

(4) A positive test result on a chemical from one manufacturer but not from others may require EPA to publish a notice listing chemicals for which a positive result has been received from at least one manufacturer and requiring any manufacturer of that chemical who has not submitted a positive test result to submit the information required in Part II of EPA Form 7910-51 under §766.30(e)(5). Such a notice will be published only if EPA needs additional process data to make a determination of unreasonable risk.

(5) Dioxin/Furan Reporting Form:

BILLING CODE 6560-50-M

United States Environmental Protection Agency
Washington, DC 20460

EPA

Dioxins/Furans Report

Form Approved
OMB No. xxxx-xxxx
Approval expires xx-xx-xx

When completed, send this form to:

Document Control Officer
Office of Toxic Substances, TS-793
US Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

For Agency Use Only

Document Control Number | Docket Number

Part I — General Information

Section A — Submitter Identification

Confi-dential

Mark (X) the "Confidential" box next to any subsection you claim as confidential.

1a. Person Submitting Notice

Name of authorized official | Title

Company

Mailing address *(number and street)*

City, State, and ZIP Code

Section B — Chemical Identity Information *(Use a separate form for each chemical reported.)*

Mark (X) the "Confidential" box next to any subsection you claim as confidential.

1. Chemical name and CAS Registry Number

Part II — Process and Release Information

Section A — Flow Diagram

Mark (X) the "Confidential" box next to any subsection you claim as confidential.

Complete this section for each unit process. Provide a general process block flow diagram that identifies major unit operations and treatment processes and indicate the types and points of release of byproducts and residuals. *(See example I attached.)*

(1) Include intermediates, coproducts and byproducts produced by the process.

(2) Proide a block for each major unit operation *(e.g., reactor, washer, filtration, air emission control, aeration lagoon, etc.)* in the production process and in the residuals management process.

(3) Identify process input such as raw materials, reagents, and solvents by chemical or common name and CAS number, and indicate the point of introduction with arrows.

(4) For each unit operation in which the temperature is not ambient, specify temperature or temperature range in each block of the flow diagram.

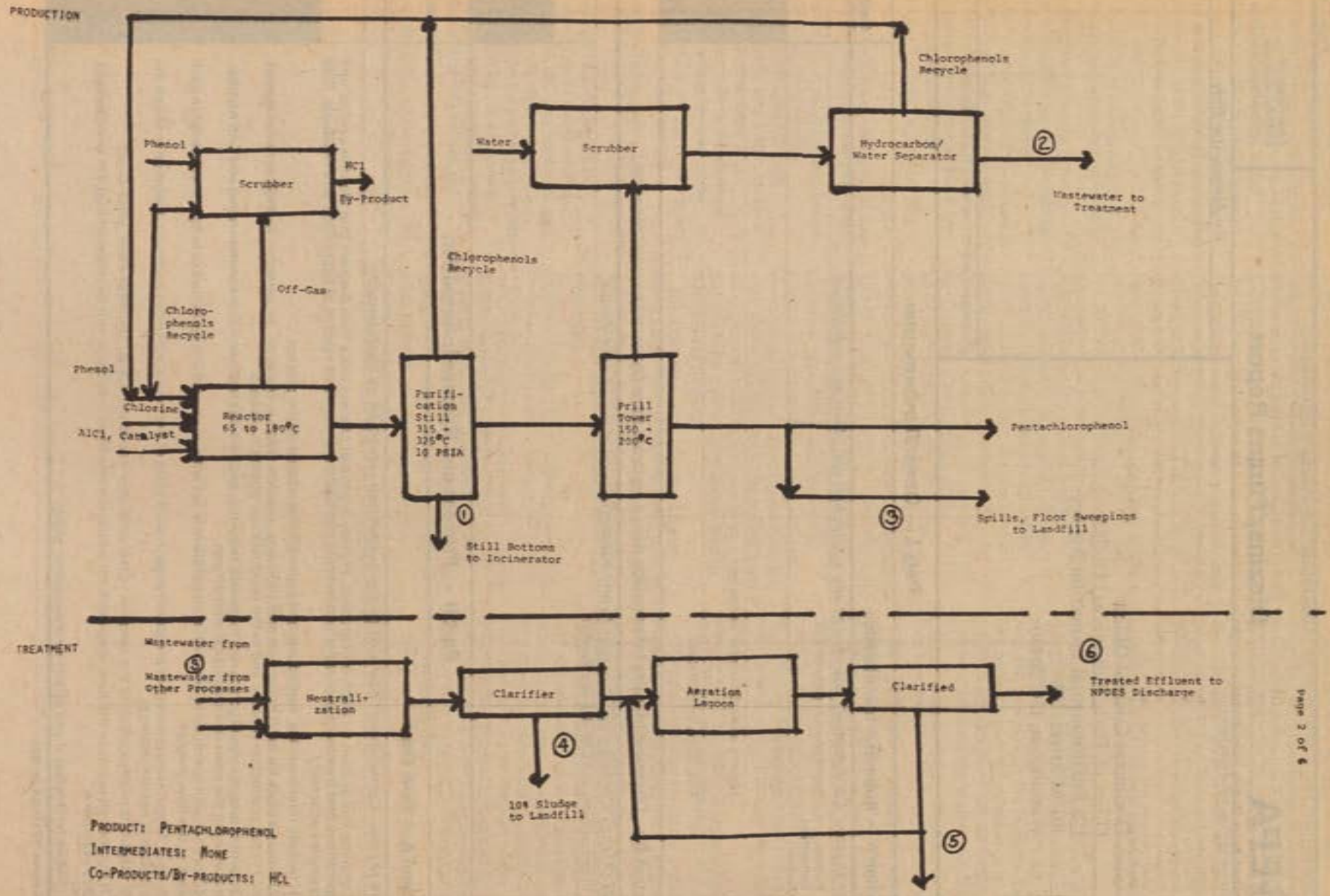
(5) Specify operating pressure or pressure range in each block of the flow diagram for each unit operation in which the pressure is not atmospheric.

(6) Identify the composition of the reaction vessel wherever one is used *(e.g., stainless steel, glass-lined).*

(7) Number all points in the flow diagram from which the chemical substance will be released into the environment. *(See example I)*

☐ Mark (x) this box if you attach a continuation sheet.

EXAMPLE 1 - PROCESS BLOCK FLOW DIAGRAM



Section B — Environmental Release and Disposal

You must make separate confidentiality claims for the release number and the amount of the substance released and other release and disposal information. Mark (x) the "Confidential" box next to each item you claim as confidential.

(1) — Enter the number of each release point identified in the process dexcription, part II, Section A.
(2) — Estimate the amount of the chemical substance released directly to the environment or into control technology *(in kg/day or kg/batch)*.
(3) — Mark (x) this column if entries in columns (1) and/or (2) are confidential
(4) — Identify the media *(air, land, or water)* to which the substance will be released from the release point.
(5) — Describe control technology, if any, that will be used to limit the release of the substance to the environment. For releases disposed of on land, characterize the disposal method.
(6) — Mark (x) this column if entries in columns (4) and/or (5) are confidential
(7) — Identify the destination(s) of releases to water.

Release Number *(1)*	Amount of substance released *(2)*	Confidential *(3)*	Media of release *(4)*	Control technology *(5)*	Confidential *(6)*

(7) Mark (x) the destination(s) of releases to water ☐ POTW *(publicly owned treatment works)* ☐ Navigable waterway ☐ Other — *(specify)* ☐ Mark (x) this box if you attach a continuation sheet

EPA Form 7710-51 (9-86)

Part III — Production, Import, and Use Information

Mark (x) the "Confidential" box next to any item you claim as confidential.

1. **Production volume** — Report the production volume during the past 12 months of production. Also report the **maximum** production volume for any consecutive 12-month period during the past 3 years of production.

Past 12-month production *(kg/year)*	Maximum 12-month production *(kg/year)*	Confidential

2. **Use Information** — You must make separate confidentiality claims for the description of the category of use, the percent of production volume devoted to each category, the formulation of the substance, and other use information. Mark (x) the "Confidential" box next to any item you claim as confidential.

(1) — Describe each category of use of the chemical substance by function and application.
(2) — Mark (x) this column if entry in column (1) is confidential.
(3) — Estimate the percent of total production for the past 3 years devoted to each category of use.
(4) — Mark (x) this column if entry in column (3) is confidential.
(5) — Estimate the percent of the substance as formulated in mixtures, suspensions, emulsions, solutions, or gels as manufactured for commercial purposes at sites under your control associated with each category of use.
(6) — Mark (x) this column if entry in column (5) is confidential.
(7) — Mark (x) whether the use is site-limited, industrial, commercial, or consumer. Mark more than one column if appropriate.
(8) — Mark (x) this column if entries in column (7) are confidential.

Read the **Instructions Manual** for examples.

Category of use *(1)*	Confidential *(2)*	Production *(percent)* *(3)*	Confidential *(4)*	Formulation *(percent)* *(5)*	Confidential *(6)*	*Mark (x) appropriate column(s) (7)*				Confidential *(8)*
						Site-limited	Industrial	Commercial	Consumer	

☐ Mark (x) this box if you attach a continuation sheet.

3. **Hazard Information** — Include in the notice a copy or reasonable facsimile of any hazard warning statement, label, material safety data sheet, or other information which will be provided to any person regarding protective equipment or practices for the safe handling, transport, use, or disposal of the new chemical substance. List in part IV any hazard information you include.

☐ Mark (x) this box if you attach hazard information.

4. **Occupational Exposure** — You must make separate confidentiality claims for the description of worker activity, physical form of the substances, number of workers exposed, and duration of activity. Mark (x) the "Confidential" box next to any item you claim as confidential.

(1) — Describe the activities in which workers may be exposed to the chemical substance. Include activities in which workers wear protective equipment.
(2) — Mark (x) this column if entry in column (1) is confidential.
(3) — Indicate the physical form(s) of the chemical substance at the time of exposure.
(4) — Mark (x) this column if entry in column (3) is confidential.
(5) — Estimate the maximum number of workers involved in each activity.
(6) — Mark (x) this column if entry in column (5) is confidential.
(7) and (8) — Estimate the maximum duration of the activity for any worker in hours per day and days per year.
(9) — Mark (x) this column if entries in column (7) and/or (8) are confidential.

Worker Activity (1)	Confidential (2)	Physical Forms (3)	Confidential (4)	Maximum number (5)	Confidential (6)	Maximum duration Hrs/day (7)	Maximum duration Days/yr (8)	Confidential (9)

☐ Mark (x) this box if you attach a continuation sheet.

EPA Form 7710-51 (9-86)

Part IV — List of Attachments

Attach continuation sheets for sections of the form and optional information after this page. Clearly identify the attachment and the section of the form to which it relates, if appropriate. Number consecutively the pages of the attachments. In column (2) below, enter the inclusive page numbers of each attachment.

Mark (x) the "Confidential" box next to any attachment name you claim as confidential. Read the **Instructions Manual** for guidance on how to claim any information in an attachment as confidential.

Attachment name (1)	Attachment page numbers (2)	Confidential (3)

☐ Mark (x) this box if you attach a continuation sheet. Enter the attachment name and number.

Certification

I certify that to the best of my knowledge and belief:

1. The company named in part I, section A, subsection 1a of this form manufactures, imports, or processes, other than in small quantities for research purposes, the substance identified in part I, section B.
2. All information provided in this notice is complete and truthful as of the date of submission.

Signature of authorized official	Date	Confidential

Signature of agent *(if applicable)*	Date	Confidential

EPA Form 7710-51 (9-86)

General Instructions
EPA Form 7710-51, Dioxins/Furans Report

You must provide all information requested in this form to the extent that it is known to or reasonably ascertainable by you.

Part I — General Information

You must provide the chemical identity of the chemical substance reported on, even if you claim the identity as confidential.

Part II — Process and Release Information

You may need additional copies of part II, sections A and B if there are several manufacture operations that you will describe in the form. You should reproduce these sections as needed.

Part III — Production, Import, and Use Information

You must provide production volume, percent of production used for each use category, and whether use is industrial, commercial or consumer. Also included is a copy of any hazard warning and a report of occupational exposure. Copies may be made of any part of the form if additional space is needed.

Part IV — List of Attachments

You should attach additional sheets if you do not have enough space on the form to answer a question fully. In part IV, list all attachments you include with the form.

Optional Information

You may include with the form any information that you want EPA to consider in evaluating the substance.

Confidentiality Claims

You may claim any information in this form as confidential. To assert a claim on the form, mark (x) the "Confidential" box next to the information that you claim as confidential. To assert a claim in an attachment, circle or bracket the information you claim as confidential.

A. General Instructions

Complete the form using a typewriter or by printing legibly in black ink. All information must be in English. Provide all information requested on the form to the extent that you know or can reasonably ascertain it. You may attach continuation sheets to any subsection or item on the form. Mark (x) the appropriate box on the form if you attach continuation sheets.

The use of the term "manufacture" in this form includes both manufacture and import. Manufacturers and importers must fully comply with the information requirements set forth in the Polyhalogenated Dibenzo-p-dioxins/Dibenzofurans Testing and Reporting Requirements Rule. However, importers are not required to submit any data under section 8(a) of TSCA which relates solely to exposure to humans or the environment outside the United States.

Any manufacturer or importer using this form may photocopy the form, sections of the form, or these instructions as frequently as needed.

B. Certification

The official named in Part I, section A of the form, as the person submitting the notice, must sign the certification on page 6 of the form. This official is responsible for the truth and accuracy of each statement in the certification.

C. Asserting Confidentiality Claims

A manufacturer or importer may assert a claim of confidentiality for any information submitted to EPA on this form. To assert confidentiality claims for specific information on the form (e.g., submitter identity, process data, or use information), mark (x) in the "Confidential" box on the form located to the right of the information. Marking these boxes will provide a quick reference for EPA to determine what information is confidential, thus aiding proper treatment of confidential business information.

Part I — General Information

Section A — Submitter Identification

Person submitting notice — Enter information on the official who signed the general certification on page 6.

Section B — Chemical Identity Information

Chemical Name and CAS Registry Number — List the common name and Chemical Abstracts Registry number, if available, for the chemical on which you are reporting.

II. Process and Release Information

Section A — Flow Diagram

Flow diagram — Submit a block flow diagram for each major unit operation and treatment process involved in manufacturing the chemical on which you are reporting. Include the following information:

(1) identify the product process, and chemical intermediates, coproducts and byproducts produced by the process;

(2) provide a block for each major unit operation (e.g., reactor, washer, filtration, air emission control, aeration lagoon, etc.) in the production process and in the residuals management process;

(3) identify all process input such as raw materials, reagents, solvents, etc. by chemical or common name and CAS number, and indicate the point of introduction with arrows;

(4) for each unit operation in which the temperature is not ambient, specify temperature or temperature range in each block of the flow diagram;

(5) specify operating pressure or pressure range in each block of the flow diagram for each unit operation in which pressure is not atmospheric;

(6) identify the composition of the reaction vessel wherever one is used;

(7) number all points in the flow diagram from which the chemical substance will be released into the environment. See the example provided.

Section B — Environmental Release and Disposal

Column (1) — For each release point indicated in the flow diagram (part II, section A), enter the corresponding number.

Column (2) — Estimate the amount of the chemical (in kg/day for continuous operations or kg/batch for batch operations) that will be released from the release point before entering control technology. Base your estimate on your maximum 12-month production volume.

Column (4) — Enter the medium (air, water, land) into which the release stream discharges (whether or not control technology is used).

Column (5) — For releases to the air and water, describe the type of technology used to control the release of the chemical. Examples of control technologies include carbon filter, scrubber, and biological treatment (primary, secondary, etc.). Give as complete a description as possible. Enter "none" if no control technology is used and the substance is released directly to the environment. For disposal on land, describe the landfill site construction (including liners) and handling procedures. Describe landfill containers.

Column (7) — Mark (x) the appropriate box and/or specify other destinations of water releases.

Columns (3) and (6) — Note that you must make separate confidentiality claims for the release number and amount of chemical substance released and other release and disposal information.

Part III — Production, Import, and Use Information

A. Production Information

Production volume — Report the production volume for the past 12 months of production. Also report the maximum production volume for any consecutive 12-month period during the past 3 years of manufacture. Provide this information in kilograms. Include in your report the amounts produced by persons under contract to you. If part of the amount manufactured is for export, include this amount in your reports.

B. Use Information

Column (1) — Identify each possible category of use of the chemical substance by describing its function and application. "Function" is related to the inherent physical and chemical properties of the substance (e.g., degreaser, catalyst, plasticizer, ultraviolet absorber). "Application" refers to the use of the substance in particular processes or products (e.g., a degreaser may be used for cleaning of fabricated metal parts). Following are some examples of how you should describe categories of use:

- a disperse dye carrier for finishing polyester fibers
- a cross-linking agent for epoxy-like coatings for metal surfaces
- a flame retardant for surface application on cotton apparel, textile home furnishings, and exterior canvas products
- a surfactant in automobile spray wax
- a colorant for paper and other cellulosics

Column (3) — Report the percent of the total production volume during the past 12 months manufactured for each category of use.

Column (5) — Estimate the weight percent of the chemical substance contained in any formulated mixture, suspension, emulsion, solution, or gel associated with each category of use as manufactured for commercial purposes at sites under your control. Where the substance is distributed from your site neat, enter N/A for not applicable.

For example:

Category of Use	Formulated Product as Manufactured	Percent of Chemical Substance
Cross-linking agent for epoxy-type coatings for metal surfaces	none, distributed neat	N/A
Flame retardant for cotton apparel	none, distributed neat	N/A
Surfactant in automobile spray wax	spray auto wax (suspension)	4
Colorant for paper and other cellulosics	colorant (solution)	55

Column (7) — Mark (x) to indicate if the category of use is site-limited. Also mark (x) to indicate whether the use is for industrial, commercial, and/or consumer use as defined below. Mark more than one box, if appropriate. For example, a surfactant in an automobile wax may have a consumer use in liquid wax, a commercial use in auto washes, and an industrial use by automobile manufacturers.

Site-limited: The substance is used only on the contiguous property unit where it is manufactured and not intentionally distributed outside that site except for waste disposal. This includes all factories, storage space, and warehouses at the site. An example would be an intermediate which is further reacted on-site to produce a chemical product.

Industrial: The chemical substance or products containing the substance are used only at the site of other manufacturers or processors, e.g., textile dyeing, paint formulation, use of a resin to manufacture an article.

Commercial: The chemical substance or products containing the substance are used by a commercial enterprise providing a consumer service, e.g., use by commercial dry cleaning establishments, use by painting contractors, or use by roofers in commercial building construction.

Consumer: The chemical substance or products containing the substance are used by private individuals in or around a residence, or during recreation, or for any other personal use or enjoyment, e.g., automotive polish, dyed wearing apparel, household cleaners, etc.

Columns (2), (4), (6), (8) — Note that you must make separate confidentiality claims for the description of the category of use, the percent of production devoted to each category, and other use information. The information in this section is used to evaluate potential exposure of the chemical. If you wish to provide any additional information which would assist in this analysis, it may be submitted as optional information.

C. Hazard Information

Include with the form a copy or reasonable facsimile of any hazard warning statement, label, material safety data sheet, or other information which is provided to any person regarding protective equipment or practices for the safe transport, use or disposal of the chemical. Identify any copies of hazard information or warnings that you attach in Part IV, List of Attachments.

D. Occupational Exposure Information

Column (1) — Describe each specific activity in the operation during which workers may be exposed to the chemical. Such activities may include charging reactor vessels, sampling for quality control, transferring materials from one work area to another, drumming, bulk loading, changing filters, and cleaning equipment. Activities must be described even if workers wear protective equipment or clothing. (Recommended protective equipment should be included as part of Hazard Information).

Column (3) — Indicate the physical form of the substance at the time of exposure, e.g., solid (crystals, granules, powder, dust), liquid (solution, paste, slurry, emulsion, mist, spray), gas (vapor, fume), even if workers wear protective equipment.

Column (5) — Report the maximum number of workers involved in each specific activity, based on the reported maximum 12-month production volume.

Column (7) — Enter the maximum duration that any one worker will engage in the activity in hours/day, e.g., 8 hours/day.

Column (8) — Enter the maximum duration that any one worker will engage in the activity in days/year, based on the reported maximum production volume, e.g., 200 days/year.

Columns (2), (4), (6), (9) — Note that you must make separate confidentiality claims for the description of worker activity, physical form of the chemical, number of workers exposed, and duration of exposure.

Part IV — List of Attachments

Attach any continuation sheets for sections of the form and any optional information, after the last page of the form. Clearly identify the attachment and the section to which it relates. Number consecutively the pages of the attachments. Enter the total number of pages in the form on the last line of the List of Attachments. Mark (x) the "Confidential" box next to any attachment you claim as confidential. See the section of these instructions titled Confidentiality for guidance on claiming any information confidential.

[FR Doc. 85-29669 Filed 12-18-85; 8:45 am]
BILLING CODE 6560-50-C

federal register

Thursday
December 19, 1985

Part V

Information Security Oversight Office

32 CFR Part 2003

National Security Information; Standard Forms; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information; Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR Part 2003 provides for the use within the executive branch of the following standard forms that pertain to national security information: Security Container Information: SF 700; Activity Security Checklist: SF 701; Security Container Check Sheet: SF 702; TOP SECRET Cover Sheet: SF 703; SECRET Cover Sheet: SF 704; and CONFIDENTIAL Cover Sheet: SF 705.

EFFECTIVE DATE: December 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ethel Theis, Senior Program Analyst, ISOO. Telephone: (202) 535-7251.

SUPPLEMENTARY INFORMATION: Section 5.2(b)(7) of Executive Order 12356 authorizes the Director of ISOO to prescribe the use of standard forms that will promote the implementation of the government-wide information security program. ISOO has developed these forms in coordination with those agencies that will be primarily affected by them. The information collection requirements contained in this rule (Subpart B) are not subject to Office of Management and Budget clearance under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

1. The authority citation for 32 CFR Part 2003 continues to read:

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart A—General Provisions

2. Section 2003.4 is revised to read as follows:

§2003.4 Availability.

Agencies may obtain copies of the standard forms prescribed in Subpart B by ordering through FEDSTRIP/MILSTRIP or from the General Services Administration (GSA) Customer Supply Centers (CSCs). The national stock number of each form is cited with its description in Subpart B.

Subpart B—Prescribed Forms

3. Subpart B is amended by adding § 2003.21 through 2003.26 to read as follows:

§ 2003.21 Security Container Information SF 700.

(a) SF 700 provides the names, addresses and telephone numbers of employees who are to be contacted if the security container to which the form pertains is found open and unattended. The form also includes the means to maintain a current record of the security container's combination and provides the envelope to be used to forward this information to the appropriate agency activity or official.

(b) SF 700 shall be used in all situations that call for the use of a security container information form. Agency-wide use of SF 700 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) Parts 2 and 2A of each completed copy of SF 700 shall be classified at the highest level of classification of the information authorized for storage in the security container. A new SF 700 must be completed each time the combination to the security container is changed as required by applicable executive order(s), statute(s) or implementing security regulations.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant an agency's application for a waiver from the use of SF 700. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO Director will review the request and notify the agency of the decision.

(e) The national stock number for the SF 700 is 7540-01-214-5372.

§ 2003.22 Activity Security Checklist SF 701.

(a) SF 701 provides a systematic means to make a thorough end-of-day security inspection for a particular work area and to allow for employee accountability in the event that irregularities are discovered.

(b) SF 701 shall be used in all situations that call for the use of an activity security checklist. Agency-wide use of SF 701 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) Completion, storage and disposition of SF 701 will be in accordance with each agency's security regulations.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant an agency's application for a waiver from the use of SF 701. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO Director will review the request and notify the agency of the decision.

(e) The national stock number for the SF 701 is 7540-01-213-7899.

§ 2003.23 Security Container Check Sheet SF 702.

(a) SF 702 provides a record of the names and times that persons have opened, closed or checked a particular container that holds classified information.

(b) SF 702 shall be used in all situations that call for the use of a security container check sheet. Agency-wide use of SF 702 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) Completion, storage and disposal of SF 702 will be in accordance with each agency's security regulations.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant an agency's application for a waiver from the use of SF 702. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO Director will review the request and notify the agency of the decision.

(e) The national stock number of the SF 702 is 7540-01-213-7900.

§ 2003.24 TOP SECRET Cover Sheet SF 703.

(a) SF 703 serves as a shield to protect TOP SECRET classified information from inadvertent disclosure and to alert observers that TOP SECRET information is attached to it.

(b) SF 703 shall be use in all situations that call for the use of a TOP SECRET cover sheet. Agency-wide use of SF 703 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) SF 703 is affixed to the top of the TOP SECRET document and remains attached until the document is destroyed. At the time of destruction, SF 703 is removed and, depending upon its condition, reused.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant any agency's application for a waiver from the use of SF 703. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO

Director will review the request and notify the agency of the decision.

(e) The national stock number of the SF 703 is 7540-01-213-7901.

§ 2003.25 SECRET Cover Sheet SF 704.

(a) SF 704 serves as a shield to protect SECRET classified information from inadvertent disclosure and to alert observers that SECRET information is attached to it.

(b) SF 704 shall be use in all situations that call for the use of a SECRET cover sheet. Agency-wide use of SF 704 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) SF 704 is affixed to the top of the SECRET document and remains attached until the document is destroyed. At the time of destruction, SF 704 is removed and, depnding upon its condition, reused.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant any agency's application for a waiver from the use of SF 704. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO Director will review the request and notify the agency of the decision.

(e) The national stock number of the SF 704 is 7540-01-213-7902.

§ 2003.26 CONFIDENTIAL Cover Sheet SF 705.

(a) SF 705 serves as a shield to protect CONFIDENTIAL classified information from inadvertent disclosure and to alert observers that CONFIDENTIAL information is attached to it.

(b) SF 705 shall be use in all situations that call for the use of a CONFIDENTIAL cover sheet. Agency-wide use of SF 705 shall begin when supplies of existing forms are exhausted or September 30, 1986, whichever occurs earlier.

(c) SF 705 is affixed to the top of the CONFIDENTIAL document and remains attached until the document is destroyed. At the time of destruction, SF 705 is removed and, depending upon its condition, reused.

(d) Only the Director of the Information Security Oversight Office (ISOO) may grant any agency's application for a waiver from the use of SF 705. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The ISOO Director will review the request and notify the agency of the decision.

(e) The national stock number for the SF 705 is 7540-01-213-7903.

Steven Garfinkel,

Director, Information Security Oversight Office.

December 16, 1985.

[FR Doc. 85-30057 Filed 12-18-85; 8:45 am]

BILLING CODE 6820-AF-M

federal register

Thursday
December 19, 1985

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

December 1, 1985.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1985, of 31 deferrals contained in the first two special messages of FY 1986. There were no rescissions proposed. These messages were transmitted to the Congress on October 1, and November 25, 1985.

Rescissions (Table A and Attachment A)

As of December 1, 1985, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of December 1, 1985, $3,605.5 million in 1986 budget authority was being deferred from obligation and $7.7 million in 1986 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1986.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985

Vol. 50, FR p. 49498, Monday, December 2, 1985

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$3,652.1
Routine Executive releases through December 1, 1985	-38.8
Overturned by the Congress	0
Currently before the Congress	$3,613.3 a/

a/ This amount includes $7.7 million in outlays for a Department of the Treasury deferral (D86-30).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of December 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
None.								

Attachment B - Status of Deferrals - Fiscal Year 1986

As of December 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 12-1-85
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Economic support fund.....	D86-24	1,222,216		11-25-85					1,222,216
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D86-2	77,913		10-1-85					77,913
Timber salvage sales.....	D86-3	22,854		10-1-85					22,854
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85					32,333
Fisheries loan fund.....	D86-25	1,959		11-25-85					1,959
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, all services.....	D86-4	353,079		10-1-85	5,298				347,781
Family Housing									
Family housing, Air Force.....	D86-27	11,800		11-25-85					11,800
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D86-5	1,168		10-1-85					1,168

Attachment B - Status of Deferrals - Fiscal Year 1986

As of December 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 12-1-85
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy research and development	D86-6	9,247		10-1-85					9,247
Fossil energy construction	D86-7	7,038		10-1-85	1,041				5,997
Naval petroleum and oil shale reserves	D86-8	155,668		10-1-85					155,668
Energy conservation	D86-9	9,880		10-1-85					9,880
SPR petroleum account	D86-10	536,958		10-1-85					536,958
Alternative fuels production	D86-11	1,149		10-1-85					1,149
Power Marketing Administration [5]									
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936				1,408
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					5,000
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					27,095
Departmental Administration									
Departmental administration	D86-15	8,501		10-1-85	8,501				0
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Social Security Administration									
Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					6,489
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities	D86-17	20,000		10-1-85					20,000
Office of Justice Programs									
Crime victims fund	D86-18	100,000		10-1-85					100,000
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Urban Mass Transportation Administration									
Discretionary grants	D86-21	223,600		10-1-85					223,600
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D86-29	686,438		11-25-85					686,438
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D86-30	7,743		11-25-85					7,743
Local government fiscal assistance trust fund	D86-31	54,349		11-25-85	63				54,286

Attachment B - Status of Deferrals - Fiscal Year 1986

As of December 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 12-1-85
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation Land acquisition and development fund.....	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board Milwaukee railroad restructuring, administration.....	D86-23	243		10-1-85					243
TOTAL, DEFERRALS.....		3,652,093	0		38,840	0		0	3,613,253

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30) of outlays only.

[FR Doc. 85-29985 Filed 12-18-85; 8:45am]

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Federal Register

Vol. 50, No. 244

Thursday, December 19, 1985

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Code of Federal Regulations

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Laws 523-5230

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Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

49341-49504	2
49505-49664	3
49665-49824	4
49825-49918	5
49919-50156	6
50157-50268	9
50269-50608	10
50609-50754	11
50755-50890	12
50891-51234	13
51235-51382	16
51383-51510	17
51511-51664	18
51665-51834	19

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

5414	49665
5415	49825
5416	49827
5417	50269
5418	50271
5419	50255
5420	50757
5421	51511
5422	51665

Administrative Orders:

Presidential Determinations:

No. 86-03 November 25, 1985	50273

Executive Orders:

12345 (Amended by EO 12539)	49829
12539	49829

4 CFR

6	49505
8	49505
9	49505
30	49505
33	49505
51	49505
52	49505
75	49505
82	49505

5 CFR

Proposed Rules:

530	51397

7 CFR

6	49919
226	49341
301	51228
403	50275
404	49505, 50275
408	49505, 50275
409	49505
411	49505
413	49505
415	49506
416	49920
417	49506
418	49506
419	49506
422	51383
423	49507
427	49506
428	49513
429	49506
430	49506, 51383
433	49518
434	51383
436	51383
439	49505
443	51383
450	50276
800	49667
907	49343, 50759, 51667
908	50759
958	50157
959	49831
971	49831
989	49831, 50158
991	49831
1002	49674
1004	49674
1136	50159
1446	50280
1540	49524
1965	49832

Proposed Rules:

70	50310
210	49933
225	49933
226	49933
422	51687
430	50794
440	49854
971	50171
980	50621
994	51344
1032	49395
1136	50794
1137	50622
1140	50622
1941	49395
1943	49395
1980	49395

8 CFR

103	51235
211	49921

Proposed Rules:

1	51693
3	51693
103	51693
236	51693
242	51693
292	51693

9 CFR

77	49922
92	49344
102	50761
108	50761
114	50761
307	51513
318	50282
381	50282, 51513

Proposed Rules:

71	49937
80	49937
92	49702

10 CFR

9	50283
50	50764
440	49912

Proposed Rules:
60 51701

11 CFR
Ch. I 50778
Proposed Rules:
Ch. I 51535

12 CFR
204 ..... 50284, 51508
217 50160
227 49524
563 49345
564 49524
Proposed Rules:
205 50623
207 50606
226 50794
556 49937
571 49940
606 51540
615 50798

13 CFR
120 49832

14 CFR
11 ..... 51188, 51332
39 ..... 49349–49351, 49832, 49833, 49923, 50609, 50610, 51235–51237, 51667
71 ..... 49353, 49528, 49529, 50254, 50285, 50610, 50778, 51238–51240, 51384, 51513
73 50611
91 ..... 51188, 51193
93 50264
95 49674
97 ..... 50161, 51668
198 51332
Proposed Rules:
1 50624
21 51704
27 50624
29 50624
39 ..... 49858, 49944, 49945, 50172, 51259, 51707
71 ..... 49704, 49902, 50173, 50174, 50310, 51259, 51260, 51547, 51548
73 51260
91 50588
121 50588
125 50588
129 50588
135 50588

15 CFR
Proposed Rules:
10 50177

16 CFR
4 50779
13 ..... 49834, 49835, 50781, 51670
305 49679
455 50162
1010 51670
1032 51670
1500 51514
1510 51514
1610 51670
1611 51670
1700 51514
Proposed Rules:
13 ..... 50800, 51398
444 50178
1500 50918

17 CFR
1 51385
16 51385
33 51671
200 50286
210 49529
211 51671
229 49529
239 49529
250 50611
259 50611
270 51673
276 49835
Proposed Rules:
1 49859
166 50805
240 50624
250 ..... 49354, 49705

18 CFR
2 ..... 49679, 51240
32 49924
33 49924
34 49924
35 49924
36 49924
45 49924
101 49924
152 51240
154 51240
157 51240
260 49534
284 ..... 49359, 49371, 49534, 51240
292 49924
375 ..... 49924, 51240
381 ..... 49924, 51240

19 CFR
162 50287
171 50287

20 CFR
404 ..... 50068, 50118
416 ..... 50118, 51514
601 51241
Proposed Rules:
404 ..... 49397, 49558, 50630, 50920, 51550
416 50920
655 ..... 50311, 50313, 51551

21 CFR
172 49535
173 ..... 49535, 49684
175 ..... 49535, 49684
176 49684
178 ..... 49684, 50611
181 49535
184 49535
193 49687
310 49371
510 ..... 49372, 49537
520 ..... 49372, 49537, 49840, 50291
522 ..... 49372, 49840, 50292
524 ..... 49372, 49840
555 ..... 49372, 49924
558 ..... 49372, 49840, 50292, 50612, 50613, 51518
561 49687
1020 50293
Proposed Rules:
163 ..... 49398, 49405
201 ..... 49947, 51400
343 49409
357 49409
610 51002
700 51551
870 50179

22 CFR
514 49373
Proposed Rules:
41 49705

23 CFR
230 51242
625 50784
655 50784
658 49688
Proposed Rules:
625 51404
655 51404
1325 49409

24 CFR
203 51673
232 49538
235 49538
300 49842
511 50594
571 51675
885 51677
970 50891

25 CFR
23 51244

27 CFR
19 51386
240 51386
245 51386
270 51386
285 51386
295 51386
Proposed Rules:
5 51408
19 51408

28 CFR
50 51677
65 51340
Proposed Rules:
16 ..... 51410, 51411, 51413
544 51559

29 CFR
1 49822
14 51390
1625 50614
1910 51120
2203 51678
2610 50896
2619 ..... 50898, 50899
2621 50900
2622 50896
2642 49539
Proposed Rules:
20 51354
102 51414
1910 ..... 49410, 51412, 50512

30 CFR
901 49541
904 49374
906 ..... 49924, 50788
915 49925
917 50293
936 ..... 49376, 50296
944 ..... 49542, 51519
950 ..... 49544, 50901
Proposed Rules:
75 50925
701 51559
780 51559
784 51559
800 50631

31 CFR
357 51394
358 51394
361 51394
362 51394
Proposed Rules:
357 49412

32 CFR
54 49927
78 49930
828 49688
880 49688
2003 51826
Proposed Rules:
553 50315

33 CFR
72 50903
110 49843
117 ..... 49550, 50163, 51246
165 ..... 49844, 50164
334 50297
Proposed Rules:
66 50179
110 51708
117 50808
161 51709
166 ..... 49861, 50808
167 ..... 49861, 50925
209 50316
402 51710

36 CFR
1258 50904
Proposed Rules:
1 51782
2 51782
3 51782
4 51782
5 51782
7 51782
50 51782
800 51437
1254 51414

37 CFR
304 49551

38 CFR
3 50615
36 51681
Proposed Rules:
19 50632
21 50632–50642

39 CFR
10 ..... 49387, 49689, 50905
111 49689

40 CFR
2 51654
52 ..... 49389, 50906, 50908, 51250, 51521

81 51251
180 49690
261 50789
305 51196
306 51205
712 50910
716 50910
799 51683

Proposed Rules:
52 51262
60 49442
81 51416
86 51559
122 49904
124 49904
125 49904
141 49423
166 50643
180 ..... 49705, 50643
261 51264
264 51264
265 51264
271 ..... 49561, 49947, 49949
766 51794
799 49863

41 CFR

101-40 ..... 49551, 49845

42 CFR

52a 49692
75 50710
405 50165
412 49930
432 49389
433 49389

Proposed Rules:
405 51418

43 CFR

2740 50298
2910 50298
4100 51522

Public Land Orders:
6610 (Corrected by 6611) 50165
6611 50165

Proposed Rules:
4 51711
431 49563

44 CFR

64 ..... 49390, 50617
65 ..... 50789, 50790
67 50791
205 50618

Proposed Rules:
67 ..... 49951, 50810
205 49959

45 CFR

96 49552
305 49392

46 CFR

308 50165
309 50165

Proposed Rules:
38 49563
151 49563
572 51418

47 CFR

1 51522
22 ..... 50167, 51522
31 50910
43 50910
68 49930
69 50910
73 ..... 49392, 49553, 50916, 51528, 51685
87 49554
97 49555

Proposed Rules:
Ch. I 50316
2 51420
21 51420
22 50181
43 49423
64 50182
69 50183
73 ..... 49426-49428, 49565, 49566, 49707, 49863, 50329, 51265-51263, 51432-51434, 51560-51562, 51564, 51712-51717
74 51420
78 51420
94 51420

48 CFR

513 51394
514 50169
536 50170
552 50170
553 51394
701 50301
702 50301
705 51395
706 51395
715 50301
728 50301
731 50301
732 50301
737 50301
750 50301
752 50301
753 50301

Proposed Rules:
Ch. 5 50502
31 ..... 49662, 51776
501 51435
504 51435
514 51435
515 51435
519 51435
553 51435
5242 49819
5252 49819
5350 49708

49 CFR

90 49930
171 49393
173 49849
175 49393
212 50888
217 50888
218 50888
219 50888
225 50888
391 49849

Proposed Rules:
Ch. X 51565
171 49866
173 49866
177 49866
178 49866
180 49866
192 ..... 49429, 49575
195 49429
1039 49576

50 CFR

17 ..... 50304, 50726, 50792, 51251
20 49695
216 49696
227 51252
611 49852
652 ..... 49852, 49931, 51533
663 50309
671 ..... 49853, 50793, 51533
675 49852

Proposed Rules:
14 49709
17 ..... 49868, 49967, 49970, 50646, 51565, 51718
18 49577
20 49870
80 50185
651 ..... 49582, 51436
652 51435
655 50186
658 50928
663 ..... 49590, 51436

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